AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

5–1–01 Tuesday
Vol. 66 No. 84 May 1, 2001
Pages 21631–21850

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $638, or $697 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $253. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $9.00 for each issue, or $9.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper.

Contents

Federal Register

Vol. 66, No. 84

Tuesday, May 1, 2001

Agricultural Marketing Service
RULES
Cherries (tart) grown in—
Michigan et al., 21835–21842
Honey research, promotion, and consumer information order, 21823–21834

Agriculture Department
See Agricultural Marketing Service
See Food Safety and Inspection Service
See Forest Service
See Natural Resources Conservation Service
See Rural Telephone Bank
See Rural Utilities Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21729–21730

Alcohol, Tobacco and Firearms Bureau
RULES
Organization, functions, and authority delegations:
Appropriate ATF officers, 21667–21670
PROPOSED RULES
Alcohol; viticultural area designations:
Rockpile, Sonoma County, CA, 21707–21709
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21821–21822

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21736–21739

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21756–21757
Grants and cooperative agreement; availability, etc.:
Diabetes Programs, 21757
Grants and cooperative agreements; availability; etc.:
State-level surveillance systems development, epidemiological practice enhancement, and State health agencies epidemiologic training programs development, 21758

Children and Families Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21758–21760
Grants and cooperative agreements; availability, etc.:
Adoption Opportunities Program et al., 21760–21765
Head Start—
Higher Education Hispanic/Latino Service Partnerships, 21765–21767

Coast Guard
RULES
Boating safety:
Accidents involving recreational vessels, reports; property damage threshold raised, 21671–21675
PROPOSED RULES
Boating safety:
Personal flotation devices for children; Federal requirements for wearing aboard recreational vessels, 21717–21720
Ports and waterways safety:
Chicago Harbor, IL; safety zone, 21715–21717
Notification of arrival; addition of charterer to required information, 21710–21715
NOTICES
Ballast water treatment standards, potential approaches to setting; comment request, 21807–21809
Meetings:
Chemical Transportation Advisory Committee, 21809–21810

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21735–21736

Community Development Financial Institutions Fund
NOTICES
Reports and guidance documents; availability, etc.:
New Markets Tax Credit Program, 21845–21850

Customs Service
RULES
Tariff-rate quotas:
Worsted wool fabrics; licenses, 21664–21667
Uruguay Round Agreements Act (URAA):
Textile and apparel products; rules of origin, 21660–21664
PROPOSED RULES
Financial and accounting procedures:
User and navigation fees and other reimbursement charges, 21705–21707

Education Department
NOTICES
Meetings:
National Assessment Governing Board, 21746–21747

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Electricity export and import authorizations, permits, etc.:
Allegheny Energy Supply Co., LLC, 21747–21748
Sempra Energy Resources, 21748
Grants and cooperative agreements; availability, etc.:
Cooperative Automative Research for Advanced Technologies Program, 21749

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 21675–21679
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 21727
Colorado, 21721–21727
NOTICES
Air pollution control:
Citizens suits; proposed settlements—
Bayview Hunters Point Community Advocates et al., 21754–21755
Reports and guidance documents; availability, etc.:
Agency public involvement policy; review; comment request, 21755

Federal Aviation Administration
RULES
Class E airspace, 21639
PROPOSED RULES
Airworthiness directives:
Aerospatiale, 21699–21700
Airbus, 21697–21698
BAe Systems (Operations) Ltd., 21703–21704
Boeing, 21700–21703
NOTICES
Aeronautical land-use assurance; waivers:
Manassas Regional Airport, VA, 21810
Airport noise compatibility program:
Noise exposure maps—
Orland International Airport, FL, 21810–21811

Federal Communications Commission
RULES
Radio stations; table of assignments:
Arizona, 21680–21681
Missouri, 21681
Oklahoma, 21681
Texas, 21680
Washington, 21679–21680
Television broadcasting:
Class A television service establishment, 21681–21691
PROPOSED RULES
Radio stations; table of assignments:
Colorado, 21727–21728
Television stations; table of assignments:
Texas, 21728
NOTICES
Common carrier services:
End user common line charge proceeding; damages claims adjudication; hearing designation order and notice of appearance filing requirements, 21755

Federal Energy Regulatory Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21749
Senior Executive Service:
Performance Review Board; membership, 21754
Applications, hearings, determinations, etc.:
Alliance Pipeline L.P., 21750
Bethlehem Steel Corp., 21750
Chandeleur Pipe Line Co. et al, 21750–21751
Connecticut Energy Cooperative, Inc., 21751
Dominion Transmission, Inc., 21751–21752
Enron Sandhill L.P., 21752
Gulf South Pipeline Co., LP, 21752
Mid Louisiana Gas Co., 21752–21753
Northern Natural Gas Co., 21753
Redbud Energy LP, 21753
Tuscarora Gas Transmission Co., 21753–21754
Viking Gas Transmission Co., 21754

Federal Railroad Administration
NOTICES
Safety advisories, bulletins, and directives:
Railroad airbrake system trainline angle cocks manufactured by Ellcon-National; in-service failures, 21811–21812

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 21755

Federal Retirement Thrift Investment Board
PROPOSED RULES
Thrift Savings Plan:
Uniformed services account, 21693–21697

Fish and Wildlife Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21774–21776
Environmental statements; availability, etc.:
Incidental take permits—
Klickitat County, WA; northern spotted owl, 21776–21778

Food and Drug Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21767–21768
Reporting and recordkeeping requirements, 21768–21769
Submission for OMB review; comment request, 21769–21770

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Ratites and squabs; mandatory inspection, 21631–21639

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Georgia, 21739
Ohio
E.I. DuPont de Nemours & Co., Inc.; chemical products, 21739
Pennsylvania
Sony Technology Center-Pittsburgh; television manufacturing facilities, 21740

Forest Service
NOTICES
Environmental statements; availability, etc.:
Hiawatha National Forest, MI, 21730–21731
Environmental statements; notice of intent:
Idaho Panhandle National Forests, ID, 21731–21732

Geological Survey
NOTICES
Grant and cooperative agreement awards:
Chevron Research & Technology Co., 21778

Exploration Co. of Delaware, Inc., 21778
Hamilton Operating, Inc., 21778

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration

Health Care Financing Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21770
Medicare:
Medicare+Choice plans—
End-stage renal disease; payment rates, 21770–21774

Health Resources and Services Administration
NOTICES
Meetings:
Organ Transplantation Advisory Committee, 21774

Immigration and Naturalization Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21779–21780

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau

Internal Revenue Service
PROPOSED RULES
Income taxes:
New markets tax credit, 21843–21845

International Trade Administration
NOTICES
Antidumping:
Cased pencils from—
China, 21742
Antidumping and countervailing duties:
Administrative review requests, 21740–21742
Applications, hearings, determinations, etc.:
Boston College, 21742
University of—
Colorado, 21742–21743

Justice Department
See Immigration and Naturalization Service
See National Institute of Corrections

Labor Department
See Labor Statistics Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21782–21784

Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21784–21785

Land Management Bureau
NOTICES
Closure of public lands:
Colorado, 21779
Environmental statements; notice of intent:
Mason Neck, Fairfax County, VA; Meadowood Farm, 21779
Meetings:
Resource Advisory Councils—
Arizona, 21779

Maritime Administration
NOTICES
Meetings:
Voluntary Intermodal Sealift Agreement/Joint Planning Advisory Group, 21812

National Archives and Records Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21785–21786

National Highway Traffic Safety Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21813–21817
Grants and cooperative agreements; availability, etc.:
Buckle Up America Campaign—
State Associations of Chiefs of Police; seat belt enforcement, 21817–21820
Motor vehicle safety standards; exemption petitions, etc.:
Mazda Motor Corp., 21820–21821

National Institute of Corrections
NOTICES
Grants and cooperative agreements; availability, etc,:
Executive Leadership Training Program for Women, 21780–21782

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pacific cod, 21691
Yellowfin sole, 21691–21692
Northeastern United States fisheries—
Atlantic sea scallop, 21639–21648
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21743–21744
Meetings:
New England Fishery Management Council, 21744–21745
North Pacific Fishery Management Council, 21745

National Science Foundation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21786

National Telecommunications and Information Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 21745–21746

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Iowa Watershed Rehabilitation Pilot Project Plan, IA, 21733–21735

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Nuclear Management Co., LLC, 21787
Meetings; Sunshine Act, 21787–21788
Reports and guidance documents; availability, etc.:
Abnormal occurrences; annual report to Congress, 21788–21793
Nuclear Material Safety and Safeguards Office; decommissioning policy and guidance update and consolidation, 21793–21796

Occupational Safety and Health Review Commission
RULES
Ethics and conduct of agency employees; CFR part removed, 21670–21671

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Postage meters and meter stamps, 21720–21721

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration

Rural Telephone Bank
NOTICES
Meetings; Sunshine Act, 21735

Rural Utilities Service
NOTICES
Environmental statements; notice of intent:
Tri-State Generation & Transmission Association, Inc., 21735

Securities and Exchange Commission
RULES
Securities:
Transfer agents; recordkeeping requirements; use of electronic storage media to produce and preserve records, 21648–21660
NOTICES
Self-regulatory organizations; proposed rule changes:
Emerging Markets Clearing Corp., 21796
Options Clearing Corp., 21796–21797
Pacific Exchange, Inc., 21798–21803
Stock Clearing Corp. of Philadelphia, 21803–21804

Small Business Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
National Advisory Council et al., 21804–21805

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection and submission for OMB review; comment request, 21805–21806

State Department
NOTICES
International Religious Freedom Act:
Countries of particular concern, designation; list, 21806
Privacy Act:
Systems of records, 21806–21807

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Mahoning Valley Railway Co., 21821

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Railroad Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Community Development Financial Institutions Fund
See Customs Service
See Internal Revenue Service

Veterans Affairs Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 21822

Separate Parts In This Issue

Part II
Department of Agriculture, Agricultural Marketing Service, 21823–21834

Part III
Department of Agriculture, Agricultural Marketing Service, 21835–21842

Part IV
Department of the Treasury, Internal Revenue Service, and Community Development Financial Institutions Fund, 21843–21850

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

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
Proposed Rules:
1604 21693

7 CFR
930 21836
1240 21824

9 CFR
362 21631
381 21631

14 CFR
71 21639
Proposed Rules:
39 (4 documents) 21697, 21699, 21700, 21703

15 CFR
902 21639

17 CFR
240 21648

19 CFR
102 21660
132 21664
163 21664
Proposed Rules:
4 21705
24 21705
101 21705

26 CFR
Proposed Rules:
1 21844

27 CFR
250 21667
Proposed Rules:
9 21707

29 CFR
2202 21670

33 CFR
173 21671
Proposed Rules:
160 21710
165 21715
175 21717

39 CFR
Proposed Rules:
111 21720

40 CFR
52 21675
Proposed Rules:
52 (2 documents) 21721, 21727

47 CFR
73 (6 documents) 21679, 21680, 21681
Proposed Rules:
73 (2 documents) 21727, 21728

50 CFR
648 21639
679 (2 documents) 21691

Rules and Regulations

Federal Register
Vol. 66, No. 84
Tuesday, May 1, 2001

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

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 362 and 381

[Docket No.01–045IF]

RIN 0583–AC84

Mandatory Inspection of Ratites and Squabs

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Poultry Products Inspection Regulations (Part 381) and the Voluntary Poultry Inspection Regulations (Part 362) to include ratites and squabs under the mandatory poultry products inspection regulations. The Agency is responding to the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act (the Appropriations Act), signed by the President on October 28, 2000, which provides that 180 days after the date of its enactment, U.S. establishments slaughtering or processing ratites or squabs for distribution into commerce as human food will be subject to the requirements of the Poultry Products Inspection Act (PPIA), rather than the voluntary poultry inspection program under section 203 of the Agricultural Marketing Act of 1946 (AMA). The provision of the Appropriations Act specifying that ratites and squabs come under the Agency's mandatory inspection requirements is effective on April 26, 2001. Interested parties may comment on this interim final rule.

DATES: This interim final rule will be effective April 26, 2001. Comments must be received on this interim final rule by July 2, 2001.

ADDRESSES: Submit one original and two copies of written comments within the scope of the rulemaking to FSIS Docket Clerk, Docket #01–045IF, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For information about the interim final rule, contact Dr. Arshad Hussain, Director, Inspection and Enforcement Standards Development Staff, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 202, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700, (202) 720–3219.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 2000, the President signed the Appropriations Act, which provides that 180 days after the date of its enactment, U.S. establishments that slaughter or process ratites (such as ostriches, emus, and rheas) or squabs for distribution into commerce as human food will be subject to the requirements of the PPIA (21 U.S.C. 451, *et seq.*), rather than the voluntary poultry inspection program under section 203 of the AMA (7 U.S.C. 1622). This provision of the Appropriation Act is effective on April 26, 2001.

Ratites are members of a superorder (Ratitae) of flightless birds that have small or rudimentary wings and flat breastplates, e.g., ostriches, emus, and rheas. Squabs are young pigeons that have not yet flown.

Ratites are currently inspected under the Voluntary Poultry Inspection Regulations as an experimental program. Operators who wish to continue to slaughter or process ratites or squabs after April 26, 2001, for transport or sale in commerce must apply to FSIS for a grant of inspection for mandatory inspection service (§§ 381.6 and 381.16). As of April 26, 2001, grants of voluntary inspection for ratites and squabs will no longer be valid. Fees for ratite and squab inspection services will no longer be charged, except for overtime and holiday inspection services. Applications for mandatory inspection must be submitted on an FSIS application form available from any FSIS District Office or from FSIS Headquarters, Washington, DC 20250. FSIS will give notice in writing to each applicant granted (or denied) inspection.

Under the regulations that implement the PPIA, before being granted Federal inspection, an establishment must have written Sanitation Standard Operating Procedures (SOPs) (§ 381.22(a)) and a Hazard Analysis and Critical Control Point (HACCP) plan that the establishment has validated (§ 381.22 (b) and (c)). Establishments can receive conditional grants of inspection for a period of not more than 90 days while they validate their HACCP plans (§ 381.22(b)).

Import Inspection

This interim final rule will be effective on April 26, 2001. Within 18 months of that date, imported ratite or squab products will have to originate in countries that are eligible to export poultry to the United States and will have to be processed in establishments certified by the government of the foreign country as eligible to export to the United States. Currently, these countries include Canada, France, Great Britain, and Israel. Hong Kong and Mexico have not yet been approved by the United States to slaughter poultry; therefore, they are only eligible to export to the United States processed poultry products that originate from Canada, France, Great Britain, Israel, or the United States (§ 381.196).

All countries exporting or wanting to export ratite and squabs products to the United States, regardless of their current eligibility status regarding meat and poultry product exports to the United States, may do so for the next 18 months subject to the following. Countries already eligible to export poultry to the United States will be able to export ratites and squabs as soon as they certify to FSIS those establishments eligible to export to the United States. These countries are Canada, Israel, Great Britain, and France. Animal health restrictions continue to apply so there is no change with regard to the eligibility of specific products based on APHIS regulations.

Countries eligible to export meat to the United States will be permitted to export ratites to the United States

provided the animals are slaughtered in an establishment certified to export to the Unites States and provided the countries submit a request for establishing equivalency. Certified establishments are required to meet FSIS HACCP and Pathogen Reduction requirements. At this point, Australia and New Zealand, which are both eligible to export meat to the United States, have indicated that they want to export ratites.

Countries not eligible to export meat or poultry to the United States will need to submit a request for equivalency and FSIS will need to make an equivalency determination according to 9 CFR Part 327.

As indicated above, however, each country desiring to begin or continue exporting such products to the United States will have to apply for an equivalence determination of its ratite and squab inspection system. Countries' ratite and squab export inspection systems must be found to be equivalent with the U.S. domestic inspection system within 18 months of the effective date of the Agency's new mandatory ratite and squab inspection requirements (April 26, 2001).

After the 18 month period has ended, all shipments of ratites and squabs from eligible countries must be accompanied with the appropriate veterinary health certificate (§ 381.197) and must be presented to FSIS for import reinspection prior to entry (§ 381.199).

Countries wanting to export ratites and squab to the United States should make a written request to export poultry to FSIS through the United States Embassy located in the country. FSIS will conduct both a document review and an on-site audit to determine if the country operates an equivalent poultry inspection system.

During the review, FSIS will work cooperatively with the Animal and Plant Health Inspection Service, which approves the entry of poultry products according to the disease status of the exporting country.

If the country's export inspection system is found to be equivalent with the U.S. domestic inspection system, FSIS will publish a proposal in the **Federal Register** to list the country as eligible to export poultry products to the United States. After the public has had 60 days to comment on this proposed rule, FSIS will review all of the public comments and make a final determination of equivalence. The determination to list a country as equivalent, and, therefore, eligible to export poultry products to the United States, is published as a final rule in the **Federal Register**, along with FSIS's responses to the public comments. At that time, the country's inspection service may certify establishments for export of poultry products, including ratites and squabs, to the United States.

Summary of Interim Final Rule

FSIS is making a number of technical changes in its regulations, which it believes are noncontroversial, to provide for the inspection of ratites and squabs. The Agency is amending 9 CFR 362.1(d) to remove squab from the definition of ''Poultry'' in the Voluntary Poultry Inspection Regulations. FSIS is also amending § 362.1(e) to include ratites and squabs with chickens, turkeys, ducks, geese, and guineas in the definition of ''Poultry Product.'' The Agency is also amending § 381.1(b) to include ratites and squabs within the definition of ''Poultry'' in the Poultry Products Inspection Regulations.

FSIS is amending § 381.36(b) to require a pen for the ante mortem inspection of ratites. It is necessary to specify that a pen be available for ratites because ante mortem inspection of ratites is done on an individual bird basis, rather than a lot basis as is done for other amenable poultry.

The Agency is amending § 381.66 to exempt ratites from the chilling requirements of § 381.66 paragraphs (b), (c), and all of (d), except for (d)(1). Ratites are air-chilled rather than water-chilled, as is the case with most amenable poultry.

FSIS is amending § 381.67 to include squabs with young chickens under traditional inspection procedures. The two types of birds are of similar size and weight and thus can be inspected in a similar manner.

The Agency is amending § 381.70 to permit an exception to examining and inspecting ratites on the day of slaughter for humane reasons or, for low volume establishments, under certain conditions. This amendment allows the humane handling of ratites to be the same as that for livestock.

FSIS is amending § 381.71 to provide information on how suspect and condemned ratites are to be handled. This amendment is necessary because the treatment of suspect and condemned ratites is different than the treatment of suspect and condemned birds of other amenable species.

FSIS is amending § 381.72 to reflect the fact that ratites showing disease symptoms at ante mortem will be handled differently than other diseased poultry.

The Agency is amending § 381.76 to add Ratite Inspection as the fifth post mortem poultry inspection system. This amendment is necessary because inspection of ratites must be done in a different manner than inspection of other amenable poultry species. Thus, inspection of ratites cannot be done under the existing four inspection systems.

FSIS is amending § 381.96 to provide that ratite carcasses and parts that are shipped unpacked must bear the official brand. This addition is necessary because ratites are the only species of amenable species that are likely to be shipped unpacked.

Finally, FSIS is proposing to make some editorial changes to § 362.1 to correct inaccuracies and to provide for greater clarity.

Regulatory Impact Analysis

Basis for Regulatory Action

Currently, ratites and squabs are inspected on a voluntary, fee-for-service basis under section 203 of the AMA. The interim final rule will amend § 362.1(d) to remove squab from the definition of poultry in the Voluntary Poultry Inspection Regulations and will amend § 381.1 to include ratites and squabs under the Agency's mandatory poultry inspection requirements.

Congress mandated, in the FY 2001 Agriculture Appropriation Act, that 180 days from the date of enactment (April 26, 2001) U.S. establishments that slaughter or process ratites or squabs will come under mandatory inspection by FSIS.

Baseline

Ratites and squabs are considered non-amenable species and are currently inspected by the Agency on a voluntary, fee-for-service basis.[1] These species are also inspected on a mandatory or voluntary basis under State programs. Ratites are an order of flightless birds that includes ostriches, emus, rheas, cassowaries, and kiwis. The most economically important species of ratites are the ostrich and the emu. Squabs are young domesticated pigeons that have never flown. Ratite and squab meat is valued for its flavor and nutritional characteristics.

Since 1992, when FSIS first granted a request for voluntary inspection for ostriches, approximately 166 establishments have been issued a grant of inspection for ratite operations.

[1] The FMIA and PPIA do not mandate the inspection of ratites and squabs. FSIS provides, on a fee-for-service basis, voluntary inspection services under the Argicultural Marketing Act of 1946 for these species and others such as reindeer, elk, deer, antelope, water buffalo, bison, migratory water fowl, game birds, and rabbits. The Food and Drug Administration has primary statutory authority over all food animals and birds not covered by the FMIA and the PPIA.

Currently 99 establishments possess a grant of inspection. In 1999, there were a total of 48,286 (76%) ratites inspected in Federal establishments and 14,427 (24%) ratites inspected in State establishments, or a total of 62,713 ratites inspected (Table 1). Ostriches made up the largest share (69%) of the ratites inspected under the Federal program, whereas emus made up the largest share (56%) of the ratites inspected under State programs.

TABLE 1.—RATITES AND SQUAB INSPECTION VOLUME AND ESTABLISHMENTS, FY 1999

Species	Federal establishments		State establishments		Total inspected
	Number inspected	% of total	Number inspected	% of total	
Ratites					
Ostrich	33,521	86	5,254	14	38,775
Emu	14,745	64	8,068	36	22,813
Other	20	2	1,105	98	1,125
Ratites Total	48,286	76	14,427	24	62,713
Squabs	175,496	14	1,122,131	86	1,297,627
Totals	223,782	16	1,136,558	84	1,360,240
Ests.	Number		Number		
Squabs	2		2		
Ratites	99		95		

In 1999, states with a large share of ratites inspected under the Federal program were California, Georgia, Illinois, Louisiana, Oklahoma, and Texas. Alabama, California, Mississippi, North Carolina, Ohio, and Texas inspected a large share of ratites under State programs. There were almost an equal number of establishments involved in slaughter of ratites under the Federal (99) and State (95) inspection programs.

Ostriches

Ostrich is the largest bird in the world, standing about seven to eight feet tall and weighing 300–400 pounds when fully grown. Industry representatives indicate that there were about 600 ostrich growers 1998, down from 1000 growers in 1996. There is significant uncertainty about the annual production of ostriches and other ratites at this time. The Agency requests reliable information on the annual number of ratites and squab produced and the number of producers.

Ostriches are slaughtered at an average age of 12 months. The average weight at slaughter is 350 pounds. Ostrich meat is sold as steaks, fillets, medallions, roasts, and ground meat. Currently, ostriches are processed in establishments that are equipped to process other red meat species such as cattle, sheep, goats, and swine.

Emus

A mature emu reaches a height of 5 to 6 feet tall, weighing 90 to 120 pounds. In 1999, 22,813 emus were inspected under Federal and State programs (Table 1). There are a number of valuable products derived from emus in addition to their meat.

There is also significant uncertainty about the annual production of emus. Some source indicate that there may be as many as 500,000 birds on 5,000 to 6,000 farms in the U.S., with the majority of them in Texas, Oklahoma, and elsewhere in the Southwest.

Squabs

Squabs are young domesticated pigeons that have never flown. Squabs usually weigh 1 pound or less at the time of slaughter (about 4 weeks old). In 1999, California and Oregon were the only two states that inspected squabs under the Federal voluntary inspection program. In that year, 175,496 squabs were inspected (Table 1). During that same period 1,122,131 squabs were inspected under the inspection programs of California and South Carolina.

Regulatory Alternatives

FSIS considered two options in developing its interim final rule. The first option the Agency considered was to only change the definition of poultry in the Poultry Products Inspection Regulations to include ratites and squabs. This approach may have caused confusion in the industry because it would be difficult to apply some of the current poultry regulations to ratites and squabs, e.g., chilling and certain handling requirements.

The Agency's second option was to make the changes required by statute and other changes as noted above. FSIS selected this option because it will provide a more orderly transition from voluntary inspection to mandatory inspection of ratites and squabs than the first option at little or no additional cost.

Benefits

There are three primary benefits that may result from extending mandatory inspection services to ratites and squabs: industry growth, public health, and industry cost savings.

Having the inspection mark on the ratite and squab products could lead to greater consumer confidence and acceptability of the products. Demand could be expected to increase as a result. Establishments that are able to capitalize on the change in consumer preference may realize increased sales of these products. To the extent that inspection promotes growth in the ratite and squab industry, society could benefit also from the increased employment and earnings of workers in these establishments. Studies are not available to identify the potential growth in the industry that may occur.

The public health benefits of inspection are related to the reduction in risk associated with consumption of all ratite and squab meat that must be inspected using the same procedures employed in the meat and poultry industries. HACCP systems, Sanitation SOPs, and process control practices have been shown to reduce contamination by harmful foodborne pathogens.

A shift to the mandatory inspection system will eliminate the payment of

fees for inspection services. This is not a benefit from an economic perspective as the costs of inspection are transferred elsewhere in the economy. Since FSIS will recover these costs through appropriated funds, the change to a mandatory inspection system results in an income transfer from the public to the ratite and squab industry. The total cost savings to the industry would be about $2 million in 2001, with the possibility of increasing over time with the expansion of the industry.

Industry Costs

The compliance cost of extending mandatory inspection to ratite and squab species will be negligible. All establishments involved in slaughtering amenable species, as of January 25, 2000, must be in compliance with the provisions of Pathogen Reduction/ Hazard Analysis Critical Control Point (PR/HACCP) final rule. Under the provisions of the rule, all slaughter establishments under mandatory inspection are required to have HACCP plans and meet process control requirements. Nearly all establishments that slaughter and process ratites and squabs because they also slaughter other species under mandatory inspection have already implemented HACCP, Sanitation SOPs, and other measures consistent with the requirements of this rule. These establishments will still be required to make changes to their HACCP or sanitation procedures to include ratites and squabs. Establishments that have not included ratites and squabs in their HACCP plans [2] would incur minimal costs associated with HACCP plan modification.

As poultry is subject to mandatory Federal inspection, ratites and squabs will be subject to *E. coli* testing requirements. Establishments that slaughter more than one kind of poultry and livestock are required to test the kind of species slaughtered in the greatest number. The number of establishments where ratites and squabs will be the species being slaughtered in the greatest number is very low. Consequently, very few establishments will be required to perform additional *E. coli* testing for process control verification. The costs per establishment for *E. coli* testing are shown in Table 2. The Agency is requesting information on the number of establishments where ratites or squabs are, or would become, the major species for slaughter.

For those establishments slaughtering and processing ratites and squabs under voluntary inspection, the transition to mandatory inspection will not require changes in equipment and processing methods. Ratites are currently being slaughtered and processed in establishments that are equipped to process cattle, sheep, goats, and swine. Squabs are processed using the same equipment and procedures as those used for young chickens.

The Agency estimates that 50% of the Federal establishments (50 establishments) and 25% of the State establishments (24 establishments) may be required to make minor changes in their HACCP plan to accommodate mandatory inspection requirements for ratites.

TABLE 2.—POTENTIAL COSTS FOR MANDATORY FEDERAL INSPECTION

Costs	Per est. (dollars)	Industry ($thousand)
Start up Cost:		
HACCP Plan Modification	500	37.0
SSOP Modification	100	7.4
Recurring Cost: *E. coli Sampling* (26 samples@$20 per sample per establishment)	520	38.5
Recordkeeping	300	22.2
Total	1,420	105.1

The Agency seeks comment or further information pertaining to its cost figures for mandatory inspection.

Other additional costs that would apply to all establishments applying for Federal mandatory inspection will be the application cost. This cost will be negligible, as it is limited to a one-time cost for filling out an application, about $10. The total compliance cost to the establishments identified above are estimated to be $105,100.

FSIS is aware that some State inspected ratite product may contain sodium nitrite and/or sodium nitrate even though the Food and Drug Administration (FDA) regulations do not authorize such use of these substances for ratite products. However, once ratites are officially defined as poultry under PPIA regulations, such use will not be allowed in FSIS inspected products. FSIS does not have information on the types or amounts of product affected by this change, but is seeking information.

FSIS Costs

The Agency anticipates the need to conduct baseline microbiological and chemical residue studies. These studies constitute the major costs to the Agency totaling $600,000.

Microbiological Testing

The microbiological studies would help the Agency determine the prevalence of harmful bacteria or pathogens in ratites and squabs. These studies can also be used to develop performance standards for pathogen reduction. The costs of a microbiological baseline testing for ratites are $110,000 and for squabs, $95,000 (Tables 3 and 4).

Chemical Residue Testing

Chemical residue studies would help the Agency determine the presence of violative chemical and drug residues in ratites and squabs. Chemical residue testing would be necessary to determine how these additional species would be incorporated in the Agency's annual residue testing program. FSIS' one-time costs for chemical residue studies for ratites and squabs are $210,000 and $185,000, respectively (Tables 3 and 4).

[2] HACCP plans are not required to cover non-amenable species.

TABLE 2.—POTENTIAL COSTS FOR MANDATORY FEDERAL INSPECTION

Costs	Per est. (dollars)	Industry ($thousand)
Start up Cost:		
HACCP Plan Modification	500	37.0
SSOP Modification	100	7.4
Recurring Cost: *E. coli Sampling* (26 samples@$20 per sample per establishment)	520	38.5
Recordkeeping	300	22.2
Total	1,420	105.1

The Agency seeks comment or further information pertaining to its cost figures for mandatory inspection.

Other additional costs that would apply to all establishments applying for Federal mandatory inspection will be the application cost. This cost will be negligible, as it is limited to a one-time cost for filling out an application, about $10. The total compliance cost to the establishments identified above are estimated to be $105,100.

FSIS is aware that some State inspected ratite product may contain sodium nitrite and/or sodium nitrate even though the Food and Drug Administration (FDA) regulations do not authorize such use of these substances for ratite products. However, once ratites are officially defined as poultry under PPIA regulations, such use will not be allowed in FSIS inspected products. FSIS does not have information on the types or amounts of product affected by this change, but is seeking information.

FSIS Costs

The Agency anticipates the need to conduct baseline microbiological and chemical residue studies. These studies constitute the major costs to the Agency totaling $600,000.

Microbiological Testing

The microbiological studies would help the Agency determine the prevalence of harmful bacteria or pathogens in ratites and squabs. These studies can also be used to develop performance standards for pathogen reduction. The costs of a microbiological baseline testing for ratites are $110,000 and for squabs, $95,000 (Tables 3 and 4).

Chemical Residue Testing

Chemical residue studies would help the Agency determine the presence of violative chemical and drug residues in ratites and squabs. Chemical residue testing would be necessary to determine how these additional species would be incorporated in the Agency's annual residue testing program. FSIS' one-time costs for chemical residue studies for ratites and squabs are $210,000 and $185,000, respectively (Tables 3 and 4).

establishments that specialize in exotic species may seek to broaden their markets by exporting to the United States. The Agency may need to evaluate the equivalence of a greater number of foreign food regulatory inspection systems.

Executive Order 12866 and Regulatory Flexibility Act

Because this interim final rule has been determined to be significant, the Office of Management and Budget (OMB) has reviewed it under Executive Order 12866.

The Administrator, FSIS, has determined that this interim final rule would not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C. 601), on a substantial number of small entities.

Small establishments will not be adversely affected by this interim final rule. Few establishments slaughter and process ratites or squabs exclusively. They usually slaughter and process both amenable and non-amenable species. For small slaughtering establishments as well as large ones, ratites and squabs do not comprise all or even most of their business. Of the 100 establishments that slaughter or process ratites and squabs, only two slaughter over 90% of the squabs consumed in the market. There are no establishments that dominate the slaughtering of ratites. Small entities will benefit along with the rest of the industry with the increased marketability of their product and the cost savings realized because they will no longer have to pay fees to either FSIS or the state for voluntary inspection service.

Executive Order 12988

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This interim final rule: (1) Preempts 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. However, the administrative procedures specified in 9 CFR 306.5, 381.35, and 590.320 through 590.370, respectively, must be exhausted before any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the PPIA.

Executive Order 13132

Executive Order 13132, ''Federalism,'' requires that Agencies assess the federalism implications of their policy statements and actions, i.e., the effects of those statements and actions on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) preempt State and local laws in regard to the manufacture and distribution of meat and poultry products. Therefore, FSIS policy statements and actions impact federalism within the context of these statutory preemptions.

States and local jurisdictions are preempted by the FMIA and PPIA from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA and the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are within their jurisdiction and outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA and PPIA, or, in the case of imported articles, that are not at such an establishment, after their entry into the United States.

Specifically, under section 301 of the FMIA and section 5 of the PPIA, a State may administer State meat and poultry inspection programs provided that it has developed and is effectively enforcing State meat and poultry inspection requirements at least equal to those imposed under titles I and IV of the FMIA and sections 1–4, 6–10, and 12–22 of the PPIA. These titles contemplate continuous ongoing programs. When States can no longer effectively enforce meat and poultry inspection requirements at least equal to Federal requirements, they must be ''designated'' by the Secretary to receive Federal inspection.

When FSIS revises its meat and poultry inspection requirements, States that administer their own inspection programs may be impacted, since they must continue to enforce requirements equal to those of FSIS. To minimize any additional costs States must incur to modify their inspection programs, FSIS grants the States significant flexibility under the ''equal to'' provisions of the FMIA and PPIA. Further, States are eligible to receive up to 50 percent Federal matching funds to cover the costs of their inspection programs.

Paperwork Reduction Act Requirements

Title: Mandatory Inspection of Ratites and Squabs.

Type of Collection: New.

The paperwork and recordkeeping requirements in this final rule will be approved on an emergency basis by OMB under control number 0583–01120. FSIS is seeking comments on the paperwork and recordkeeping requirements in this interim final rule so that the Agency may receive a three-year approval for these requirements.

Abstract: FSIS has reviewed the paperwork and record keeping requirements in this interim final rule in accordance with the Paperwork Reduction Act. Under this proposed rule, FSIS is requiring several information collection and record keeping activities. FSIS is requiring that establishments slaughtering and processing ratites and squabs apply for Federal Inspection. Also, these establishments will need to develop and maintain Sanitation SOPs, HACCP plans, and perform testing for *E. coli.*

Estimate of Burden: FSIS estimates that the time to apply for inspection would be two hours. The time to develop a Sanitation SOP will be two days (16 hours) and five minutes to file. FSIS estimates that an establishment will spend about 5 minutes a day developing an average of eight monitoring records, per Sanitation SOP, and two minutes a day filing each record. The time to develop a HACCP plan or process schedule would take an average of two days (16 hours) and five minutes to file. FSIS estimates that an establishment will spend about five minutes a day developing an average of eight monitoring records, per HACCP plan or process schedule, and two minutes a day filing each record. The time to record *E. coli* testing results would be five minutes a day.

Respondents: Meat and poultry product establishments and irradiation facilities.

Estimated Number of Respondents: 105 (100 ratite and 5 squab establishments).

Estimated Number of Responses per Respondent: 8,252.

Estimated Total Annual Burden on Respondents: 54,758 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 112 Annex, 300 12th SW., Washington, DC 20250.

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 will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the collection of information including the validity of the methodology and

assumptions used: (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments are requested by July 2, 2001. To be most effective, comments should be sent to OMB within 30 days of the publication date.

List of Subjects

9 CFR Part 362

Poultry and poultry products.

9 CFR Part 381

Poultry and poultry products.

PART 362—VOLUNTARY POULTRY INSPECTION REGULATIONS

For the reasons stated in the preamble, FSIS is amending 9 CFR chapter III as follows:

1. The authority citation for part 362 is revised to read as follows:

Authority: 7 U.S.C. 1622; 7 CFR 2.18 (g) and (i) and 2.53.

2. Sections 362.1 and 362.2 are revised to read as follows:

§ 362.1 Definitions.

The definitions in § 381.1 are incorporated in this part except for the definitions excluded in § 362.2(a). In addition to those definitions, the following definitions will be applicable to the regulations in this part.

(a) *Act.* ''Act'' means the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087, as amended; 7 U.S.C. 1621 et seq.).

(b) *Inspector.* ''Inspector'' means any officer or employee of the Department authorized to perform any duties under the regulations in this part.

(c) *Person.* ''Person'' means any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other organized business unit.

(d) *Poultry.* ''Poultry'' means any migratory water fowl or game bird, whether dead or alive.

(e) *Poultry Product.* ''Poultry product'' means any poultry carcass or part thereof; or any human food product which is made wholly or in part from the carcass of any domesticated bird (as defined in § 381.1(b) of this chapter) and is excepted from the inspection requirements of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

§ 362.2 Types and availability of service.

Upon application, in accordance with § 362.3, the following types of service may be furnished under the regulations in this part:

(a) Inspection service. An inspection and certification service for wholesomeness relating to the slaughter and processing of poultry and the processing of poultry products. All provisions of Part 381 and §§ 416.1 through 416.6 of this chapter shall apply to the slaughter of poultry, and the preparation, labeling, and certification of the poultry and poultry products processed under this poultry inspection service except for the following provisions: the definitions of ''Act,'' ''animal food manufacturer,'' ''Inspection Service,'' ''inspector,'' ''Inspector in Charge,'' ''poultry,'' ''poultry product,'' ''poultry food product,'' ''poultry products broker,'' ''renderer,'' and ''U.S. Refused Entry'' in §§ 381.1 (b), 381.3 (a), 381.6, 381.10, 381.13–381.17, 381.21, 381.29, 381.39–381.42, 381.175 (a)(2), 381.175 (a)(3), 381.179, 381.185–381.187, 381.192, and 381.195–381.225.

(b) Export certification service. At the request of any person intending to export any slaughtered poultry or poultry product, inspectors may make certification regarding products for human food purposes, to be exported, as meeting conditions or standards that are not imposed or are in addition to those imposed by the regulations in this chapter and the laws under which such regulations were issued.

(c) Identification Service. (1) Poultry or other product that is federally inspected and passed at an official establishment, or upon importation, under the Poultry Products Inspection Act, is officially marked to identify it as federally inspected and passed. In order to facilitate the division of such poultry or other product into smaller portions or its combination into larger units and still maintain its identify as product which has been federally inspected and passed and so marked, inspectors may supervise the handling and weighing of the product and mark such portions and units with the official mark of inspection when they determine that identify has been maintained.

(2) At the time service is furnished, product must be sound, wholesome, and fit for human food. The service will be available only on premises other than those of an official establishment. The sanitation of the place or area where service is furnished must comply with provisions of §§ 416.1 through 416.6 of this chapter.

(3) The mark of inspection shall be applied only under the immediate supervision of an inspector.

(4) This service does not cover further cutting and processing of products. These activities must take place at an official establishment.

(5) The registration and recordkeeping requirements enumerated in Part 381, subpart Q, of this chapter shall apply to persons requesting voluntary identification service under this paragraph (c).

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for Part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 USC 451–470; 7 CFR 2.18, 2.53.

4. Section 381.1 (b) is amended by revising the definition of poultry to read as follows:

Poultry. ''Poultry'' means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs, also termed young flightless pigeons), whether live or dead.

* * * * *

5. Amend § 381.36 by revising the first sentence of paragraph (b) to read as follows:

§ 381.36 Facilities required.

(b) *Facilities for ante mortem inspection.* A suspect pen is required for adequate ratite inspection. * * *

* * * * *

6. Amend § 381.66 by revising the headings of paragraphs (b) and (c), and by revising paragraph (d)(1) to read as follows:

§ 381.66 Temperatures and chilling and freezing procedures.

* * * * *

(b) *General chilling requirements, except for ratites.* * * *

(c) *Ice and water chilling requirements, except for ratites.* * * *

(d) (1) *Moisture absorption and retention limits.*

(1) Poultry washing, chilling, and draining practices and procedures shall be such as will minimize moisture absorption and retention at time of packaging. Ratites must meet the requirements of this paragraph but are exempt from the rest of § 381.66(d).

* * * * *

7. Amend § 381.67, by revising the text preceding the table and the heading of the table, to read as follows:

§ 381.67 Young chicken and squab slaughter inspection rate maximums under traditional inspection procedure under traditional inspection procedure.

The maximum number of birds to be inspected by each inspector per minute under the traditional inspection procedure for the different young chicken and squab slaughter line configurations are specified in the following table. These maximum rates will not be exceeded. The inspector in charge will be responsible for reducing production line rates where in the inspector's judgment the prescribed inspection procedure cannot be adequately performed within the time available, either because the birds are not presented by the official establishment in such a manner that the carcasses, including both internal and external surfaces and all organs, are readily accessible for inspection, or because the health conditions of a particular flock dictate a need for a more extended inspection procedure. The standards in 381.170(a) of this part specify which classes of birds constitute young chickens and squabs. Section 381.76(b) specifies when either the traditional inspection procedure or the modified traditional inspection procedure can or must be used.

Maximum Production Line Rates—Chickens and Squabs-Traditional Inspection Procedures

* * * * *

8. Amend § 381.70 by designating the text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 381.70 Ante mortem inspection; when required; extent.

* * * * *

(b) The examination and inspection of ratites will be on the day of slaughter, except:

(1) When it is necessary for humane reasons to slaughter an injured animal at night or on a Sunday or holiday, and the FSIS veterinary medical officer cannot be obtained; or

(2) In low volume establishments, when ante mortem inspection cannot be done on the day of slaughter, and the birds to be slaughtered have received ante mortem inspection in the last 24 hours, provided the establishment has an identification and control system over birds that have received ante mortem inspection.

9. Amend § 381.71 by designating the text as paragraph (a) and by adding paragraphs (b), (c), (d), (e), and (f) to read as follows:

§ 381.71 Condemnation on ante mortem inspection.

* * * * *

(b) Dead-on-arrival ratite carcasses and ratites condemned on ante mortem inspection will be tagged ''U.S. Condemned'' by an establishment employee under FSIS supervision and disposed of by one of the methods prescribed in § 381.95.

(c) All seriously crippled ratites and non-ambulatory ratites, commonly termed ''downers,'' shall be identified as ''U.S. Suspects.''

(d) Ratites exhibiting signs of drug or chemical poisoning shall be withheld from slaughter.

(e) Ratites identified as ''U.S. Suspects'' or ''U.S. Condemned'' may be set aside for treatment. The ''U.S. Suspect'' or ''U.S. Condemned'' identification device will be removed by an establishment employee under FSIS supervision following treatment if the bird is found to be free of disease. Such a bird found to have recovered from the condition for which it was treated may be released for slaughter or for purposes other than slaughter, provided that in the latter instance permission is first obtained from the local, State, or Federal sanitary official having jurisdiction over movement of such birds.

(f) When it is necessary for humane reasons to slaughter an injured ratite at night or Sunday or a holiday, and the Agency veterinary medical officer cannot be obtained, the carcass and all parts shall be kept for inspection, with the head and all viscera except the gastrointestinal tract held by the natural attachment. If all parts are not so kept for inspection, the carcass shall be condemned. If on inspection of a carcass slaughtered in the absence of an inspector, any lesion or other evidence is found indicating that the bird was sick or diseased, or affected with any other condition requiring condemnation of the animal on ante mortem inspection, or if there is lacking evidence of the condition that rendered emergency slaughter necessary, the carcass shall be condemned. Ratites that are sick, dying, or that have been treated with a drug or chemical and presented for slaughter before the required withdrawal period, are not covered by emergency slaughter provisions.

10. Revise § 381.72 to read as follows:

§ 381.72 Segregation of suspects on ante mortem inspection.

(a) All birds, except ratites, that on ante mortem inspection do not plainly show, but are suspected of being affected with, any disease or condition that under §§ 381.80 to 381.93 of this Part may cause condemnation in whole or in part on post mortem inspection, shall be segregated from the other poultry and held for separate slaughter, evisceration, and post mortem inspection. The inspector shall be notified when such segregated lots are presented for post mortem inspection, and inspection of such birds shall be conducted separately. Such procedure for the correlation of ante mortem and post mortem findings by the inspector, as may be prescribed or approved by the Administrator, shall be carried out.

(b) All ratites showing symptoms of disease will be segregated, individually tagged as ''U.S. Suspects'' by establishment personnel under FSIS supervision with a serially numbered metal or plastic leg band or tag bearing the term ''U.S. Suspect,'' and held for further examination by an FSIS veterinarian. Depending upon the findings of the veterinarian's examination, these birds will either be passed for regular slaughter, slaughtered as suspects, withheld from slaughter, or condemned on ante mortem. Those ratites affected with conditions that would be readily detected on post mortem inspection need not be individually tagged on ante mortem inspection with the ''U.S. Suspect'' tag provided that such ratites are segregated and otherwise handled as ''U.S. Suspects.'' All ratites identified as ''U.S. Condemned'' shall be tagged by establishment personnel, under FSIS supervision, with a serially numbered metal or plastic leg band or tag bearing the term ''U.S. Condemned.''

11. Amend § 381.76 by revising the introductory text of paragraph (b) (1) to read as follows:

§ 381.76 Post-mortem inspection, when required; extent; traditional, Streamlined Inspection System (SIS), New Line Speed (NELS) Inspection System and the New Turkey Inspection (NTI) System; rate of inspection.

* * * * *

(b)(1) There are five systems of post-mortem inspection: Streamlined Inspection System (SIS) and the New Line Speed (NELS) Inspection System, both of which shall be used only for broilers and cornish game hens; the New Turkey Inspection (NTI) System, which shall be used only for turkeys; Traditional Inspection; and Ratite Inspection.

* * * * *

12. Revise § 381.96 to read as follows:

§ 381.96 Wording and form of the official inspection legend.

Except as otherwise provided in this subpart, the official inspection legend required to be used with respect to inspected and passed poultry products

shall include wording as follows: ''Inspected for wholesomeness by U.S. Department of Agriculture.'' This wording shall be contained within a circle. The form and arrangement of such wording shall be exactly as indicated in the example in Figure 1, except that the appropriate official establishment number shall be shown, and if the establishment number appears elsewhere on the labeling material in the manner prescribed in § 381.123(b), it may be omitted from the inspection mark. The administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The official inspection legend, or the approved abbreviation thereof, shall be printed on consumer packages and other immediate containers of inspected and passed poultry products, or on labels to be securely affixed to such containers of such products and may be printed or stenciled thereon, but shall not be applied by rubber stamping. When applied by a stencil, the legend shall not be less than 4 inches in diameter. An official brand must be applied to inspected and passed carcasses and parts of ratites that are shipped unpacked.

Done at Washington, DC, on: April 25, 2001.

Thomas J. Billy,

Administrator.

[FR Doc. 01–10679 Filed 4–26–01; 1:36 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–1]

Establishment of a Class E Enroute Domestic Airspace Area, El Centro, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effective date of a direct final rule which establishes a Class E enroute domestic airspace area beginning at 1,200 feet above ground level (AGL) in the vicinity of El Centro, CA and replaces existing Class G uncontrolled airspace within Restricted Area 2510A (R2510A), the Kane West Military Operating Area (MOA), and Kane East MOA.

EFFECTIVE DATE: The effective date of the direct final rule published on February 26, 2001 (66 FR 11531) is delayed until 0901 UTC July 12, 2001.

ADDRESSES: The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520.10, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6613.

SUPPLEMENTARY INFORMATION: On February 26, 2001, the FAA published in the **Federal Register** a direct final rule; request for comments, which established a Class E enroute domestic airspace area beginning at 1,200 feet above ground level in the vicinity of El Centro, CA (FR Document 01–4680, 66 FR 11531, Airspace Docket No. 01–AWP–1). Please note that when accessing this document it was published incorrectly by the **Federal Register** as 00–AWP–1. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 15, 2001. No adverse comments were received; therefore this document confirms that this direct final rule will become effective, but on a delayed date of July 12, 2001. The delay in the effective date is so the change will be in conjunction with established aeronautical charting cycles.

Issued in Los Angeles, California, on April 4, 2001.

Leonard A. Mobley,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–10841 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 010410087–1087–01; I.D. 031401B]

RIN 0648–AO07

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 14

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP). This final rule implements management measures for the 2001 and 2002 fishing years, including a days-at-sea (DAS) adjustment, a Sea Scallop Area Access Program (Area Access Program) for two areas that have been closed to scallop fishing in the Mid-Atlantic, and a 50–bu (17.62 hectoliters (hl)) possession restriction of in-shell scallops on vessels shoreward of the vessel monitoring system (VMS) demarcation line. The intent of this action is to achieve the goals and objectives of the FMP and to achieve optimum yield in the scallop fishery. In addition, NMFS publishes the Office of Management and Budget (OMB) control numbers for collection-of-information requirements contained in this final rule.

DATES: Effective April 26, 2001.

ADDRESSES: Copies of Framework Adjustment 14, its Final Supplemental Environmental Impact Statement (FSEIS), and Regulatory Impact Review (RIR) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at http://www.nefmc.org.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; and to the Office of Information and Regulatory Affairs, Office of Management and Budget,

Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:
Peter W. Christopher, Fishery Policy Analyst, 978–281–9280; fax 978–281–9135; e-mail peter.christopher@noaa.gov.

SUPPLEMENTARY INFORMATION:
Regulations implementing Amendment 7 to the FMP (64 FR 14835, March 29, 1999) redefined overfishing and revised the fishing mortality (F) reduction schedule through fishing year 2008. The reductions in F and associated sea scallop DAS schedule were intended to rebuild the sea scallop stock within 10 years. Amendment 7 also established an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives as conditions in the resource change. In addition, Amendment 7 included a measure that continued the closures of two sea scallop closed areas in the Mid-Atlantic region, known as the Hudson Canyon South and Virginia Beach Closed Areas, through March 1, 2001. These closed areas were originally implemented by interim rules (63 FR 15324, March 31, 1998; 63 FR 51862, September 29, 1998) to prevent the harvest of juvenile scallops and to allow time for scallop growth and rebuilding. Framework 14 renames the Hudson Canyon South Closed Area as the Hudson Canyon Area to avoid confusion that the ''South'' description may cause.

Based on information from the 29th Northeast Regional Stock Assessment Workshop (September 1999) and on the updated catch and survey data, the New England Fishery Management Council (Council) included new biological projections in its 2000 Stock Assessment and Fishery Evaluation (SAFE) Report for sea scallops (September 8, 2000) that conclude that scallop rebuilding is ahead of the rebuilding schedule specified in Amendment 7. As reported in the 2000 SAFE Report, the accelerated rebuilding has occurred primarily because of strong year classes of scallops in 1998 and 2000. The Scallop Plan Development Team (PDT), which completed the analysis in the 2000 SAFE Report, determined that DAS allocations could be increased from the Amendment 7 levels while still meeting the 2001 and 2002 F targets, provided that the Georges Bank and Southern New England multispecies closed areas remain closed to scallop fishing and that access to scallops in the Hudson Canyon and Virginia Beach Areas in the Mid-Atlantic is controlled. The PDT also recommended closing four new areas to scallop fishing to protect high concentrations of juvenile scallops.

At its January 25, 2001, meeting, the Council took final action on management measures for Framework 14. The Council recommended the following measures for fishing years 2001 and 2002: An annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively; an Area Access Program for the Hudson Canyon and Virginia Beach Areas to control fishing effort, catch, and fishing mortality in these two previously closed areas; and a prohibition on the possession of more than 50 U.S. bushels (17.62 hl) of in-shell scallops inside the VMS demarcation line for vessels that fish in or transit the area south of 42°20′ N. latitude. Although the Scallop Oversight Committee supported two additional closures in Framework 14, the Council ultimately decided to recommend that no new closures (beyond the continuation of the Georges Bank and Southern New England multispecies closed areas) be implemented because such closures had the potential for unnecessary hardships on the industry and that new closures are not necessary to achieve the goals of the FMP given the improved condition of the resource.

Approved Measures

This action implements an annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively, for the 2001 and 2002 fishing years. This allocation represents an increase over the DAS allocations that became effective March 1, 2001, as scheduled under Amendment 7 (i.e., 49 full-time, 19 part-time, and 4 occasional).

Framework 14 implements a system (Area Access Program) for allowing controlled scallop fishing in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, similar to programs implemented under Frameworks 11 and 13 to the FMP that allowed scallop fishing in the multispecies closed areas. Vessels are prohibited from fishing for scallops in the Sea Scallop Access Areas unless they are fishing under the Area Access Program. The intent of this access program is to derive biological, social, and economic benefits from fishing in the areas over the course of 2 years. Measures included in the Area Access Program are described below.

This action also implements a prohibition on the possession of more than 50 U.S. bu (17.62 hl) of in-shell scallops inside the VMS demarcation line for vessels that fish in or transit the area south of 42°20′ N. latitude. Without this restriction, vessels could avoid the limitations of the seven-man crew and DAS restrictions by bringing in-shell scallops shoreward of the VMS demarcation line and shucking inside the line. Because DAS stop accruing once a vessel is inside the VMS demarcation line, vessels are able to bank this saved time for future trips. This measure also may have the incidental benefit of helping to prevent possible contamination of inshore habitats caused by any large discards of scallop viscera as a result of shucking near shore. Vessels fishing north of 42°20′ N. latitude will be exempt from this restriction, provided they do not enter the area south of 42°20′ N. latitude. This exemption is intended to allow a limited fishery to continue north of 42°20 N. latitude by some vessels that have traditionally landed in-shell scallops.

Finally, this final rule corrects a reference to the stowage provisions in the regulations for Closed Area I that inadvertently references a paragraph that formerly included gear stowage provisions but is now reserved. This regulation is found at § 648.81(b)(2)(ii).

Sea Scallop Area Access Program Measures

The 2001 Area Access Program begins on May 1, 2001 and ends when the TAC is caught or when vessels have used up their allocated number of trips. The 2002 Area Access Program begins on March 1, 2002, unless the fishery is closed prior to February 28, 2002, in which case it will begin on April 1, 2002. A delay in the start date is intended to reduce possible bycatch of finfish that could occur in late winter and early spring.

The Area Access Program includes a TAC of 13.96 million lb (6,331 mt) and 0.62 million lb (283 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for 2001, and 14.14 million lb (6,415 mt) and 0.60 million lb (273 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for 2002. These TACs include set-asides of 2 percent and 1 percent to defray the costs of observers and research, respectively. The TACs achieve an F of 0.2 in each of the two areas.

All limited access scallop vessels, including vessels that replace vessels that hold a scallop Confirmation of Permit History, are eligible to fish for the sea scallop TAC under the Area Access Program. Full-time and part-time scallop vessels are restricted to a total of three annual trips to the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. A trip to either of the areas counts as one of the allowed trips.

Vessels participating in the Area Access Program are allowed to take only one of the three allocated trips before May 1 and only two of the three allocated trips before June 1. At least one trip must be started before September 1 to be eligible to fish the remainder of the allocated trips or any additional trips that may be authorized on or after October 1. This measure is meant to prevent a derby style fishery from occurring and may reduce the potential for bycatch by limiting trips in late spring when bycatch, particularly of summer flounder, could be problematic. Vessels in the occasional permit category may conduct only one trip and may fish in the area of their choice.

Participating scallop vessels are allowed to possess and land from the areas up to 17,000 lb (7,711.1 kg) of scallop meats per trip in fishing year 2001 and 18,000 lb (8,164.7 kg) of scallop meats per trip in fishing year 2002. Limits on both the amount of scallops possessed and landed and the number of trips are intended to help to control fishing mortality of scallops in the areas. These limits are also intended to increase social benefits by allowing all limited access vessels an opportunity to fish in the areas without creating a derby fishery, and to increase economic benefits by promoting an orderly fishery and reducing the possibility of market gluts that could be caused by high initial catches in these areas.

After taking into account data on the number of eligible vessels participating and on the total number of trips taken, the Administrator, Northeast Region, NMFS (Regional Administrator) may adjust the sea scallop possession limit for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas any time during the season and on or after October 1 for fishing year 2001 and 2002 may allocate one or more additional trips for full-time and part-time vessels. In order for additional trips to be allocated, a sufficient amount of the sea scallop TAC must remain to warrant such an adjustment or allocation. In order for a vessel to participate in any additional Area Access Program trips allocated on or after October 1, that vessel must have started at least one Area Access Program trip prior to September 1 of the current fishing year. Vessels with occasional permits will not be allocated any additional trips.

Any trip of 10 DAS or less for a vessel fishing in the Area Access Program will count as 10 DAS. Any trip of over 10 DAS will count as the actual DAS (e.g., if a vessel used 12 DAS, 12 DAS would be deducted from its annual DAS allocation). The intended effect of the minimum 10 DAS count is to reduce the amount of days that are available to be fished in the 2001–2002 fishing years in other areas, where scallops are generally smaller, thereby reducing fishing mortality by potentially reducing the number of scallops caught under DAS.

Vessels will be allowed to use dredges or trawls when fishing in the Area Access Program. Dredge gear is required to be outfitted with a twine top with a minimum mesh size of 10 inches (25.40 cm). The purpose of increasing the minimum twine top mesh size measurement from 8 inches (20.32 cm) to 10 inches (25.40 cm) for the Area Access Program is to reduce bycatch of groundfish and other finfish. Recent research and experience from the Georges Bank and Southern New England Closed Area Sea Scallop Exemption Program demonstrate that the 10-inch (25.40 cm) mesh size may significantly reduce bycatch of certain species, especially flatfish species.

All scallop vessels fishing in the Area Access Program must have installed on board an operational VMS unit that meets the minimum performance criteria as specified in the regulations at § 648.9(b). (Vessels with occasional permits are the only limited access scallop vessels not currently required to have a VMS unit). Scallop vessels planning to fish in the Area Access Program must so declare by notifying the Regional Administrator through the VMS as described here.

Each vessel operator is required to inform NMFS of his/her intention to fish in the Sea Scallop Access Areas prior to the 25th day of the month preceding the month in question through the VMS e-mail system to facilitate placement of observers (e.g., if the vessel plans to fish in these areas in July, it would need to notify the Regional Administrator by June 25).

The following information must be reported to the Regional Administrator prior to the 25th day of the month preceding the month in question: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, the area to be fished, and the number of trips anticipated to be taken in the area in question. Vessels will be provided additional information by mail regarding all notification requirements.

Each vessel participating in the Area Access Program is required to report specific information on a daily basis through the VMS. For each day of an Area Access Program trip, a vessel must report the daily pounds (kg) of scallop meats kept, the area fished that day, and the Fishing Vessel Trip Report page numbers corresponding to the respective Sea Scallop Access Area trip. In addition, vessels on observed trips must provide a separate report of the daily pounds (kg) of scallop meats kept on tows that were observed.

Vessels that have declared a trip into the Area Access Program are prohibited from possessing more than 50 U.S. bu (17.62 hl) (400 lb (181.4 kg) of meats) of shell stock when outside the Sea Scallop Access Areas. This limit for shell stock (i.e., unshucked scallops) is considered part of the overall possession limit. A limit on the amount of sea scallops landed in the shell is necessary to monitor and enforce the overall meat weight possession limit requirement. Allowing vessels to retain a relatively minor amount of shell stock will help satisfy a market for large, whole scallops, yet not compromise the enforceability of the conservation intent of the possession limit.

General category permitted vessels and limited access scallop vessels fishing outside a scallop DAS are allowed to fish in the Sea Scallop Access Areas throughout the year, provided that no more than 100 lb (45.36 kg) of scallop meats are possessed on board the vessel when the vessel is in the Sea Scallop Access Areas. These vessels are prohibited from possessing in-shell scallops while inside the Sea Scallop Access Areas, except they may possess an equivalent of in-shell scallops that are necessary to provide 100 lb (45.36 kg) of scallop meats. Vessels not fishing under the Area Access Program may transit the Sea Scallop Access Areas with more than these possession limits on board, provided their gear is properly stowed according to the regulations at § 648.23(b). This measure is intended to allow an incidental catch of scallops for scallop vessels that fish for other species outside the areas and to allow for more direct transiting to and from other fishing areas.

To improve the enforceability of the Area Access Program, all limited access scallop vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Area Access Program or not. Also, vessels are required to stow all dredge or trawl gear while transiting to and from the Sea Scallop Access Areas and must land their scallop catch at one location for each trip.

Vessels are required to carry observers when requested. The Council has recommended, as a goal, a 10-percent observer coverage for the Hudson Canyon Sea Scallop Access Area and a 20-percent observer coverage for the Virginia Beach Sea Scallop Access Area. Observers will obtain information on catch, catch rates, and bycatch and may

Vessels participating in the Area Access Program are allowed to take only one of the three allocated trips before May 1 and only two of the three allocated trips before June 1. At least one trip must be started before September 1 to be eligible to fish the remainder of the allocated trips or any additional trips that may be authorized on or after October 1. This measure is meant to prevent a derby style fishery from occurring and may reduce the potential for bycatch by limiting trips in late spring when bycatch, particularly of summer flounder, could be problematic. Vessels in the occasional permit category may conduct only one trip and may fish in the area of their choice.

Participating scallop vessels are allowed to possess and land from the areas up to 17,000 lb (7,711.1 kg) of scallop meats per trip in fishing year 2001 and 18,000 lb (8,164.7 kg) of scallop meats per trip in fishing year 2002. Limits on both the amount of scallops possessed and landed and the number of trips are intended to help to control fishing mortality of scallops in the areas. These limits are also intended to increase social benefits by allowing all limited access vessels an opportunity to fish in the areas without creating a derby fishery, and to increase economic benefits by promoting an orderly fishery and reducing the possibility of market gluts that could be caused by high initial catches in these areas.

After taking into account data on the number of eligible vessels participating and on the total number of trips taken, the Administrator, Northeast Region, NMFS (Regional Administrator) may adjust the sea scallop possession limit for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas any time during the season and on or after October 1 for fishing year 2001 and 2002 may allocate one or more additional trips for full-time and part-time vessels. In order for additional trips to be allocated, a sufficient amount of the sea scallop TAC must remain to warrant such an adjustment or allocation. In order for a vessel to participate in any additional Area Access Program trips allocated on or after October 1, that vessel must have started at least one Area Access Program trip prior to September 1 of the current fishing year. Vessels with occasional permits will not be allocated any additional trips.

Any trip of 10 DAS or less for a vessel fishing in the Area Access Program will count as 10 DAS. Any trip of over 10 DAS will count as the actual DAS (e.g., if a vessel used 12 DAS, 12 DAS would be deducted from its annual DAS allocation). The intended effect of the minimum 10 DAS count is to reduce the amount of days that are available to be fished in the 2001–2002 fishing years in other areas, where scallops are generally smaller, thereby reducing fishing mortality by potentially reducing the number of scallops caught under DAS.

Vessels will be allowed to use dredges or trawls when fishing in the Area Access Program. Dredge gear is required to be outfitted with a twine top with a minimum mesh size of 10 inches (25.40 cm). The purpose of increasing the minimum twine top mesh size measurement from 8 inches (20.32 cm) to 10 inches (25.40 cm) for the Area Access Program is to reduce bycatch of groundfish and other finfish. Recent research and experience from the Georges Bank and Southern New England Closed Area Sea Scallop Exemption Program demonstrate that the 10-inch (25.40 cm) mesh size may significantly reduce bycatch of certain species, especially flatfish species.

All scallop vessels fishing in the Area Access Program must have installed on board an operational VMS unit that meets the minimum performance criteria as specified in the regulations at § 648.9(b). (Vessels with occasional permits are the only limited access scallop vessels not currently required to have a VMS unit). Scallop vessels planning to fish in the Area Access Program must so declare by notifying the Regional Administrator through the VMS as described here.

Each vessel operator is required to inform NMFS of his/her intention to fish in the Sea Scallop Access Areas prior to the 25th day of the month preceding the month in question through the VMS e-mail system to facilitate placement of observers (e.g., if the vessel plans to fish in these areas in July, it would need to notify the Regional Administrator by June 25).

The following information must be reported to the Regional Administrator prior to the 25th day of the month preceding the month in question: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, the area to be fished, and the number of trips anticipated to be taken in the area in question. Vessels will be provided additional information by mail regarding all notification requirements.

Each vessel participating in the Area Access Program is required to report specific information on a daily basis through the VMS. For each day of an Area Access Program trip, a vessel must report the daily pounds (kg) of scallop meats kept, the area fished that day, and the Fishing Vessel Trip Report page numbers corresponding to the respective Sea Scallop Access Area trip. In addition, vessels on observed trips must provide a separate report of the daily pounds (kg) of scallop meats kept on tows that were observed.

Vessels that have declared a trip into the Area Access Program are prohibited from possessing more than 50 U.S. bu (17.62 hl) (400 lb (181.4 kg) of meats) of shell stock when outside the Sea Scallop Access Areas. This limit for shell stock (i.e., unshucked scallops) is considered part of the overall possession limit. A limit on the amount of sea scallops landed in the shell is necessary to monitor and enforce the overall meat weight possession limit requirement. Allowing vessels to retain a relatively minor amount of shell stock will help satisfy a market for large, whole scallops, yet not compromise the enforceability of the conservation intent of the possession limit.

General category permitted vessels and limited access scallop vessels fishing outside a scallop DAS are allowed to fish in the Sea Scallop Access Areas throughout the year, provided that no more than 100 lb (45.36 kg) of scallop meats are possessed on board the vessel when the vessel is in the Sea Scallop Access Areas. These vessels are prohibited from possessing in-shell scallops while inside the Sea Scallop Access Areas, except they may possess an equivalent of in-shell scallops that are necessary to provide 100 lb (45.36 kg) of scallop meats. Vessels not fishing under the Area Access Program may transit the Sea Scallop Access Areas with more than these possession limits on board, provided their gear is properly stowed according to the regulations at § 648.23(b). This measure is intended to allow an incidental catch of scallops for scallop vessels that fish for other species outside the areas and to allow for more direct transiting to and from other fishing areas.

To improve the enforceability of the Area Access Program, all limited access scallop vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Area Access Program or not. Also, vessels are required to stow all dredge or trawl gear while transiting to and from the Sea Scallop Access Areas and must land their scallop catch at one location for each trip.

Vessels are required to carry observers when requested. The Council has recommended, as a goal, a 10-percent observer coverage for the Hudson Canyon Sea Scallop Access Area and a 20-percent observer coverage for the Virginia Beach Sea Scallop Access Area. Observers will obtain information on catch, catch rates, and bycatch and may

comment, further notice and opportunity to comment on this final rule is unnecessary. Therefore, the AA, under 5 U.S.C. 553(b)(B), finds good cause exists to waive prior notice and additional opportunity for public comment.

It is contrary to the public interest to delay for 30 days the effective date for the prohibition on the possession limit of more than 50 U.S. bu (17.62 hl) of in-shell scallops shoreward of the VMS demarcation line. Currently, some vessels are shucking their scallop catch inside the VMS demarcation line and thus compromising the conservation objectives of both the DAS and crew size restrictions of the FMP. To allow this activity to continue unrestricted could undermine the effects of the scallop management measures. In addition, a 30 day delay in effectiveness would delay the potential incidental benefits of reducing contamination of inshore waters that may be associated with high discards of scallop viscera from vessels shucking inshore of the VMS demarcation line. For these reasons, the AA finds, under 5 U.S.C. 553(d)(3), good cause not to delay for 30 days the effective date of this provision.

Because the annual DAS allocations implemented in this final rule are higher than the DAS allocations that went into effect on March 1, 2001, and because the Area Access Program (and associated information collection requirements as published in 15 CFR 902) allows access to areas that would otherwise be closed to scallop fishing, these measures relieve restrictions, and are therefore not subject to a 30–day delay in effectiveness under 5 U.S.C. 553(d)(1).

Also, this final rule corrects a reference to the stowage provisions in the regulations for Closed Area I that inadvertently references a paragraph that formerly included gear stowage provisions but is now reserved (§ 648.81(b)(2)(ii)). The correction to this crossreference imposes no new requirements and is not subject to the 30-day delay in effective date provisions of 5 U.S.C. 553 (d).

Because a prior notice and opportunity for public comment is not required for this rule under 5 U.S.C. 533, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This final rule has been determined to be significant for the purposes of Executive Order 12866.

For purposes of the Congressional Review Act, this rule has been determined to be major within the meaning of 5 U.S.C. 804 (2). Because this rule establishes a regulatory program for a commercial activity related to fishing under 5 U.S.C. 808 (1), it is not subject to the Congressional Review Act 60–day delay in effective date.

This rule contains collection-of-information requirements subject to the PRA and which have been approved by OMB. The estimated response times and the OMB Control Numbers for these requirements are: 1 hour for installation of a vessel monitoring system (VMS) (0648–0416); 2 minutes for a monthly VMS declaration of an intent to fish during the next month (0648–0416); 2 minutes for notification at least 5 days prior to departure on a fishing trip (0648–0416); 10 minutes for a daily VMS catch report (0648–0416); 2 minutes for a notification of intent to leave on a fishing trip (0648–0202); and 5 seconds for VMS polling (0648–0416 and 0648–0307). The submission requirements for research proposals are cleared under OMB Control Numbers 0348–0043 and 0348–0044.

The response time estimates above include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 25, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX, part 902 and 50 CFR chapter VI, part 648 are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by adding in numerical order an entry for § 648.58 with new OMB control numbers to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b)* * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
648.58	0348–0043, 0348–0044, 0648–0202, 0648–0307, and 0648–0416
* * * * *	

50 CFR Chapter VI

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 § 648.10, the first sentence of paragraph (b)(1), introductory text, is revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(b) * * *

(1) A scallop vessel issued a full-time or part-time limited access scallop permit; or issued an occasional limited access permit when fishing under the Sea Scallop Area Access Program specified under § 648.58; or a scallop vessel fishing under the small dredge program specified in § 648.51(e); or a vessel issued a limited access multispecies, monkfish, occasional scallop, or combination permit whose owner elects to provide the notifications required by paragraph (b) of this section using a VMS that meets the minimum performance criteria specified in § 648.9(b) or as modified pursuant to

§ 648.9(a), unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section, must have installed on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified pursuant to § 648.9(a). * * *

* * * * *

3. In § 648.14, revise paragraphs (a)(38), (a)(39), (a)(40), and (h)(27); and add paragraphs (a)(110), (a)(111), (h)(29), (h)(30), (h)(31), (h)(32), (h)(33), (i)(8), and (i)(9) to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(38) Enter or be in the area described in § 648.81(a)(1) on a fishing vessel, except as provided in § 648.81(a)(2) and (d).

(39) Enter or be in the area described in § 648.81(b)(1) on a fishing vessel, except as provided in § 648.81(b)(2).

(40) Enter or be in the area described in § 648.81(c)(1) on a fishing vessel, except as allowed under § 648.81(c)(2) and (d).

* * * * *

(110) Fish for, possess, or land sea scallops in or from the areas described in § 648.57, except as allowed under §§ 648.52(e) and 648.58.

(111) Transit or be in the areas described in § 648.57 when fishing under a scallop DAS, except: As allowed under § 648.58; or when all scallop gear is unavailable for immediate use as defined in § 648.23(b), unless there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

* * * * *

(h) * * *

(27) Enter or be in the areas described in § 648.57 when fishing with scallop dredge gear under the Sea Scallop Area Access Program specified in § 648.58, with a net, net material, or any other material on the top half of the dredge with mesh size smaller than that specified in § 648.58(c)(7).

* * * * *

(29) Possess or land per trip more than 50 bu (17.62 hectoliters (hl)) of in-shell scallops, as specified in § 648.52(d), once inside the VMS Demarcation Line by a vessel that, at any time during the trip, fished in or transited any area south of 42°20′ N. Latitude, except as provided in § 648.54.

(30) Land per trip more than 100 lb (45.36 kg) of scallop meats as specified in § 648.52(e) in or from the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program.

(31) Possess more than 100 lb. (45.36 kg) of scallop meats in the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program, unless the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(32) Except as allowed in § 648.52(e), land in-shell scallops in or from the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program.

(33) Except as allowed in § 648.52(e), possess in-shell scallops in the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program, unless the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

* * * * *

(i) * * *

(8) Possess, retain, or land per trip no more than 100 lb (45.36 kg) of shucked scallops in or from the areas described in § 648.57.

(9) Except as allowed in § 648.52(e), possess or land in-shell scallops in or from the areas described in § 648.57.

* * * * *

4. In § 648.52, the section heading and paragraphs (a) and (c) are revised, and paragraphs (d) and (e) are added to read as follows:

§ 648.52 Possession and landing limits.

(a) Except as provided in paragraph (e) of this section, owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10 or that have used up their DAS allocations, and vessels possessing a general scallop permit, unless exempted under the state waters exemption program described under § 648.54, are prohibited from possessing or landing per trip more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops with no more than one scallop trip of 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops, allowable in any calendar day.

* * * * *

(c) Owners or operators of vessels with a limited access scallop permit that have declared into the Sea Scallop Area Access Program as described in § 648.58 are prohibited from fishing for, possessing or landing per trip more than the sea scallop possession and landing limit specified in § 648.58(c)(6).

(d) Owners or operators of vessels issued limited access or general category scallop permits fishing in or transiting the area south of 42°20′ N. Latitude at any time during a trip are prohibited from fishing for, possessing, or landing per trip more than 50 bu (17.62 hl) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under § 648.54.

(e) Owners or operators of vessels with a general category scallop permit and vessels with a limited access scallop permit that are not fishing under a scallop DAS may land per trip no more than 100 lb (45.36 kg) of sea scallop meats in or from the areas described in § 648.57, and may possess no more than 100 lb (45.63 kg) of sea scallop meats in or from the areas described in § 648.57, unless the vessel is only transiting the areas with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. No in-shell scallops from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas may be landed. In-shell scallops up to 12.5 bu (4.41 hl) taken by such vessels from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas may be possessed only for the purpose of shucking in order to provide no more than 100 lb of scallop meats. Any combination of scallop meats and in-shell scallops possessed by such vessels must be equivalent to no more than 100 lb (45.36 kg) of scallop meats.

5. In § 648.53, paragraph (b) is amended by revising the table to read as follows:

§ 648.53 DAS allocations.

* * * * *

(b) * * *

DAS Category	1999–2000	2000–2001	2001–2002	2002–2003	2003–2004	2004–2005	2005–2006	2006–2007	2007–2008	2008
Full-time	120	120	120	120	45	34	35	38	36	60
Part-time	48	48	48	48	18	14	14	15	17	24
Occasional	10	10	10	10	4	3	3	3	4	5

* * * * *

6. In § 648.57, the section heading and the introductory text of paragraphs (a) and (b) are revised to read as follows:

§ 648.57 Closed and regulated areas.

(a) *Hudson Canyon Sea Scallop Access Area*. Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Hudson Canyon Sea Scallop Access Area, and no vessel may possess scallops in the Hudson Canyon Sea Scallop Access Area, unless such vessel is only transiting the area with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Hudson Canyon Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

(b) *Virginia Beach Sea Scallop Access Area*. Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Virginia Beach Sea Scallop Access Area, and no vessel may possess scallops in the Virginia Beach Sea Scallop Access Area, unless such vessel is only transiting the areas with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Virginia Beach Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

7. Section 648.58 is revised to read as follows:

§ 648.58 Sea Scallop Area Access Program.

(a) *Eligibility*. Vessels issued a limited access scallop permit are eligible to participate in the Sea Scallop Area Access Program, and may fish in the Sea Scallop Access Areas, as described in § 648.57 of this section, for the times specified in paragraph (c)(1) of this section, when fishing under a scallop DAS, and while complying with the requirements of this section. Copies of a chart depicting these areas are available from the Regional Administrator upon request.

(b) *Sea Scallop Access Areas*—(1) *Hudson Canyon Sea Scallop Access Area*. Eligible vessels, as specified in paragraph (a) of this section, may fish for, possess, and retain sea scallops in excess of the possession limit specified in § 648.52(e) in or from in the Hudson Canyon Sea Scallop Access Area, which is the area described in § 648.57(a).

(2) *Virginia Beach Sea Scallop Access Area*. Eligible vessels, as specified in paragraph (a) of this section, may fish for, possess, and retain sea scallops in excess of the possession limit specified in § 648.52(e) in or from the Virginia Beach Sea Scallop Access Area, which is the area described in § 648.57(b).

(c) *Sea Scallop Area Access Season and Requirements*. To fish in the Sea Scallop Access Areas under the Sea Scallop Area Access Program, eligible vessels must fish during the Season specified in paragraph (c)(1) of this section and must comply with the requirements specified in paragraphs (c)(2) through (c)(4) of this section:

(1) *Season*—(i) *Fishing year 2001*. From May 1, 2001 through February 28, 2002, vessels participating in the Sea Scallop Area Access Program may fish for or possess sea scallop in or from the respective Sea Scallop Access Areas specified in § 648.57 of this section, unless access to these areas is terminated as specified in paragraph (f) of this section.

(ii) *Fishing year 2002*. From March 1, 2002, through February 28, 2003, vessels participating in the Sea Scallop Area Access Program may fish in the respective Sea Scallop Access Areas specified in § 648.57 of this section, unless access to these areas is terminated as specified in paragraph (f) of this section. Should the 2001 fishing year season be closed early, as described in paragraph (c)(1) of this section, the Sea Scallop Area Access Program season for fishing year 2002 will begin on April 1, 2002.

(2) *VMS*. The vessel must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10 and paragraph (h) of this section.

(3) *Declaration*. (i) Prior to the 25th day of the month preceding the month in which fishing is to take place, the vessel must submit a monthly report through the VMS e-mail messaging system of its intention to fish in the Hudson Canyon or Virginia Beach Sea Scallop Access Areas, along with the following information: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, and number of trips anticipated for each Sea Scallop Access Area in which it intends to fish. The Regional Administrator may waive a portion of this notification period for trips into the Sea Scallop Access Areas in April or May, 2001. Notification of this waiver of a portion of the notification period will be provided to the vessel through a permit holder letter issued by the Regional Administrator.

(ii) In addition to the requirements described in paragraph (c)(3)(i) of this section, and for the purpose of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the time, port of departure, and specific Sea Scallop Access Area to be fished, at least 5 working days prior to the beginning of any trip on which it declares into the Sea Scallop Area Access Program.

(iii) On the day the vessel leaves port to fish under the Sea Scallop Area Access Program, the vessel owner or operator must declare into the Program through the VMS, in accordance with instructions to be provided by the Regional Administrator prior to the vessel leaving port.

(4) *Number of trips*—(i) *Full and part-time vessels*. Full and part-time vessels are restricted to a total of three trips into the Sea Scallop Access Areas, unless otherwise authorized by the Regional Administrator as specified in paragraph (e)(2) of this section. A trip to either area counts as one trip.

(A) *Distribution of trips for the 2001 fishing year*. For fishing year 2001, full-time and part-time vessels participating in the Sea Scallop Area Access Program may start no more than two of their three allowed Area Access Program trips before June 1, 2001. To be eligible for any additional trips allocated under paragraph (e)(4) of this section, at least

one trip must begin by September 1, 2001.

(B) *Distribution of trips for 2002 fishing year*. For fishing year 2002, full-time and part-time vessels participating in the Sea Scallop Area Access Program may start no more than one of their three allowed Area Access Program trips before May 1, 2002, and no more than two of their three allowed Area Access Program trips before June 1, 2002.

(ii) *Occasional scallop vessels*. Occasional vessels may fish only one trip per fishing year in 2001 and 2002 under the Sea Scallop Area Access Program. The one allowed trip may be conducted in either the Hudson Canyon or Virginia Beach Sea Scallop Access Area specified in § 648.57 of this section at any time during the season, as specified in paragraph (c)(1) of this section.

(5) *Area fished*. A vessel that has declared a trip into the Sea Scallop Area Access Program must not fish for, possess, or land scallops from outside the specific Sea Scallop Access Area fished during that trip and must not enter or exit the specific Sea Scallop Access Area fished more than once per trip. A vessel that has declared a trip into the Sea Scallop Area Access Program must not exit one Sea Scallop Access Area and transit to, or enter, the other Sea Scallop Access Area on the same trip.

(6) *Possession and landing limits*—(i) *Fishing year 2001*. Unless otherwise authorized by the Regional Administrator as specified in paragraph (e) of this section, after declaring into the Sea Scallop Area Access Program in fishing year 2001 a vessel owner or operator may fish for, possess and land up to 17,000 lb (7,711.1 kg) of scallop meats per trip, with a maximum of 400 lb (181.4 kg) of the possession limit originating from 50 bu (17.62 hl) of in-shell scallops.

(ii) *Fishing year 2002*. Unless otherwise authorized by the Regional Administrator as specified in paragraph (e) of this section, after declaring into the Sea Scallop Area Access Program in fishing year 2002, a vessel owner or operator may fish for, possess, and land up to 18,000 lb (8,164.7 kg) of scallop meats per trip, with a maximum of 400 lb (181.4 kg) of the possession limit originating from 50 bu (17.62 hl) of in-shell scallops.

(7) *Gear restrictions*. The vessel must fish with or possess scallop dredge or trawl gear only in accordance with the restrictions specified in § 648.51(a) and (b), except that the mesh size of a net, net material, or any other material on the top of a scallop dredge in use by or in possession of the vessel shall not be smaller than 10.0 inches (25.40 cm) square or diamond mesh.

(8) *Transiting*. While outside of the Sea Scallop Access Areas specified in § 648.57, all fishing gear must be unavailable for immediate use as defined in § 648.23(b), unless there is a compelling safety reason.

(9) *Off-loading restrictions*. The vessel may not off-load its sea scallop catch from a trip at more than one location per trip.

(10) *Reporting*. The owner or operator must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared in the Sea Scallop Area Access Program, including trips accompanied by a NMFS-approved observer. The reports must be submitted in 24–hour intervals, for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day and must include the following information:

(i) Total pounds/kilograms of scallop meats kept, total number of tows and the Fishing Vessel Trip Report log page number.

(ii) [Reserved]

(d) *Accrual of DAS*. A scallop vessel that has declared a fishing trip into the Sea Scallop Area Access Program of this section shall have a minimum of 10 DAS deducted from its DAS allocation, regardless of whether the actual number of DAS used during the trip is less than 10. Trips that exceed 10 DAS will be counted as actual time.

(e) *Adjustments to possession limits and number of trips*—(1) *Adjustment process for sea scallop possession limits for Hudson Canyon and the Virginia Beach Sea Scallop Access Areas*. The Regional Administrator may adjust the sea scallop possession limit at any time during the Sea Scallop Area Access Program. This adjustment may be made if the Regional Administrator determines that such adjustment will likely allow the scallop TAC to be reached without exceeding it. Notification of this adjustment to the possession limit will be provided to the vessel through a permit holder letter issued by the Regional Administrator.

(2) *Adjustment process for number of trips for Hudson Canyon and the Virginia Beach Sea Scallop Access Areas*. On or after October 1 for fishing years 2001 and 2002, if the scallop catch in the Hudson Canyon and/or Virginia Beach Sea Scallop Access Areas is less than the scallop TACs specified for fishing years 2001 and 2002 in paragraphs (f)(1) and (f)(2) of this section, respectively, the Regional Administrator may allocate one or more additional trips for the Hudson Canyon and/or Virginia Beach Sea Scallop Access Areas for full and part-time limited access sea scallop vessels that declared into and began a trip under the Sea Scallop Area Access Program prior to September 1 for the respective fishing year. This adjustment may be made if the Regional Administrator determines that such adjustment will likely allow the scallop TAC to be reached without exceeding it. Notification of this adjustment to the trip limit will be provided to the vessel through a permit holder letter issued by the Regional Administrator. Unused trips after September 30, 2001, may not be carried over into the 2002 Sea Scallop Area Access Program. Vessels with occasional permits would not be allocated an additional trip.

(3) *Increase of possession limit to defray costs of observers*—(i) *Defraying the costs of observers*. The Regional Administrator may increase the sea scallop possession limit specified in paragraph (c)(6) of this section to defray costs of observers by areas subject to the limits specified in paragraph (e)(3)(ii) of this section and to the limit on the cumulative amount of sea scallops allocated for a vessel that has declared a fishing trip into the Sea Scallop Area Access Program with a NMFS-approved observer on board. Notification of this increase of the possession limit will be provided to the vessel through a Letter of Authorization issued by the Regional Administrator which must be kept on board the vessel. The amount of the possession limit increase will be determined by the Regional Administrator and the vessel owner will be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip.

(ii) *Observer set-aside limits on increases of possession limits by area*. The cumulative amount of scallops authorized under this part to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section to defray the cost of an observer shall not exceed 2-percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 2 percent of those TACs:

(A) Hudson Canyon Sea Scallop Access Area, 2001 area access program - 127 mt;

(B) Virginia Beach Sea Scallop Access Area, 2001 area access program - 6 mt;

(C) Hudson Canyon Sea Scallop Access Area, 2002 area access program - 128 mt;

(D) Virginia Beach Sea Scallop Access Area, 2002 area access program - 5 mt.

(iii) *Notification of observer set-aside limit*. NMFS shall publish notification in the **Federal Register** of the date that the Regional Administrator projects that the observer set-aside limit will be caught.

(4) *Adjustments to possession limits and/or number of trips to defray the costs of sea scallop research*—(i) *Defraying the costs of sea scallop research*. The Regional Administrator may increase the sea scallop possession limit specified in paragraph (c)(6) of this section or allow additional trips into a Sea Scallop Access Area, subject to the limits on the cumulative amount of sea scallops allocated to defray costs for sea scallop research specified in paragraph (e)(4)(ii) of this section.

(ii) *Research set-aside limits on adjustments to possession limits and number of trips by area*. The cumulative amount of scallops authorized to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section for purposes of defraying the cost of sea scallop research shall not exceed 1 percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 1 percent of those TACs:

(A) Hudson Canyon Sea Scallop Access Area, 2001 area access program - 63 mt;

(B) Virginia Beach Sea Scallop Access Area, 2001 area access program - 3 mt;

(C) Hudson Canyon Sea Scallop Access Area, 2002 area access program - 64 mt;

(D) Virginia Beach Sea Scallop Access Area, 2002 area access program - 3 mt.

(iii) NMFS shall publish notification in the **Federal Register** of the date that the Regional Administrator projects that the scallop research set-aside limits will be caught.

(iv) *Adjustment procedure*. (A) Determinations as to which vessel may be authorized to take more than the trip limits specified in paragraph (c)(6) of this section, or to take additional trips for the purposes of defraying sea scallop research costs, shall be made by NMFS, in cooperation with the Council. At a minimum, applicants shall submit a scallop proposal under this program and a project summary that includes: The project goals and objectives, relationship of sea scallop research to management needs or priorities identified by the Council, project design, participants other than applicant, funding needs, breakdown of costs, and the vessel(s) for which authorization is requested.

(B) NMFS will make the final determination as to what proposals are approved and which vessels are authorized to take scallops in excess of possession limits or additional trips. Authorization to increase possession limits and/or number of trips will be provided to the vessel by Letter of Authorization issued by the Regional Administrator which must be kept on board the vessel.

(v) *Project Report Procedure*. Upon completion of his/her sea scallop research, the researcher of approved projects must provide the Council with a report of his/her findings, which include:

(A) A detailed description of methods of data collection and analysis;

(B) A discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; and

(C) A detailed final accounting of all funds used to conduct the sea scallop research.

(f) *Termination of the Sea Scallop Area Access Program*—(1) *Fishing year 2001 area access program*—(i) *Hudson Canyon Sea Scallop Access Area*. The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 6,204 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(ii) *Virginia Beach Sea Scallop Access Area*. The Virginia Beach Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 277 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(2) *Fishing year 2002 area access program*. (i) Hudson Canyon Sea Scallop Access Area. The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional Administrator projects that 6,287 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(ii) *Virginia Beach Sea Scallop Access Area*. The Virginia Beach Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional Administrator projects that 268 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(g) *Transiting*. Limited access sea scallop vessels fishing under a scallop DAS that have not declared a trip into the Sea Scallop Area Access Program may not fish in the areas known as the Hudson Canyon and Virginia Beach Sea Scallop Access Areas described in § 648.57, and may not enter or be in such areas unless the vessel is transiting the area and the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(h) *VMS Polling*. For the duration of the Sea Scallop Area Access Program, as described under this section, all sea scallop limited access vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program.

8. In § 648.80, paragraph (h)(1) is revised to read as follows:

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

* * * * *

(h) * * *

(1) Except as provided in paragraph (h)(2) of this section, a scallop vessel that possesses a limited access scallop permit and either a multispecies combination vessel permit or a scallop multispecies possession limit permit, and that is fishing under a scallop DAS allocated under § 648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and provided the vessel has at least one standard tote on board, unless otherwise restricted by § 648.86(a)(2).

* * * * *

9. In § 648.81, the introductory text of paragraphs (a)(1), (b)(1), and (c)(1) and paragraph (b)(2)(ii) are revised to read as follows:

§ 648.81 Closed areas.

(a) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area I (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the

following points in the order stated, except as specified in paragraphs (a)(2) and (d) of this section:

* * * * *

(b) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area II (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (b)(2) of this section:

* * * * *

(2) * * *

(ii) The vessel's fishing gear is stowed in accordance with the provisions of § 648.23(b).

(c) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as the Nantucket Lightship Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (c)(2) and (d) of this section:

* * * * *

10. In § 648.86, paragraph (a)(2)(iii) is revised to read as follows:

§ 648.86 Multispecies possession restrictions.

* * * * *

(a) * * *

(2) * * *

(iii) Unless otherwise authorized by the Regional Administrator as specified in paragraph (f) of this section, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg), of haddock, except as specified in § 648.88(c), provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels issued NE multispecies Combination Vessel permits that are fishing under a multispecies DAS. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

11. In § 648.88, paragraph (c) is revised to read as follows:

§ 648.88 Multispecies open access permit restrictions.

* * * * *

(c) *Scallop multispecies possession limit permit.* A vessel that has been issued a valid open access scallop multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated species when fishing under a scallop DAS allocated under § 648.53, provided the vessel does not fish for, possess, or land haddock from January 1 through June 30, as specified under § 648.86(a)(2)(i), and provided the vessel has at least one standard tote on board.

* * * * *

[FR Doc. 01–10783 Filed 4–26–01; 4:30 pm]

BILLING CODE 3510–22–S

SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 240

[Release No. 34–44227; File No. 57–17–99]

RIN 3235–AH74

Recordkeeping Requirements for Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is amending its transfer agent record retention rule, Rule 17Ad–7, under the Securities Exchange Act of 1934 (''Act''). The amendments will allow registered transfer agents to use electronic, microfilm, and microfiche records maintenance systems to preserve records that they are required to retain under Rule 17Ad–6. The new requirements apply only to those registered transfer agents that elect to store their records using these methods. The amendments are designed to increase the flexibility and efficiency of transfer agent recordkeeping. The amendments adopted today are consistent with the requirements of the Electronic Signatures and Global and National Commerce Act of 2000 (''ESIGN'').

EFFECTIVE DATE: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or David Karasik, Special Counsel, at 202–942–4187, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commission today is adopting amendments to rule 17Ad–7 [17 CFR 240.17Ad–7(f)] under the Act.

I. Discussion of Amendments to Rule 17Ad–7

A. Background

On May 25, 1999, the Commission issued a release requesting comment on proposed amendments to its transfer agent record retention rule, Rule 17Ad–7,[1] that would allow registered transfer agents to use electronic and micrographic records storage systems subject to certain conditions (''Proposing Release'').[2] The purpose of the proposal was to increase the flexibility and efficiency of transfer agent recordkeeping while maintaining necessary controls over accuracy, integrity, and access to those records. The proposed amendments would have codified, in most part, two staff no-action positions that permitted transfer agents to use optical storage technology.[3] However, based on the comments received and the experience gained by the staff in considering appropriate records management solutions, the Commission is adopting the proposed amendments with certain changes discussed herein.

B. The Transfer Agent Regulatory System

Section 17A(a)(2)(A)(i) of the Act directs the Commission to use its authority under the Act ''to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities. * * *''[4] Transfer agents play a vital role in the operation of that system. Transfer agents cancel stock certificates presented for transfer, issue new stock certificates, and maintain the records

[1] 17 CFR 240.17Ad–7. Unless otherwise noted, all references to Rule 17Ad–7 or Rule 17Ad–6 or to any paragraph of those rules will be to 17 CFR 240.17Ad–7 and 17 CFR 17Ad–6, respectively.

[2] Securities Exchange Act Release No. 41442 (May 25, 1999), 64 FR 29608 (June 2, 1999).

[3] On February 2, 1993, the Commission's Divisions of Market Regulation and Investment Management issued a no-action letter that permitted registered transfer agents, investment advisors, and investment companies to retain their records using optical disk storage technology. Letter regarding DST Systems, Inc. (Feb. 2, 1993). On February 12, 1997, the Commission announced in the release adopting amendments to Rule 17a–4 that the staff would take no action if transfer agents fulfilled their recordkeeping requirements by complying with the provisions of Rule 17a–4. Securities Exchange Act Release No. 38245 (Feb. 5, 1997), 62 FR 6469 (Feb. 12, 1997). The optical disk recordkeeping requirements of the 1997 no-action position were similar to those set forth in the 1993 no-action position but contained additional safeguards, such as a third party access requirement and eliminated certain requirements, such as the requirement that the storage system be reviewed and evaluated by two independent public accounting firms. The requirements of the Proposing Release were nearly identical to those of the 1997 no-action position.

[4] 15 U.S.C. 78q-1(a)(2)(A)(i).

reflecting the ownership of securities as agent for the issuer. They also may disburse dividends and interest payments and send securityowner communications, such as proxy materials and annual reports. Some transfer agents maintain custody of securities on behalf of individual investors and securities depositories.

In order to facilitate the prompt, accurate, and efficient clearance and settlement of securities transactions, the Commission, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and the maintenance of fair competition among transfer agencies, is authorized to promulgate rules and regulations that are necessary or appropriate to implement the provisions of section 17A of the Act.[5] Section 17A of the Act prohibits registered transfer agents from engaging in any activity in contravention of the rules and regulations that the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.[6] Section 17 of the Act requires every registered transfer agent to make, keep, and furnish copies of such records that the transfer agent's appropriate regulatory agency prescribes by rule.[7] Finally, Section 23(a) of the Act grants the Commission the power to make such rules and regulations as may be necessary or appropriate to implement the provisions of the Act.[8]

Because the Commission's oversight of transfer agents is substantially dependent on its own transfer agent examination process, which in turn relies on the records that transfer agents make and retain, the Commission promulgated Rules 17Ad–6 and 17Ad–7 under the Act to specify the types of records that transfer agents must make and keep and the amount of time and manner in which these records must be preserved.[9] The Commission's oversight of transfer agents would be seriously hindered if a transfer agent's records were inaccurate, inauthentic, or inaccessible. Accordingly, Rule 17Ad–7 seeks to protect investors and promote the integrity of the markets by protecting the accuracy, integrity, and accessibility of transfer agent records.

II. The Rule Amendments as Adopted

Rule 17Ad–7, as amended, allows transfer agents to use electronic or micrographic storage media to maintain their records. Specifically, the rule requires transfer agents to:

- Use storage mechanisms that are designed to ensure the accessibility, security, and integrity of the records, detect attempts to alter or remove the records, and provide means to recover altered, damaged, or lost records;
- Create an index of the records that are electronically or micrographically stored and store the index with the underlying records;
- Keep a duplicate of all records and indexes that are stored using electronic or micrographic storage media;
- Be able to promptly download electronically or micrographically stored records to an alternate medium such as paper, microfilm, or microfiche; and,
- Keep in escrow an updated copy of the software or other information that is necessary to access and download electronically stored records.

The amended rule does not require transfer agents that wish to continue to maintain their records in hard copy format to maintain their records any differently than they are doing so today. The requirements adopted today apply only to those transfer agents that choose to retain their records electronically or micrographically.

III. Overview of Amendments to Rule 17Ad–7

The new provisions of Rule 17Ad–7 define the term ''micrographic media'' to mean microfilm or microfiche or any similar medium and the term ''electronic storage media'' to mean any digital storage medium or system.[10]

Registered transfer agents that choose to use electronic or micrographic records storage media must: have available at all times for examination by the Commission and the transfer agent's appropriate regulatory agency (''ARA'')[11] facilities to project or produce easily readable images of the records that it stores on electronic or micrographic storage media; be ready to provide the stored records to the Commission and its ARA; create an index of the records that it stores on electronic storage media or micrographic media and store the index with those records; have the index available at all times for examination by the Commission and its ARA; have quality assurance procedures to verify the quality and accuracy of the electronic or micrographic recording process; and maintain separately from the originals a duplicate of the records and the index that the transfer agent stores on electronic storage media or micrographic media.[12] The transfer agents may store the duplicates of the indexed records on any medium permitted by this rule. The electronic media that a transfer agent uses to store its records must: ensure the security and integrity of the records by means of manual and automated controls that assure the authenticity and quality of the electronic facsimile; detect attempts to alter or remove the records; provide means to recover altered, damaged, or lost records resulting from any cause; externally label all removable units of storage media using a unique identifier; internally label each file with its unique name, the date and time of file creation, the date and time of last modification or extension, and a file sequence number when the file spans more than one volume.[13]

Transfer agents that use electronic or micrographic records storage media to store their records must establish an audit system that accounts for the inputting of and any changes to every record that is stored on electronic or micrographic storage media. The results of such audit system must be available at all times for examination by the Commission and the transfer agent's ARA and be preserved for the same time that is required by this rule for the underlying records.[14]

Also, transfer agents that use electronic storage media or micrographic media to store their records must: Maintain, keep current, and provide promptly upon request by the Commission and their ARA all information necessary to access the records and indexes stored on electronic storage media or micrographic media and place in escrow and keep current a copy of the physical and logical format of the electronic or micrographic storage media, the field format of all different information types written on the electronic storage media and source code, and the appropriate documentation and information necessary to access records and indexes. The escrow agent must file a statement with the Commission that it will make

[5] 15 U.S.C. 78q-1(a)(2)(A).

[6] 15 U.S.C. 78q-1(d).

[7] 15 U.S.C. 78q-(a)(3).

[8] 15 U.S.C. 78w(a).

[9] Depending on the type of record, the records covered by these rules generally must be maintained for two years, six years, or until one year after the termination of a transfer agency relationship. Rule 17Ad–7.

[10] Rule 17Ad–7(f)(1).

[11] In certain situations, the Commission is not a transfer agent's primary regulatory authority. The most common example of this is for transfer agents that are banks or subsidiaries of banks. In such a case, the transfer agent's ARA could be the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, or the Federal Deposit Insurance Corporation.

[12] Rule 17Ad–7(f)(2).

[13] Rule 17Ad–7(f)(3).

[14] Rule 17Ad–7(f)(4).

this information available promptly upon request to the Commission's representatives or the ARA. [15]

Finally, if a transfer agent uses another party to maintain or preserve the required records using electronic storage media or micrographic media, such third party shall file with the Commission an undertaking stating that such records are being maintained or preserved by the third party on behalf of the transfer agent and that such records will be surrendered promptly upon request of the transfer agent, the Commission's representatives, or the ARA to examine such records. The rule makes clear that the transfer agent retains ultimate responsibility for complying with the requirements of the rule. [16]

IV. Discussion of Proposal and Comment Letters

The Commission received eleven comment letters in response to the Proposing Release. [17] While most of the comments were generally favorable, all of the commenters offered specific observations and suggestions about the proposed conditions on transfer agents' use of electronic storage media. As discussed below, the Commission is adopting the proposed amendments to Rule 17Ad-7 with certain modifications suggested by the comment letters.

A. Scope and Definitions

In the Proposing Release, the Commission proposed to add subparagraph (f) to Rule 17Ad-7 to allow registered transfer agents to use micrographic media or electronic storage media to store the records that they are required to keep under Rule 17Ad-6. The term ''micrographic media'' was defined as microfilm or microfiche or any similar medium. The term ''electronic storage media'' was defined as any digital storage medium or system that meets the standard of this rule. The commenters did not raise any issues with regard to the proposed scope or definitions.

We are adopting these definitions substantially as proposed. For clarity, we have added another definition: the term ''ARA'' as used throughout the rule refers to a transfer agent's appropriate regulatory agency as that term is defined in 15 U.S.C. 78c(a)(34).

B. Record Integrity Standards

The Proposing Release would have required that transfer agents use an electronic or micrographic storage media system that met certain standards intended to deter the alteration of records. Specifically, the Commission proposed that transfer agents preserving their records electronically must do so in a non-rewriteable, non-erasable format [18] and that the storage system be able to automatically verify the quality and accuracy of the electronic recording process.[19] The Commission also proposed that the electronic storage media system label the storage units in sequential order and record the date and time that information is electronically stored.[20] Finally, as proposed, the storage system would have the capacity to download records stored on electronic storage media so that the records could be promptly transferred to an alternate medium such as paper, microfilm or microfiche.[21]

The commenters had varying responses to these proposed standards. Schwab stated that the rule should not limit electronic storage media to WORM-based systems. StorageTek stated that the Commission should not favor a particular type of storage system because there are types of electronic storage systems other than optical disk systems that use WORM technology.

Chase stated that, with respect to downloading records stored on electronic storage media, the rule should only require that the electronic storage media system have the capability to print images or provide images in a format suitable for transfer to another acceptable medium, thereby allowing transfer agents the flexibility to determine the most suitable way to provide imaged data to an examining authority. Chase further stated that it would be comfortable with the proposed requirement as long as paper is an acceptable alternate medium. In addition, with respect to the requirement that an electronic storage media system automatically verify the accuracy of the quality and accuracy of its recording process, Chase stated it is unaware of any system that can automatically insure image quality and accuracy. Chase also suggested that the rule should require only that the transfer agent have quality assurance procedures in place.

Plasmon agreed with the Commission's interest in accommodating a wider range of storage media and suggested that there are at least four major varieties of optical disk media that should be considered for document storage applications. However, Plasmon contended that magnetic-optical disks offer the highest degree of data protection over the longest periods of time. Plasmon believes that linear (tape) media simply does not attain the same degree of data safety.

EMC wrote that specifying that records be retained on non-erasable, non-rewritable media is overly prescriptive because it would effectively dictate the storage technology (*i.e.,* WORM). It further argued that this technology has become obsolete and expensive to manage. Instead, EMC suggested that the focus of the Commission's rule should not be to create an immutable copy but rather on the ability of the storage system to create a copy that can be verified as authentic.

Fidelity argued that the rule should not require sequential serialization of storage units but instead should allow more flexibility (*e.g.,* serialization by unique media index and identifier numbers).

The final rule incorporates many of the commenters' suggestions. For example, we have eliminated the proposed ''non-erasable, non-rewriteable'' requirement and instead are adopting a goals-oriented set of requirements that electronic storage systems be designed to: ensure the security and integrity of the records by means of manual and automated

[15] Rule 17Ad–7(f)(5).

[16] A transfer agent may use the services of a third party to maintain the records required to be retained under Rule 17Ad-6. An agreement with a third party can include instructions for the third party to fulfill some or all of the requirements of Rule 17Ad–7 including, for example, the maintenance of duplicate records. However, an agreement with a third party to maintain a transfer agent's records shall not relieve the transfer agent from the responsibility to prepare and maintain records as specified in this rule or in Rule 17Ad-6. Rule 17Ad-7(f)(6).

[17] Letters from Charles Rossi, President, and Thomas L. Montrone, Vice President and Chairman, STA Optical Scanning Committee, The Securities Transfer Association, Inc. (''STA'') (July 2, 1999); Kathleen C. Joaquin, Director—Transfer Agency & International Operations, Investment Company Institute (''ICI'') (July 1, 1999); Jay S. Neuman, Corporate Counsel, Federated Investors, Inc. (''Federated'') (July 1, 1999); Gerald L. Popovsky, Associate Counsel, ChaseMellon Shareholder Services, LLC (''ChaseMellon'') (July 2, 1999); Christine A. Owens, Corporate Government Relations Manager, StorageTek (''StorageTek'') (July 2, 1999); Robert P. DeGregorie, Assistant General Counsel, The Chase Manhattan Bank (''Chase'') (July 2, 1999); Michael L. Michael, Vice President and Chief Compliance Officer, FMR Corp. (''Fidelity'') (July 13, 1999); W. Hardy Callcott, Sr. Vice President and General Counsel, Charles Schwab & Co., Inc. (''Schwab'') (July 14, 1999); Robert L. Hamilton (August 8, 1999); Thomas Ferguson, Senior Vice President, Plasmon/IDE (''Plasmon'') (April 27, 2000); and Michael Kilian, Senior Technologist, EMC Corporation (''EMC'') (October 31, 2000). The comment letters and a Commission staff summary of the comment letters are contained in File No. S7–17–99 and are available for inspection in the Commission's Public Reference Section, 450 5th Street, NW, Washington, DC.

[18] Also known as ''WORM'' or write once, read many.

[19] Proposed Rule 17Ad–7(f)(2)(ii).

[20] Proposed Rule 17Ad–7(f)(2)(iii).

[21] Proposed Rule 17Ad–7(f)(2)(iv).

controls; detect attempts to alter or remove the records; and provide means to recover altered, damaged or lost records.[22] The Commission believes that using a set of requirements to ensure security and integrity of records is appropriate in the transfer agent context, unlike the broker-dealer context, because of the lower risks from record alteration for transfer agents. There appear to be a lower incidence of altered transfer agent records and the Commission staff has brought few enforcement actions against transfer agents based on alteration of their records. In addition, transfer agents do not hold customer funds, open accounts, or recommend investments. Therefore, the Commission generally does not inspect transfer agents for financial and sales practice problems. Accordingly, requiring transfer agents to use WORM does not at this time seem necessary.

We have also removed the requirement that the storage system be able to ''automatically verify the quality and accuracy'' of the recording process and instead substituted language requiring the storage system to ''have quality assurance procedures to verify the quality and accuracy of the electronic or micrographic recording process.'' [23] In making the change, the Commission emphasizes the importance of the electronic recordkeeping system's ability to electronically store documents in a reliable and consistent manner.

Finally, in response to the comments discussed above, we have modified the requirement that the storage system label ''all units of storage media in sequential order'' in favor of a standard that requires the system to ''label all removable units of storage media using a unique identifier * * *'' and ''uniquely identify files and internally label each file with its unique name, the date and time of file creation, the date and time of last modification or extension, and a file sequence number when the file spans more than one volume.'' We believe that these changes will provide transfer agents greater flexibility to select appropriate and cost effective records organizing methodologies while still maintaining the ability of the transfer agent and the Commission to locate individual records and reconstruct the sequence of the records.

The Commission notes that the amendments to the Rule are technology-neutral as they establish standards and set forth features that the electronic storage media must satisfy to be considered an acceptable storage medium rather than specifying the use of a particular technology.

C. Audit System

In the Proposing Release, the Commission proposed to require transfer agents using electronic or micrographic storage media to establish an audit system that accounts for the entry of and changes to every record that is electronically or micrographically stored.[24] As proposed, the results of the audit system would have to be available at all times for inspection by the transfer agent's ARA and the Commission and would have to be preserved for the same period of time as the underlying records.

Fidelity contended that the audit system should not be required to record the names of the people who add or change records stored on electronic storage media because it is possible for audit systems to identify people through the use of identifier numbers.

In response to these comments, we have modified the audit provisions to offer transfer agents flexibility over how to record and trace the identity of those who modify records. The rule does not specify the manner in which transfer agents should account for those who input or change the records. Rather, paragraph (f)(3) of the rule requires that transfer agents establish an audit system that can, at the least, readily identify when and by whom changes to records were made to the stored records.

D. Production of Stored Records

The Proposing Release would have required transfer agents storing electronic or micrographic records to: (1) Have facilities for immediate projection or production of easily readable images of the records that are being stored electronically or micrographically; (2) be ready at all times to provide a facsimile enlargement of the records that are being stored electronically or micrographically; (3) create an index of the records that are being stored electronically or micrographically; and (4) maintain a duplicate of the index of the records.[25]

Chase stated that the rule should not require that the index be stored on an optical disk or otherwise specify the location of the index. Chase further commented that being able to identify a needed image, locate the image, and retrieve it whenever necessary should be sufficient requirements for the index component of the rule. Fidelity stated that the requirement to maintain duplicates of records stored on micrographic media or electronic storage media should not be interpreted as a requirement to maintain backup storage systems.

In order to help ensure efficient and complete access to a transfer agent's records during examinations by the Commission or the transfer agent's ARA, we are adopting these requirements substantially as proposed.[26] The Commission notes that the rule does not specify the type of medium on which the index should be stored. The Commission, however, believes that it is important to keep the requirement that the index be stored with the indexed records so that Commission representatives will be able to locate records in cases where a transfer agent refuses to cooperate or is no longer operating. In addition, Commission agrees that the requirement to maintain duplicates of records stored on micrographic or electronic storage media is not a requirement to maintain backup storage systems.

E. Proposed Third Party Access Requirement

In the Proposing Release, the Commission proposed that there be a mechanism to enable the Commission to access and download the electronically stored records in cases where a transfer agent is no longer operating, refuses to cooperate with the Commission or the transfer agent's ARA, or has not properly or fully indexed electronically stored records.[27] Accordingly, the proposed amendments would have required transfer agents to preserve, keep current, and surrender upon request the information necessary to download records stored on electronic or micrographic storage media. Moreover, under the proposed amendments, before a transfer agent would have been able to use electronic storage media, it would have had to have at least one party other than itself (*e.g.*, the transfer agent's electronic storage media vendor) file a statement with the Commission that it, the third party, had the ability to download information from the transfer agent's electronic storage system and that it would do so at the request of either the Commission or the transfer agent's ARA.[28]

ICI, Federated Investors, Chase, ChaseMellon, Schwab, and Fidelity commented on the proposed requirement that a third party file undertakings with the Commission and

[22] Rule 17Ad–7(f)(3)(i).

[23] Rule 17Ad–7(f)(3)(ii).

[24] Proposed Rule 17Ad–7(f)(3).

[25] Proposed Rule 17Ad–7(f)(1).

[26] Rule 17Ad–7(f)(2).

[27] Proposed Rule 17Ad–7(f)(5).

[28] Proposed Rule 17Ad–7(f)(5).

the transfer agent's ARA before a transfer agent uses electronic storage media. ICI and Federated asked for the Commission to clarify whether the third party access undertakings pursuant to the 1997 no action position would be sufficient to comply with the proposed amendments to Rule 17Ad–7. ICI and Federated both opined that the provisions of the 1997 no-action position are substantially similar to the proposed amendments and therefore should be sufficient for a transfer agent to comply with.

Chase, ChaseMellon, and Fidelity expressed concern that the proposed requirement raises security and confidentiality risks because it would require that the undertakings be filed by a third party that has direct access to the transfer agent's records. Schwab stated that it is unnecessary for a transfer agent that maintains its own records to contract with another party solely to comply with the requirement. Schwab also asserted that the requirement should be amended so that it is consistent with Rule 17a–4(f)(3)(vii) [29] and should only apply to transfer agents that use electronic storage media exclusively for some or all of their record retention.

The Commission has revised the proposed rule to reflect its intention that the third party access requirement be no more burdensome than necessary to allow the Commission to access a transfer agent's records. The proposed requirement was intended to assist the Commission or the transfer agent's ARA to access the transfer agent's records during, for example, some type of emergency (such as a transfer agent's insolvency or refusal to cooperate), yet recognize the potential security concerns if transfer agents provide ''access'' to their records system to third parties. In consideration of the comments received, the final rule clarifies that the third party is not required to have a continuous or unlimited right to use or have access to the records.[30] Instead, the transfer agent will be required to place in escrow with an independent third party [31] its records management software that will enable the Commission or the transfer agent's ARA to access records and indexes. The escrow agent will only have in its possession the records management software but will not have access to the underlying records. The amended rule also requires the escrow agent to file an undertaking with the Commission and the transfer agent's ARA that it will make such records management software available to the Commission or the transfer agent's ARA promptly upon the request of the Commission or the ARA.

F. Effect on Previously Issued No Action Positions

ICI and Federated requested that the Commission elucidate the effect that amendments to Rule 17Ad–7 will have on transfer agents that are currently using electronic storage media under the terms of previously issued no-action letters.[32] ICI and Federated Investors believe that the terms of the no-action letters are sufficient to comply with the proposed amendments to the rule and that transfer agents using electronic storage media under the terms of no-action letters should not have to additionally comply with the third party undertaking requirement. ICI stated that if the Commission determines that new undertakings are necessary transfer agents should have a transition period of at least ninety days to obtain the required undertakings.

Fidelity requested that the Commission explain the effect of the proposed amendments on the no-action position relating to transfer agents that was issued when the Commission amended Rule 17a–4 to permit broker-dealers to use electronic storage media.[33] Specifically, Fidelity stated that the no-action position allowed transfer agents to use electronic storage media under the terms of the amended Rule 17a–4 to comply with their recordkeeping requirements under Rules 17Ad–6, 17Ad–10, 17Ad–11, 17Ad–13, and 17Ad–15 under the Act but that the proposed amendments in the Proposing Release only applied to Rule 17Ad–7.

The Commission notes that the amendments to Rule 17Ad–7 provide for the electronic or micrographic storage of all records that transfer agents are required to retain. The Commission also notes that the amendments to Rule 17Ad–7 will supersede all previously issued no-action letters and will be effective May 31, 2001, as opposed to ninety days from the date of publication in the **Federal Register** as suggested by ICI.

There are two reasons why the amendments to Rule 17Ad–7 will become effective on May 31, 2001. First, after May 31, 2001, and until the Commission's transfer agent record retention rule is effective, the differing provisions of ESIGN [34] would be applicable, which could potentially lead to confusion. Second, the Commission believes that the minor changes required to be made to transfer agents' recordkeeping systems currently operating under the no-action positions will not be burdensome to implement.[35]

G. Destruction of Canceled Certificates and Other Records

StorageTek and Chase stated that transfer agents should be able to destroy canceled certificates where an electronic record has been made. StorageTek included an analysis with its comment letter that concluded that organizations should be able to copy original records and store them on electronic storage media without significant legal consequences if the original records are destroyed.

The Commission has solicited comment on the issue of the destruction of canceled certificates in another proposing release and, thus, is not addressing that issue in the context of this rulemaking.[36]

V. The Electronic Signatures in Global and National Commerce Act of 2000

A. Introduction

On June 30, 2000, Congress enacted ESIGN.[37] ESIGN, among other things, specifies that where a statute, regulation, or other rule of law requires records [38] to be retained, such

[29] Rule 17a–4(f)(3)(vii) requires broker-dealers that use electronic or micrographic storage media to ''organize and index accurately all information maintained on both original and any duplicate storage media.'' The Commission notes that the third party ''access'' provisions as proposed in Rule 17Ad–7 were modeled after those contained in Rule 17a–4(vii).

[30] Rule 17Ad–7(f)(5)(ii).

[31] An ''independent'' third party is a third party that does not control, is not controlled by, and is not under common control with, the transfer agent.

[32] *See supra* footnote 3.

[33] Securities Exchange Act Release No. 38245 (Feb. 5, 1997), 62 FR 6469 (Feb. 12, 1997).

[34] ESIGN is discussed in section V of this release.

[35] The Commission also is providing notice that the staff of the Division of Market Regulation will not recommend enforcement action to the Commission if until June 30, 2001, a transfer agent continues to use records storage technology permissible under either of two staff no-action positions. Securities Exchange Act Release No. 38245 (Feb. 5, 1997), 62 FR 6469 (Feb. 12, 1997) or Letter to Jules Moskowitz, DST Systems, Inc., from Judith C. Poppalardo, Division of Market Regulation and Thomas S. Harman, Division of Investment Management (February 2, 1993).

[36] Securities Exchange Act Release No. 43401 (Oct. 2, 2000), 65 FR 59766 (Oct. 6, 2000). In that release, we proposed rules to, among other things, require transfer agents to establish written procedures for the cancellation, storage, transportation, and destruction of securities certificates. Should the Commission adopt these rules, maintaining such written procedures in either hard copy or on electronic or micrographic media would be permissible.

[37] The Electronic Signatures in Global and National Commerce, Pub. L. 106–229, 114 Stat. 464 (2000), 15 U.S.C. 7001 *et seq.*

[38] Section 106(9) of ESIGN, 15 U.S.C. 7006(9), defines the term ''record'' to mean ''information that is inscribed on a tangible medium or that is

requirement is met by retaining an electronic record that accurately reflects the information set forth in the record; remains accessible to all parties legally entitled to access such record; and is kept in a form capable of being accurately reproduced for later reference.[39]

While ESIGN does not define how these requirements are to be met, it preserves the Commission's ability to interpret and apply ESIGN consistent with the statutes it administers pursuant to its existing legal authority.[40] To interpret ESIGN, the Commission may issue rules, orders, or guidance of general applicability under its organic statute.[41] On February 28, 2001, the Commission announced several upcoming rulemaking activities regarding recordkeeping requirements under the federal securities laws that are consistent with ESIGN.[42] Accordingly, under ESIGN section 107(b)(1)(B), the record retention provisions of Title I of ESIGN will become effective on June 1, 2001.

B. The Commission's Statutory Responsibilities

In order to facilitate the prompt, accurate, and efficient clearance and settlement of securities transactions, Congress authorized the Commission, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and the maintenance of fair competition among transfer agencies, to promulgate rules and regulations that are necessary or appropriate to implement the provisions of the Act. For example, section 17(a)(3) requires every registered transfer agent to make, keep, and furnish copies of such records that the transfer agent's ARA prescribes by rule.[43] Section 17A prohibits registered transfer agents from engaging in any activity in contravention of the rules and regulations that the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.[44] Finally, Section 23(a) grants the Commission the power to make such rules and regulations as may be necessary or appropriate to implement the provisions of the Act.[45] Thus, the Act authorizes the Commission to issue rules that require registered transfer agents to keep such records as the Commission may prescribe in the public interest or for the protection of investors, and to make such records available for inspection. This grant of authority recognizes the importance of transfer agent recordkeeping to the Commission's regulatory function and investor protection objective.

Rules 17Ad–6 and 17Ad–7 under the Act specify the type of records that registered transfer agents must make and keep and the length of time and manner in which these records must be preserved. Depending on the type of record, the records covered by these rules generally must be maintained for two years,[46] six years,[47] or until one year after the termination of a transfer agency relationship.[48] Section 17(a)(1) of the Act[49] requires registered transfer agents to make and keep certain records that the Commission prescribes to be necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. Rules 17Ad–6 and 17Ad–7 under the Act specify the type of records that registered transfer agents must make and keep and the length of time and manner in which these records must be preserved. Rule 17Ad–7(f) currently permits registered transfer agents to preserve the records listed in Rule 17Ad–6 either in hardcopy or on microfilm, subject to certain conditions. However, Rule 17Ad–7 provides no other alternatives to maintaining records. The amendments will allow registered transfer agents to electronically and micrographically preserve records that they are required to retain.

As discussed above, Rule 17Ad–7, as amended today, allows transfer agents to use electronic or micrographic storage media to store their records in a manner that will ensure the security and integrity of the records by means of manual and automated controls; will assure the authenticity and quality of the electronic facsimile; detect attempts to alter or remove the indexed records; and will provide means to recover altered, damaged, or lost indexed records.

Transfer agents that use electronic or micrographic storage media are also required to create an index of the records that are electronically or micrographically stored and store the index with those records. In addition, the rule requires that the electronic storage system label the storage units with unique identifiers and record the date and time that information was electronically stored. Transfer agents are also required to keep a duplicate of any records that are stored using electronic or micrographic storage media on any type of medium that is acceptable under Rule 17Ad–7. Finally, transfer agents are required to maintain a duplicate index that is stored with the duplicate set of records separately from the original records.

C. ESIGN's Requirements

When adopting regulations, orders, or guidance to interpret ESIGN's impact on the statutes it administers, the Commission is subject to certain requirements. First, the interpretation must be ''consistent'' with Section 101 of ESIGN.[50] Second, the interpretation may not ''add to the requirements'' of Section 101.[51] Third, in issuing the interpretation, the Commission must find that: (1) There is substantial justification for the interpretation; (2) the methods selected to carry out that purpose are substantially equivalent to the requirements imposed on non-electronic records; (3) the methods selected to carry out that purpose will not impose unreasonable costs on the acceptance and use of electronic records; and (4) the methods selected to carry out that purpose do not require or accord greater legal status or effect to the implementation or application of a specific technology or technical specification.[52, 53]

As discussed in the next section, the Commission finds that the electronic recordkeeping provisions of Rule 17Ad–7, as amended today, are consistent with the requirements established by ESIGN. Thus, registered transfer agents are required to comply with Rule 17Ad–7 as amended.

D. Analysis and Commission Findings

The amendments to Rule 17Ad–7 require transfer agents to preserve, keep current, and surrender upon request the information necessary to download records stored on electronic or micrographic storage media. Transfer agents must also be able to promptly download electronically or micrographically stored records to an alternate medium, such as paper, microfilm or microfiche. Moreover, if a

stored in an electronic or other medium and is retrievable in perceivable form.''

[39] ESIGN § 101(d)(1).

[40] ESIGN § 104(b).

[41] ESIGN § 104(b)(1). *See* section 23(a) of the Act.

[42] *See* Securities Exchange Act Release No. 44014 (February 28, 2001), 66 FR 13273 (March 5, 2001); <http://www.sec.gov/news/digest.shtml>.

[43] 15 U.S.C. 78q(a)(3).

[44] 15 U.S.C. 78q–1(d).

[45] 15 U.S.C. 78w(a).

[46] Rule 17Ad–7(a) and (b).

[47] Rule 17Ad–7(d).

[48] Rule 17Ad–7(c).

[49] 15 U.S.C. 78q(a)(1).

[50] ESIGN § 104(b)(2)(A). *See also* ESIGN § 101(d).

[51] ESIGN § 104(b)(2)(B).

[52, 53] ESIGN § 104(b)(2)(C); 15 U.S.C. 78q, 78q–1 and 78w.

transfer agent uses a third party to maintain its records, the amendments require the third party to file an undertaking with the Commission that the third party will permit the Commission or the transfer agent's ARA to examine such records upon request.

The Commission's investor protection objective is substantially dependent on the Commission's oversight of transfer agents through its transfer agent examination process, which relies on the records that transfer agents make and retain. This objective would be seriously undermined if transfer agents records were inaccurate, inauthentic, or inaccessible. Through Rule 17Ad–7, the Commission seeks to protect investors by promoting the accuracy, integrity, and accessibility of transfer agent records.

The Commission makes the following findings with respect to Rule 17Ad–7:

1. Rule 17Ad–7 Is Consistent With Section 101 of ESIGN

ESIGN provides that statutes or regulations that require the retention of certain contractual or transactional records may be complied with by storing such records electronically. Similarly, Rule 17Ad–7 allows transfer agents to maintain various records that they are required to retain in an electronic or micrographic format. In addition, Rule 17Ad–7 permits electronic or micrographic storage of a broader category of records than ESIGN requires because it permits the electronic and micrographic storage of all records registered transfer agents are required to create and maintain, not just contractual or transactional records. Moreover, consistent with ESIGN, the rule's electronic and micrographic storage provisions do not specify the use of a particular technology or technical specification. The Commission believes that the amended rule will help to ensure that records necessary for the supervision and regulation of registered transfer agents are maintained in a manner that is accurate, accessible, and that is consistent with ESIGN.

2. Rule 17Ad–7 Does Not Add to the Requirements of Section 101 of ESIGN

ESIGN requires electronic records to be stored in a manner that ensures that they are accurate, accessible, and capable of being accurately reproduced for later reference. The electronic and micrographic storage provisions of Rule 17Ad–7 are designed to ensure that registered transfer agents store electronic and micrographic records in a manner consistent with the statutory goals of ESIGN—accurate, accessible and accurately reproduced records. For example, the quality assurance procedures requirement is designed to ensure that the records are accurate by providing verification that a record has been accurately stored in the electronic system. The indexing requirement is designed to ensure that the records are accessible by providing a means to search for specific records. The labeling provisions are intended to ensure both the accuracy and accessibility of the records by indicating the order in which records are stored, thereby making specific records easier to locate and authenticating the storage process.

Finally, the rule does not specify or require any type of records storage technology but instead permits a transfer agent to choose the method of electronic and micrographic storage subject to certain conditions. Thus, Rule 17Ad–7 provides flexibility and choice for registered transfer agents as new electronic and micrographic storage technologies are developed.

3. Rule 17Ad–7's Requirements Are Substantially Justified

The amendments to Rule 17Ad–7 are substantially justified by the need to protect investors, ensure the soundness of the securities markets, and ensure the prompt and accurate clearance and settlement of securities transactions, which includes the transfer of record ownership. In order to ensure investor protection and compliance with its rules, the Commission requires, among other things, that registered transfer agents maintain records that document their transactions with customers and other entities with which they transact.[54] Examiners review these records to determine whether registered transfer agents are complying with the requirements of the securities laws and regulations. A failure to maintain accurate, accessible, and correct records could lead to situations where a transfer agent does not know whether an investor actually owns a security and could also provide an opportunity for deliberate alteration of records. Accordingly, if investors are to be adequately protected and systemic risk in the securities industry mitigated, a transfer agent's records must provide an accurate account of its operations.

To achieve its vital regulatory interests, the Commission believes that a rule that permits the use of electronic and micrographic storage media must contain certain requirements.[55] These requirements include prudent but reasonable safeguards to prevent the stored information from being modified or removed (accidentally or maliciously) without detection. To further this objective, the rule requires that transfer agents use electronic or micrographic records storage systems that are designed to insure the security and integrity of the records by means of manual and automated controls and can detect attempts to alter or remove the records. The rule also requires transfer agents to create duplicates of the original records. The duplicates must be accessible and verifiable as authentic. In addition, Rule 17Ad–7 requires registered transfer agents to maintain, keep current, and provide promptly upon request by the Commission or the transfer agent's ARA all information necessary to access the records and indexes stored on electronic or micrographic storage media. Finally, transfer agents must place in escrow a current copy of the electronic or micrographic storage media's software and all the other information necessary for the Commission or the transfer agent's ARA to access records and indexes.

These conditions also are necessary because electronic storage technology is relatively new and there currently does not appear to be an industry standard for its development and for compatibility among different electronic storage systems. In addition, the ability of the Commission to review a transfer agent's records would be severely compromised should a transfer agent refuse or not be available to cooperate with the Commission.

4. Rule 17Ad–7's Requirements Are Substantially Equivalent to Non-Electronic Record Requirements

Amended Rule 17Ad–7 is designed to ensure the retention of legible, authentic, and complete records. These same goals are applicable to all registered transfer agent records regardless of their form: registered transfer agents have in place similar record retention requirements whether they store their records electronically, micrographically, or in hard copy. While Rule 17Ad–7 contains specific provisions that are only applicable to electronic or micrographic formats, these provisions are designed to take into account the different characteristics among paper, electronic, and micrographic formats, while not imposing disproportionate burdens on any format.

[54] Rule 17Ad–6(a).

[55] Unlike broker-dealers, transfer agents are not subject to the rules and oversight of any self-regulatory organization. Since the Commission is the only entity that reviews transfer agent records, the rule's record integrity requirements are essential.

Another reason for requirements that apply to electronic storage derives from the differences in the way that paper, micrographic, and electronic media store images of records. Paper and micrographic systems store exact images while electronic systems often store the original information in digital form, which can potentially be tampered with. In addition, the use of electronic storage media requires technical expertise and knowledge of the media's proprietary hardware and software characteristics in order to access the records. Therefore, Rule 17Ad–7 requires transfer agents that use electronic and micrographic storage media place in escrow a copy of the physical and logical format of the storage media, the field format of all different information types written on the storage media and source code, and the appropriate documentation and information necessary to access records and indexes.[56] In the absence of such requirement, a transfer agent could store records that only it had the technology and knowledge to access. If the transfer agent went out of business or refused to cooperate, it would be similar to a situation where a transfer agent has stored hard copy records in an inaccessible place, which has always been prohibited by the rule.

5. Rule 17Ad–7 Does Not Impose Unreasonable Costs on the Acceptance and Use of Electronic Records

Amended Rule 17Ad–7 will not result in unreasonable costs to any particular person or entity. The amendments will broaden the options that transfer agents have for the storage and retention of the records they are required to maintain. Specifically, because the amendments do not require the use of any particular technology, transfer agents are not obligated to change their present recordkeeping and retention systems.

Those transfer agents that choose to take advantage of the amendments to Rule 17Ad–7 will face certain fixed and variable costs to employ electronic or micrographic records management systems that would comply with the rule. However, it is practically impossible to estimate the costs for implementing a records management system for any given transfer agent, or the industry as a whole, that would be in compliance with Rule 17Ad–7. When a transfer agent selects the type of records management storage, such as micrographic (microfilm or microfiche) or electronic recording techniques (computers), it will likely consider solutions that will optimize its cost, based on factors such as risk and complexity, while enabling it to meet its regulatory obligations. Moreover, while the costs and types of these systems vary, numerous document storage vendors appear to make the market for these systems competitive. Further, Rule 17Ad–7 requires that any recordkeeping system, whether electronic or paper-based, selected by a registered transfer agent be designed to ensure the accuracy, integrity, and accessibility of the transfer agent's records.

The Commission believes that the costs are justified by the benefits that electronic or micrographic storage media offer. For example, with electronic records maintenance systems: Documents are less likely to be lost or misfiled; documents are likely to be retrieved more quickly; audit trails can be automated; risk reduction is improved for natural disasters; file centralization is automatic (electronic records need not be removed from their storage in order to reference them); multiple persons can view the same document simultaneously; access authorization can be automated; the space required for document storage is drastically reduced; document indexing and cross-referencing can be automatic; and documents can be copied, faxed, printed, and emailed without the paper originals.

Each transfer agent will ultimately evaluate the risk and cost effectiveness of its records management solution differently based upon the solution that is best for its business model, such as its business practices and volume, and will select a method that assures its ability to comply with Rule 17Ad–7. Moreover, the rule cannot envision the effect of future market competition, innovation, and the other solutions that transfer agents might employ. Because each transfer agent is able to select the method, whether electronic, micrographic, or paper-based, that works best for it based on its individual circumstances, Rule 17Ad–7 does not impose any unreasonable costs on the acceptance and use of electronic records.

6. Rule 17Ad–7 Does Not Require, or Accord Greater Legal Status or Effect to, the Implementation or Application of a Specific Technology or Technical Specification

Rather than prescribe a single technological solution to records management, the rule incorporates a goal-oriented approach based on the statutory scheme for transfer agent regulation. The goals of the rule include: Long-term retention and access to records; detection of fraud, including forged or illegally modified records; making information more useful; and allowing transfer agents to use modern information technology to handle their ever-expanding number of records. While the rule contains certain standards to achieve the Commission's statutory functions, the rule enables transfer agents to select from numerous types of records storage systems to maintain the records that they are required to retain. The Commission is aware of many types of electronic and micrographic storage media technology available for recordkeeping purposes that would comply with the rule's requirements and anticipates that additional methods will continue to be developed.

E. Conclusion

Rule 17Ad–7, as amended today, provides standards so that the transfer agents' use of record maintenance systems, including those using electronic and micrographic technologies, will accurately reflect the information contained in the original records and will be readily accessible to the Commission and other appropriate regulatory agencies. The rule does not specify a particular technology to carry out these standards. Therefore, the Commission finds that Rule 17Ad–7 is consistent with ESIGN's requirements.

VI. Paperwork Reduction Act

Certain provisions of the amendments to Rule 17Ad–7 contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995,[58] and the Commission has submitted them to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is: ''Record Retention Requirements for Registered Transfer Agents.'' The OMB control number for the collection of information is 3235–0136. The collection of information requirements are necessary to ensure the integrity of transfer agents' records that are maintained on electronic storage media and to ensure the Commission's ability to access such records.

In the Proposing Release, the Commission requested comment on the proposed collections of information. No comments were received that addressed the PRA submission.

Rules 17Ad–7(f)(2)(iii) and 17Ad–7(f)(2)(iv) contain a collection of information requirements that are intended to ensure that the Commission has complete access to transfer agents' records during examinations. Rule

[56] Rule 17Ad–7(f)(5)(ii).

[58] 44 U.S.C. 3501 *et seq.*

17Ad–7(f)(2)(iii) and 17Ad–7(f)(2)(v) will require transfer agents that use electronic or micrographic storage media to create an index of all electronically or micrographically stored records and to maintain a duplicate of each index. The Commission has not specified the format of the index that is required to be maintained. The original and duplicate indexes are required to be kept in separate locations in order to protect against loss, damage, or alteration. The indexes are required to be maintained for as long as the transfer agent uses electronic or micrographic storage media.

Rule 17Ad–7(f)(4) contains a collection of information requirement that is intended to ensure the integrity of transfer agents' records that are stored on electronic or micrographic storage media. Rule 17Ad–7(f)(4) requires each registered transfer agent that uses electronic or micrographic storage media to establish an audit system to account for the inputting of or changes made to the records (*e.g.,* by unique identifier numbers) that are electronically or micrographically stored. While the rule does not specify the precise contents of each audit system, any data stored regarding inputting of records and changes made to existing records would be part of that audit system. The rule further requires that the results of the audit system be preserved for the period of time the underlying audited records are required to be preserved and that the results of the audit system be available to the Commission or ARA at all times.

Rule 17Ad–7(f)(5) contains collection of information requirements that ensures the Commission's access to records of a transfer agent that is no longer operating, refuses to cooperate with the investigative efforts of the Commission or another appropriate regulatory agency, or has not properly or fully indexed electronically or micrographically stored records. Rule 17Ad–7(f)(5) requires each transfer agent that uses electronic or micrographic storage media to place in escrow and keep current a copy of the physical and logical format of the electronic storage or micrographic media, the field format of all different information types written on the electronic storage media and source code, and the appropriate documentation and information necessary to access records and indexes. The information required by Rule 17Ad–7(f)(5) will be required to be maintained for as long as the transfer agent is using electronic or micrographic storage media.

Rule 17Ad–7(f)(6) requires that for each transfer agent that uses a third party to maintain or preserve the transfer agent's records with electronic or micrographic systems, the third party must file with the Commission a written statement to the effect that (1) such records are maintained or preserved by the third party on behalf of the transfer agent; (2) such records will be surrendered promptly on request of the transfer agent; and (3) the third party will permit Commission representatives or designees to examine such records. This requirement is intended to ensure that the appropriate examining authorities are able to access a transfer agent's electronically or micrographically stored records if the transfer agent does not maintain those records. This requirement can be fulfilled in the form of a letter to the Commission.

The collection of information required by the amendments to Rule 17Ad–7 should not result in any new significant burden to transfer agents. All information required as a condition of transfer agents' use of electronic or micrographic storage media is specifically tied to a transfer agent's decision to use electronic or micrographic storage media to satisfy its recordkeeping obligations.

The likely respondents to the collection of information are large registered transfer agents. At this time, the Commission estimates that there will be 500 respondents to the collection of information requirements contained in the amendments to Rule 17Ad–7. The frequency of response to the collection of information requirements varies depending on the specific requirement and whether the transfer agent stores its own records or uses the services of a third party. Thus, the collection of information requirements contained in Rules 17Ad–7(f)(5)(ii) and 17Ad–7(f)(6) might require more than one response.

The primary time burdens that are required by the amendments to Rule 17Ad–7 are the duplicate, labeling, index, audit trail, and statement-filing provisions. The Commission contemplates that the electronic and micrographic document storage systems that transfer agents are likely to utilize can automatically produce duplicate records, sequential labels, indexes, and audit trails. In the Proposing Release, the Commission estimated that each transfer agent would, on average, expend 125 hours per year to comply with the collection of information requirements of Rule 17Ad–7. The Commission solicited comments regarding this annual hourly burden but did not receive any comments. This time burden will apply only to registered transfer agents that choose to use electronic or micrographic storage media.

In the Proposing Release, the Commission estimated that approximately 40 transfer agents were likely to use electronic or micrographic storage systems. However, based on further consultations with transfer agent industry officials, vendors of electronic records storage systems, and Commission staff members, the Commission now believes that the number of likely respondents will be 500.[59] Accordingly, we estimate that the collection of information requirements will result in 62,500 additional burden hours (500 transfer agents x 125 annual hours) to the transfer agent industry.[60]

If a transfer agent chooses to use electronic or micrographic storage media, then providing the information will be mandatory. Responses to the collection of information requirements will not be kept confidential. 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.

VII. Costs and Benefits of the Amendments to Rule 17Ad-7

The Commission has identified certain costs and benefits relating to the rule amendments. No comments were received about the costs and benefits of the proposed rule and the commenters did not cite cost concerns as the basis for their suggestions. We expect that registered transfer agents will chose to adopt electronic or micrographic recordkeeping if it is cost effective for them to do so.

A. Benefits

The Commission envisions that transfer agents choosing to automate their paper-based records systems in favor of electronic or micrographic

[59] The Commission is unable to predict the number of transfer agents that will use third parties to store their records and, thus, is unable to predict the number of third party undertakings that will be filed with the Commission.

[60] Based on an estimated average administrative labor cost of $50 per hour (based on the Securities Industry Association's wage survey for the year 2000 for programmers and senior programmers. An additional 35% for overhead was added to the hourly rates.), the Commission's staff estimate that the total labor cost to the entire transfer agent industry for complying with the collection of information requirements contained in the proposed amendments is $3,125,000 annually ($50 x 62,500). The Commission's staff developed these estimates in consultation with representatives of the transfer agent industry and the staff of the Commission's Office of Economic Analysis.

systems are likely to reduce their costs and risks associated with recordkeeping. While these benefits are not readily quantifiable in terms of a particular dollar value, many factors underlie the potential reduction of costs and gains in efficiency to transfer agents that elect to use micrographic or electronic storage systems:

- Documents are less likely to be lost or misfiled,
- Documents are likely to be retrieved more quickly,
- Audit trails can be automated,
- Risk reduction is improved for natural disasters,
- File centralization is automatic (file and records need not be removed from their storage in order to reference them),
- Multiple persons can view the same document simultaneously,
- Access authorization can be automated,
- Space required for document storage is drastically reduced,
- Document indexing and cross-referencing can be automatic, and
- Documents can be copied, faxed, printed, and e-mailed without the paper originals.

B. Costs

The amendments to Rule 17Ad-7 will not impose costs on any particular person or entity. Although the amendments will broaden the options for transfer agents to use for the storage and retention of the records that they are required to maintain, the amendments require no technology changes or even the use of any technology, provided the transfer agent is capable of producing copies of documents that the Commission, or the transfer agent's ARA, requests.[61] Therefore, transfer agents are not obligated to change their present recordkeeping and retention systems.

We expect, as noted above, that numerous transfer agents will determine that it is cost-effective for them to choose to maintain their records electronically or micrographically. However, it is practically impossible to estimate the costs for implementing a records management system for any given transfer agent, or the industry as a whole, that would be in compliance with Rule 17Ad-7(f). When a transfer agent selects the type of records management technology, such as photographic (microfilm or microfiche) or digital recording techniques (computer technology), it will likely consider solutions that will optimize its cost, based on individualized factors such as risk and complexity. Each transfer agent will evaluate the risk and cost effectiveness of their records management solution differently based upon the solution that is best for their business model, such as their business practices and volume, and that assures their ability to comply with Rule 17Ad-7. Moreover, we cannot predict the effect of future market competition and innovation on the technologies that transfer agents might employ for their recordkeeping.

Nevertheless, transfer agents that choose to change their recordkeeping system to electronic or micrographic storage systems may face the following costs. First, transfer agents that choose to store records electronically or micrographically will have to select the type of technology system they will use to store and maintain the required records. While the costs and types of these systems vary widely, numerous document storage vendors appear to make the market for these systems competitive. In addition, the expected life span of each system varies (e.g., some systems and their associated software might become obsolete sooner than others and some systems physically last longer than others). All systems, however, require physical and technological maintenance.

Second, transfer agents that choose to use micrographic media or electronic storage media will incur some costs associated with transferring hard copy records to micrographic or electronic storage media. These costs are likely to depend upon the volume of hard copy records needed to be transferred to electronic or micrographic format, the amount of labor needed to convert the records, and the type of storage media involved.

Third, transfer agents will incur costs in complying with the rule. Specifically, the rule requires that transfer agents using electronic or micrographic storage media create a duplicate of the records electronically or micrographically stored, that they create an index of the electronically or micrographically stored records, and that they establish an audit system to account for inputting of and changes to electronically or micrographically stored records. All of these requirements will result in costs to those transfer agents. Again, these costs are difficult to quantify in terms of labor and technology.

VIII. Consideration of Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

A. Consideration of Burden on Competition

Section 23(a)(2) of the Act[62] requires the Commission to consider the impact that any rule promulgated under the Act would have on competition. The Commission is further required to state ''the reasons for [its] determination that any burden on competition imposed by such rule or regulation is necessary or appropriate in furtherance of the purposes of [the Act].[63]

In the Proposing Release, the Commission solicited comments on whether the amendments to Rule 17Ad–7 would have any effects on competition. The Commission received no comments in response to this solicitation.

The Commission does not anticipate that the amendments will impose any burden on competition that is not necessary or appropriate in furtherance of the Act. The amended rule permits, but does not require, all registered transfer agents to use electronic and micrographic storage media to fulfill their recordkeeping obligations. In addition, the requirements that transfer agents must meet with respect to using electronic and micrographic storage media will apply to all registered transfer agents that choose to store their records electronically or micrographically. The amendments are intended to remove any remaining regulatory impediments facing transfer agents who decide to store records in an electronic or micrographic form. The Commission believes that by changing the regulatory scheme, transfer agents can have the certainty to adopt storage methods that best suits their business needs and can then be able to offer to the market a service they believe is more cost-effective and efficient.

B. Promotion of Efficiency, Competition, and Capital Formation

Section 3 of the Act[64] as amended by the National Securities Markets Improvement Act of 1996[65] provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall consider, in addition to the protection of investors, whether the action will

[61] 17 CFR 240.17Ad-6 and 240.17Ad-7.

[62] 15 U.S.C. 78w(a)(2).

[63] 15 U.S.C. 78w(a)(2).

[64] 15 U.S.C. 78c.

[65] Pub. L. No. 104–290, 110 Stat. 3416 (1996).

promote efficiency, competition, and capital formation.

In the Proposing Release, the Commission solicited comments on whether the amendments to Rule 17Ad–7 would have any effects on competition, efficiency and capital formation. The Commission received no comments in response to this solicitation.

The amendments should promote efficiency. By allowing registered transfer agents to benefit from advances in recordkeeping technology, the time and labor in maintaining and accessing records should be reduced, resulting in operational and financial efficiencies. Although the amendments address how companies and its transfer agents keep records which are activities that occur after the issuance of securities, the amendments should also encourage capital formation. By allowing transfer agents to use a broader range of storage methods, transfer agents who decide to store records electronically or micrographically, will no longer have the facility or operational costs of a traditional paper based system. Transfer agents could then pass the cost savings to companies who can, in turn, see a similar reduction in their recordkeeping expenses. Lower recordkeeping expenses should assist companies in bringing their overall costs down and should benefit companies in their efforts in raising capital. The amendments, which apply equally to transfer agents, should also promote competition between the vendors who create and manufacture the new storage technologies and between the transfer agents who use the new methods. Vendors can compete with each other to develop systems that can allow transfer agents to mange the records on a more resourceful, economical basis. The improvement in storage technologies can then allow transfer agents to compete among one another in offering to companies a more cost-effective, efficient service.

The amendments should: (1) Promote efficiency by allowing registered transfer agents to benefit from advances in recordkeeping technology, (2) not adversely affect capital formation because the amendments relate solely to post-issuance activity, and (3) not impose any burden on competition among transfer agents because the amendments will apply equally to all registered transfer agents.

IX. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis (''FRFA'') has been prepared in accordance with the provisions of the Regulatory Flexibility Act (''RFA'').[66] This FRFA relates to the adoption of amendments to Rule 17Ad–7(f), which conditions registered transfer agents' use of micrographic and electronic storage systems in fulfilling their record retention requirements.[67] The FRFA notes that the new rule does not require transfer agents to maintain their records micrographically or electronically; however, those transfer agents choosing to do so must comply with the requirements of the rule.

A. Need for the Rules and Rule Amendments

The amendments are designed to increase the flexibility and efficiency of transfer agent recordkeeping. Section 17(a)(1) of the Act[68] requires registered transfer agents to make and keep certain records that the Commission prescribes to be necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. Rules 17Ad–6 and 17Ad–7 under the Act specify the type of records that registered transfer agents must make and keep and the amount of time and manner in which these records must be preserved. Depending on the type of record, the records covered by these rules generally must be maintained for two years,[69] six years,[70] or until one year after the termination of a transfer agency relationship.[71] Rule 17Ad–7(f)[72] currently permits registered transfer agents to preserve the records listed in Rule 17Ad–6 on microfilm, subject to certain conditions. However, Rule 17Ad–7 currently provides no other alternative to maintaining records in hard copy.

B. Significant Issues Raised by Public Comment

The Commission received eleven comment letters in response to the Proposing Release. The commenters generally supported the goals of the Commission's proposals, although some expressed concerns with specific provisions and some suggested alternative approaches for addressing particular issues. The Commission has modified its proposal to incorporate many of these comments and suggested alternatives.

The Commission also requested comment with respect to the IRFA in the Proposing Release. The Commission did not receive any comments concerning the IRFA.

C. Small Entities Subject to the Rule

For purposes of Commission rulemaking, paragraph (h) of Rule 0–10 under the Act[73] defines the term ''small business'' or ''small organization,'' with reference to a transfer agent, to include any transfer agent that: (1) Received fewer than 500 items for transfer and fewer than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); (2) transferred items only of issuers that would be deemed ''small business'' or ''small organizations'' as defined in Rule 0–10 under the Act; (3) maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and (4) is not affiliated with any person (other than a natural person) that is not a small business or small organization under Rule 0–10. The Commission estimates that 180 registered transfer agents qualify as small entities and would be subject to the amendments to Rule 17Ad–7.

The Commission estimates that approximately 150 transfer agents will receive fewer than 500 items for transfer during the preceding six months. However, the Commission believes that the amendments to Rule 17Ad–7 will not significantly affect small entities. The Commission notes that Rule 17Ad–4(b) under the Act[74] already exempts approximately 150 small transfer agents from several of the recordkeeping requirements of Rules 17Ad–6 (and as a result from 17Ad–7). In addition, any burden imposed by the amendments applies only to those transfer agents that choose to use electronic or micrographic storage media; many transfer agents might not have to maintain their records any differently than they are doing so prior to today.[75] The Commission also believes that it is not feasible to further clarify, consolidate, or simplify the amendments for small entities because a small entity choosing to store its records electronically or micrographically will not be disproportionately or unreasonably burdened by the new

[66] 5 U.S.C. 604.

[67] An Initial Regulatory Flexibility Analysis (''IRFA'') summary regarding the amendments to Rule 17Ad–7 appeared in the Proposing Release.

[68] 15 U.S.C. 78q(a)(1).

[69] Rule 17Ad–7(a) and (b).

[70] Rule 17Ad–7(d).

[71] Rule 17Ad–7(c).

[72] Rule 17Ad–7(f).

[73] 17 CFR 240.0–10(h).

[74] 17 CFR 240.17Ad–4(b).

[75] For example, Rule 17Ad–7(f) will be essentially inapplicable to transfer agents that solely maintain paper records.

requirements of Rule 17Ad–7. Finally, the Commission believes that creating any new exemptions for small business entities in Rule 17Ad–7 would undermine the purpose of the Commission's transfer agent regulatory oversight responsibilities. Thus, small business entities are still required to maintain the same types of records as before; Rule 17Ad–7 merely provides alternate methods for doing so.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

In the IRFA, the Commission requested comment on the costs of complying with each of the recordkeeping, reporting, and other requirements under the proposed rule amendments. It also requested comment as to whether there would be any ongoing costs associated with complying with the rule amendments and asked commenters to provide detailed estimates of these costs. The Commission did not receive any comments concerning this aspect of the IRFA.

The amendments to Rule 17Ad–7 impose certain reporting, recordkeeping, and compliance requirements. For example, the amendments require each registered transfer agent that chooses to use electronic or micrographic storage media to set up a system to record the inputting of records to electronic storage media and the inputting of any changes to records that are electronically or micrographically stored. However, the reporting, recordkeeping, and compliance requirements contained in the amendments to Rule 17Ad–7 apply only to registered transfer agents that choose to use electronic storage media. Some small transfer agents might not be able to afford the costs currently involved with storing records electronically or micrographically and therefore will not choose to use these storage medias. However, it is likely that as additional technologies are developed, these costs will be reduced and it may become cost-effective for more small transfer agents to use electronic or micrographic storage media. Therefore, the amendments to Rule 17Ad–7 should not have a significant economic impact on a substantial number of small entities.

E. Agency Action to Minimize Effect on Small Entities

As required by section 603 of the RFA, the Commission has considered adopting different compliance, reporting requirements, and effective dates with respect to transfer agents' use of electronic and micrographic storage media with the view that these measures would minimize the economic impact of the proposed rule amendments on small entities. However, the Commission believes that the compliance, reporting requirements, and effective dates as adopted today are necessary to ensure the accuracy and integrity of the records of those transfer agents that choose to store them electronically or micrographically and to ensure the access to such records by the Commission or another appropriate regulatory agency.

X. Statutory Basis

The Commission is adopting amendments to § 240.17Ad–7 of Chapter II of Title 17 of the *Code of Federal Regulations* pursuant to Sections 17, 17A, and 23 [76] in the manner set forth below.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Transfer agents.

Text of Amendment

In accordance with the foregoing, Title 17, Chapter II of the *Code of Federal Regulations* is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following specific citation:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

Section 240.17Ad–7 also issued under 15 U.S.C. 78b, 78q, and 78q–1.

* * * * *

2. The authority citation following § 240.17Ad–7 is removed.

3. Section 240.17Ad–7 is amended by revising paragraph (f) to read as follows:

§ 240.17Ad–7 Record retention.

* * * * *

(f) (1) For purposes of this section:

(i) The term *micrographic media* means microfilm or microfiche or any similar medium.

(ii) The term *electronic storage media* means any digital storage medium or system.

(iii) The term *ARA* means your appropriate regulatory agency as that term is defined in 15 U.S.C. 78c(a)(34).

(2) If you as a registered transfer agent use electronic storage media or micrographic media to store your records, you must:

(i) Have available at all times for examination by the staffs of the Commission and of your ARA facilities to project or produce immediately easily readable images of such records;

(ii) Be ready at all times to provide such records that the staffs of the Commission and your ARA or their representatives may request;

(iii) Create an accurate index of such records, store the index with those records, and have the index available at all times for examination by the staffs of the Commission and your ARA;

(iv) Have quality assurance procedures to verify the quality and accuracy of the electronic or micrographic recording process; and

(v) Maintain separately from the originals duplicates of the records and the index that you store on electronic storage media or micrographic media. You may store the duplicates of the indexed records on any medium permitted by this section. You must preserve the duplicate records and index for the same time that is required by this section for the indexed records, and you must have them available at all times for examination by the staffs of the Commission and your ARA.

(3) Any electronic storage media that you use to store your records must:

(i) Ensure the security and integrity of the records by means of manual and automated controls that assure the authenticity and quality of the electronic facsimile, detect attempts to alter or remove the records, and provide means to recover altered, damaged, or lost records resulting from any cause;

(ii) Externally label all removable units of storage media using a unique identifier that allows the manual association of that removable storage unit with its place and order in the recordkeeping system; and

(iii) Uniquely identify files and internally label each file with its unique name, the date and time of file creation, the date and time of last modification or extension, and a file sequence number when the file spans more than one volume.

(4) If you use electronic storage media or micrographic media to store your records, you must establish an audit system that accounts for the inputting of and any changes to every record that is stored on electronic storage media or micrographic media. The results of such audit system must:

[76] 15 U.S.C. 78q, 78q–1(a)(2), 78q–1(d) and 78w(a).

(i) Be available at all times for examination by the staffs of the Commission and your ARA; and

(ii) Be preserved for the same time that is required by this section for the underlying records.

(5) If you use electronic storage media or micrographic media to store your records, you must:

(i) Maintain, keep current, and provide promptly upon request by the staffs of the Commission and your ARA all information necessary to access the records and indexes stored on electronic storage media or micrographic media; and

(ii) Place in escrow with an independent third party and keep current a copy of the physical and logical format of the electronic storage or micrographic media, the field format of all different information types written on the electronic storage media and source code, and the appropriate documentation and information necessary to access records and indexes. The independent escrow agent must file an undertaking signed by a duly authorized person with the Commission and your ARA stating that:

''[Name of Third Party] hereby undertakes to furnish promptly upon request to the U.S. Securities and Exchange Commission, its designees, or representatives, upon reasonable request, a current copy of the physical and logical format of the electronic storage or micrographic media, the field format of all different information types written on the electronic storage media and source code, and the appropriate documentation and information necessary to access the records and indexes of [Name of Transfer Agent]'s electronic records management system.

(6) (i) If you use a third party to maintain or preserve some or all of the required records using electronic storage media or micrographic media, such third party shall file a written undertaking signed by a duly authorized person with the Commission and your ARA stating that:

''With respect to any books and records maintained or preserved on behalf of [Name of Transfer Agent], [Name of Third Party] hereby undertakes to permit examination of such books and records at any time or from time to time during business hours by representatives or designees of the U.S. Securities and Exchange Commission, and to promptly furnish to said Commission or its designee true, correct, complete, and current hard copies of any or all or any part of such books and records.''

(ii) Agreement with a third party to maintain your records shall not relieve you from the responsibility to prepare and maintain records as specified in this section or in § 240.17Ad–6.

* * * * *

Dated: April 27, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11005 Filed 4–27–01; 2:33 pm]

BILLING CODE 8010–01–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 102

T.D. [01–36]

RIN 1515–AC80

Rules of Origin for Textile and Apparel Products

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations on an interim basis to align the existing country of origin rules for textile and apparel products with the statutory amendments to section 334 of the Uruguay Round Agreements Act, as set forth in section 405 within Title IV of the Trade and Development Act of 2000. Section 405 clarifies the text of section 334 by redesignating certain provisions and amends the processing operations required to confer country of origin status to certain textile fabrics and made-up articles. This document implements the statutory changes.

DATES: This interim rule is effective May 1, 2001. Comments must be received on or before July 2, 2001.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Textile Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 927–1361.

SUPPLEMENTARY INFORMATION:

Background

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

On May 18, 2000, President Clinton signed into law the Trade and Development Act of 2000 (the Act), Public Law 106–200, 114 Stat. 251. Section 405 of Title IV of the Act amends section 334 of the URAA. Specifically, section 405(a) amends section 334(b)(2) of the URAA by redesignating paragraphs (b)(2)(A) and (B) as paragraphs (b)(2)(A)(i) and (ii), and by adding two special rules at new paragraphs (b)(2)(B) and (C) that change the rules of origin for certain fabrics and made-up textile products.

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

Section 405(b) provides that the amendments to section 334 apply to goods entered, or withdrawn from warehouse for consumption, on or after May 18, 2000.

Amendment to the Customs Regulations

As the statutory amendments to section 334 of the URAA necessitate corresponding changes to the Customs Regulations, this document amends § 102.21 on an interim basis to implement the rules of origin for the textile products specified in section 405(a) of the Act.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs

Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Inapplicability of Prior Public Notice and Comment Procedures

Because these regulations serve to align the Customs Regulations to the statutory amendments to section 334 of the URAA, as set forth in section 405 within Title IV of the Act, which went into effect May 18, 2000, Customs has determined, pursuant to the provisions of 5 U.S.C. 553(b)(B), that prior public notice and comment procedures on this regulation are unnecessary and contrary to the public interest. The regulatory amendments inform the public of changes to the processing operations deemed necessary to confer country of origin status to certain textile fabrics or made-up articles by way of amendment to the tariff shift rules applicable to select textile goods. For these reasons, pursuant to the provisions of 5 U.S.C. 553(d)(3), Customs finds that there is good cause for dispensing with a delayed effective date.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for these interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

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

List of Subjects in 19 CFR Part 102

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

Amendment to the Regulations

For the reasons stated above, part 102 of the Customs Regulations (19 CFR part 102) is amended as set forth below.

PART 102—RULES OF ORIGIN

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

Authority: U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

2. In § 102.21: the introductory text to paragraph (e) is redesignated as paragraph (e)(1) and revised; in newly designated paragraph (e)(1) the table is amended by revising the entries in the ''Tariff shift and/or other requirements'' column adjacent to the ''HTSUS'' column listing for 5007, 5208–5212, 5309–5311, 5407–5408, 5512–5516, 5602–5603, 5608, 5801–5803, 5804.10, 5804.21–5804.30, 5806, 5808.90, 5901–5903, 5905, 5906–5907, 5911.10–5911.20, 5911.31–5911.32, 5911.40, 5911.90, 6001–6002, 6101–6117, 6213–6214, 6301–6306 and 9404.90; and a new paragraph (e)(2) is added, to read as follows:

§ 102.21 Textile and apparel products.

* * * * *

(e) *Specific rules by tariff classification.* (1) The following rules will apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:

HTSUS	Tariff shift and/or other requirements
*	* * * * * *
5007	(1) A change from greige fabric of heading 5007 to finished fabric of heading 5007 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2) If the country of origin cannot be determined under (1) above, a change to heading 5007 from any other heading, provided that the change is the result of a fabric-making process.
*	* * * * * *
5208–5212	(1) A change from greige fabric of heading 5208 through 5212 to finished fabric of heading 5208 through 5212 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to heading 5208 through 5212 from any heading outside that group, provided that the change is the result of a fabric-making process.
*	* * * * * *
5309–5311	(1) A change from greige fabric of heading 5309 through 5311 to finished fabric of heading 5309 through 5311 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2)If the country of origin cannot be determined under (1) above, a change to heading 5309 through 5311 from any heading outside that group, provided that the change is the result of a fabric-making process.
*	* * * * * *
5407–5408	(1) A change from greige fabric of heading 5407 through 5408 to finished fabric of heading 5407 through 5408 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to heading 5407 through 5408 from any heading outside that group, provided that the change is the result of a fabric-making process.
*	* * * * * *
5512–5516	(1) A change from greige fabric of heading 5512 through 5516 to finished fabric of heading 5512 through 5516 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to heading 5512 through 5516 from any heading outside that group, provided that the change is the result of a fabric-making process.

HTSUS	Tariff shift and/or other requirements
*	* * * * * *
5602–5603	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 5602 through 5603 to finished fabric of heading 5602 through 5603 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to heading 5602 through 5603 from any heading outside that group, provided that the change is the result of a fabric-making process.
*	* * * * * *
5608	(1)(a) Except for netting of wool or of fine animal hair, a change from greige netting of heading 5608 to finished netting of heading 5608 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (1)(b) If the country of origin cannot be determined under (1)(a) above, a change to netting of heading 5608 from any other heading, except from heading 5804, and provided that the change is the result of a fabric-making process. (2) A change to fishing nets or other made up nets of heading 5608: (a) If the good does not contain nontextile attachments, from any other heading, except from heading 5804 and 6002, and provided that the change is the result of a fabric-making process; or (b) If the good contains nontextile attachments, from any heading, including a change from another good of heading 5608, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
*	* * * * * *
5801–5803	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 5801 through 5803 to finished fabric of heading 5801 through 5803 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to heading 5801 through 5803 from any other heading, including a heading within that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, and 6002, and provided that the change is the result of a fabric-making process.
5804.10	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of subheading 5804.10 to finished fabric of subheading 5804.10 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to subheading 5804.10 from any other heading, except from heading 5608, and provided that the change is the result of a fabric-making process.
5804.21–5804.30.	(1) Except for lace of wool or of fine animal hair, a change from greige lace of subheading 5804.21 through 5804.30 to finished lace of subheading 5804.21 through 5804.30 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to subheading 5804.21 through 5804.30 from any other heading, provided that the change is the result of a fabric-making process.
*	* * * * * *
5806	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 5806 to finished fabric of heading 5806 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or (2) If the country of origin cannot be determined under (1) above, a change to heading 5806 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, and 5801 through 5803, and provided that the change is the result of a fabric-making process.
*	* * * * * *
5808.90	(1) For ornamental fabric trimmings: (a) A change from a greige good of subheading 5808.90 to a finished good of subheading 5808.90 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (b) If the country of origin cannot be determined under (a) above, a change to subheading 5808.90 from any other chapter, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, and 5512 through 5516, and provided that the change is the result of a fabric-making process. (2) For nonfabric ornamental trimmings: (a) If the trimming is of continuous filaments, including strips, a change to subheading 5808.90 from any other heading, except from heading 5001 through 5007, 5401 through 5408, 5501 through 5502, and 5604 through 5607, and provided that the change is the result of an extrusion process; or (b) If the trimming is of staple fibers, a change to subheading 5808.90 from any other heading, except from heading 5106 through 5113, 5204 through 5212, 5306 through 5311, 5401 through 5408, 5508 through 5516, and 5604 through 5607, and provided that the change is the result of a spinning process. (3) For tassels, pompons and similar articles: (a) If the good has been wholly assembled in a single country, territory, or insular possession, a change to subheading 5808.90 from any other heading; (b) If the good has not been wholly assembled in a single country, territory, or insular possession and the good is of staple fibers, a change to subheading 5808.90 from any other heading, except from heading 5004 through 5006, 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and 5604 through 5607, and provided that the change is the result of a spinning process; or (c) If the good has not been wholly assembled in a single country, territory, or insular possession and the good is of filaments, including strips, a change to subheading 5808.90 from any other heading, except from heading 5001 through 5007, 5401 through 5406, and 5501 through 5502, and provided that the change is the result of an extrusion process.

HTSUS	Tariff shift and/or other requirements
*	* * * * * *
5901–5903	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 5901 through 5903 to finished fabric of heading 5901 through 5903 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2) If the country of origin cannot be determined under (1) above, a change to heading 5901 through 5903 from any other heading, including a heading within that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5803, 5806, 5808, and 6002, and provided that the change is the result of a fabric-making process.
*	* * * * * *
5905	(1) Except for wall coverings consisting of textile fabric of wool or of fine animal hair treated on the back or affixed by any means to a backing of any material, a change from wall coverings of greige fabric of heading 5905 to wall coverings of finished fabric of heading 5905 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2) If the country of origin cannot be determined under (1) above, a change to heading 5905 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5603, 5803, 5806, 5808, and 6002, and provided that the change is the result of a fabric-making process.
5906–5907	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 5906 through 5907 to finished fabric of heading 5906 through 5907 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2) If the country of origin cannot be determined under (1) above, a change to heading 5906 through 5907 from any other chapter, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5803, 5806, 5808, and 6002, and provided that the change is the result of a fabric-making process.
*	* * * * * *
5911.10–5911.20.	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of subheading 5911.10 through 5911.20 to finished fabric of subheading 5911.10 through 5911.20 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2) If the country of origin cannot be determined under (1) above, a change to subheading 5911.10 through 5911.20 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
5911.31–5911.32.	(1)(a) Except for fabric of wool or of fine animal hair, a change from greige fabric of subheading 5911.31 through 5911.32 to finished fabric of subheading 5911.31 through 5911.32 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (1)(b) If the country of origin cannot be determined under (1)(a) above, for goods not combined with nontextile components, a change to subheading 5911.31 through 5911.32 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, and 6001 through 6002, and provided that the change is the result of a fabric-making process. (2) For goods combined with nontextile components, a change to subheading 5911.31 through 5911.32 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
5911.40	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of subheading 5911.40 to finished fabric of subheading 5911.40 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2) If the country of origin cannot be determined under (1) above, a change to subheading 5911.40 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
5911.90	(1) For goods of yarn, rope, cord, or braid: (a)If the good is of continuous filaments, including strips, a change of those filaments, including strips, to subheading 5911.90 from any other heading, except from heading 5001 through 5006, 5401 through 5406, and 5501 through 5502, and provided that the change is the result of an extrusion process; or (b) If the good is of staple fibers, a change of those fibers to subheading 5911.90 from any other heading, except from heading 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and provided that the change is the result of a spinning process. (2)(a) If the good is a fabric, except for fabric of wool or of fine animal hair, a change from greige fabric of subheading 5911.90 to finished fabric of subheading 5911.90 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2)(b) If the country of origin cannot be determined under (2)(a) above, if the good is a fabric, a change to subheading 5911.90 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5809, and 6001 through 6002, and provided that the change is the result of a fabric-making process. (3) If the good is a made up article other than a good of yarn, rope, cord, or braid, a change to subheading 5911.90 from any heading, including a change from another good of heading 5911, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

HTSUS	Tariff shift and/or other requirements
6001–6002	(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 6001 through 6002 to finished fabric of heading 6001 through 6002 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or, (2) If the country of origin cannot be determined under (1) above, a change to heading 6001 through 6002 from any heading outside that group, provided that the change is the result of a fabric-making process.
6101–6117	(1) If the good is not knit to shape and consists of two or more component parts, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to an assembled good of heading 6101 through 6117 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good is not knit to shape and does not consist of two or more component parts, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to heading 6101 through 6117 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process. (3) If the good is knit to shape, except for goods of subheading 6117.10 provided for in paragraph (e)(2) of this section, a change to 6101 through 6117 from any heading outside that group, provided that the knit to shape components are knit in a single country, territory, or insular possession.
*	* * * * * *
6213–6214	Except for goods of heading 6213 through 6214 provided for in paragraph (e)(2) of this section, the country of origin of a good classifiable under heading 6213 through 6214 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.
*	* * * * * *
6301–6303	Except for goods of heading 6302 through 6304 provided for in paragraph (e)(2) of this section, the country of origin of a 17 good classifiable under heading 6301 through 6306 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.
*	* * * * * *
9404.90	Except for goods of subheading 9404.90 provided for in paragraph (e)(2) of this section, the country of origin of a good classifiable under subheading 9404.90 is the country, territory, or insular possession in which the fabric comprising the good was formed by a fabric-making process.

* * * * *

(2) For goods of HTSUS headings 6213 and 6214 and HTSUS subheadings 6117.10, 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85 and 9404.90.95, except for goods classified under those headings or subheadings as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton:

(i) The country of origin of the good is the country, territory, or insular possession in which the fabric comprising the good was both dyed and printed when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing;

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

(iii) For goods of HTSUS subheading 6117.10 that are knit to shape or consist of two or more component parts:

(A) If the good is knit to shape, the country of origin of the good is the country, territory, or insular possession in which a change to HTSUS subheading 6117.10 from yarn occurs, provided that the knit to shape components are knit in a single country, territory, or insular possession; or

(B) If the good is not knit to shape and consists of two or more component parts, the country of origin of the good is the country, territory, or insular possession in which a change to an assembled good of HTSUS subheading 6117.10 from unassembled components occurs, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

Charles W. Winwood,

Acting Commissioner of Customs.

Approved: April 13, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–10719 Filed 4–30–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 132 and 163

[T.D. 01–35]

RIN 1515–AC83

Licenses for Certain Worsted Wool Fabrics Subject to Tariff-Rate Quota

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations on an interim basis to set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce, is in effect for certain worsted wool fabric that is the subject of a tariff-rate quota. Such a license is necessary in order to enable the importer to claim the in-quota rate of duty on the worsted wool fabric.

DATES: Interim rule effective on May 1, 2001. The interim rule is applicable to products that are entered, or withdrawn from warehouse, for consumption on or after May 1, 2001. Comments must be received on or before July 2, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Erin Riley, Office of Field Operations, (202–927–5395).

SUPPLEMENTARY INFORMATION:

Background

Under section 501 of the Trade and Development Act of 2000 (the ''Act'') (Pub. L. 106–200, 114 Stat. 251; May 18, 2000), the Harmonized Tariff Schedule of the United States (HTSUS) was amended to establish a tariff-rate quota for certain worsted wool fabrics that are entered or withdrawn from warehouse for consumption, on or afterJanuary 1, 2001.

Generally, under a tariff-rate quota, the United States applies one tariff rate, known as the in-quota rate, to imports of a product up to a particular amount, known as the in-quota quantity, and another, higher rate, known as the over-quota rate, to imports of a product in excess of the given amount. The preferential, in-quota rate would be applicable to the product only to the extent that the aggregate in-quota quantity of the product that is entered or withdrawn for consumption is not exceeded during the quota year.

To establish the tariff-rate quota for worsted wool fabrics, subchapter 2 of Chapter 99, HTSUS, was amended by section 501(a) and (b) of the Act to add two new subheadings, 9902.51.11 and 9902.51.12, respectively.

The two new subheadings created by section 501(a) and (b) of the Act describe certain fabrics of worsted wool provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20 and 5112.19.90, HTSUS. Since the passage of the Act, the President issued Presidential Proclamation 7383 (December 1, 2000). The Annex to that Presidential Proclamation provided, in pertinent part, for the following HTSUS substitutions, effective on or after January 1, 2001:

Subheading 5112.11.20 is replaced by subheadings 5112.11.30 and 5112.11.60; and

Subheading 5112.19.90 is replaced by subheadings 5112.19.60 and 5112.19.95.

Further, it is noted that HTSUS subheadings 5111.11.70 and 5111.19.60 do not provide for worsted wool fabric so fabrics described in those subheadings would not meet the description of fabrics that could fall under the tariff rate quota.

Accordingly, the tariff rate quota is applicable to certain fabrics of worsted wool provided for in subheadings 5112.11.30, 5112.11.60, 5112.19.60 and 5112.19.95, HTSUS, that are described in and entered under subheadings 9902.51.11 and 9902.51.12, HTSUS.

Need for Tariff-Rate Quota for Worsted Wool Fabrics

Worsted wool fabrics as described in HTSUS subheadings 5112.11.30, 5112.11.60, 5112.19.60 and 5112.19.95 are subject to a duty rate of 28.3% ad valorem. However, articles, such as men's suits, that are made (cut and sewn) from this fabric, are dutiable at the lower rate of 18.8% ad valorem.

By applying a higher tariff rate to the input product, *i.e.*, the worsted wool fabric, than to the more labor-intensive and higher-value-added apparel items that are made from the fabric, the tariff schedule in effect provides an incentive for the importation of the finished apparel items at the lower rate of duty, to the competitive detriment of U.S. suit-makers. Furthermore, this tariff inversion is compounded by the additional reduction in tariffs on men's wool suits that are made in Canada or Mexico pursuant to the North American Free Trade Agreement Implementation Act (NAFTA) (Pub. L. 103–182; December 8, 1993). In this latter instance, U.S. suit-makers face greater competitive disadvantage due to the increased difference in tariff between the worsted wool fabric relative to the free rate of duty on imports of such suits under NAFTA.

Consequently, under the tariff-rate quota adopted in this case, the tariff on imported worsted wool fabric entered under HTSUS subheading 9902.51.11 or 9902.51.12 (which includes certain fabric of worsted wool provided for in HTSUS subheadings 5112.11.30, 5112.11.60, 5112.19.60 and 5112.19.95) is reduced in an effort to limit the above-described tariff inversion, and the resultant competitive disadvantage, faced by U.S. suit-makers in the purchase of such fabric that is intended for use in the manufacture of men's and boys' suits, suit-type jackets and trousers.

Application of Tariff-Rate Quota Under HTSUS Subheadings 9902.51.11 and 9902.51.12

Specifically, under subheading 9902.51.11, which covers those worsted wool fabrics having an average fiber diameter greater than 18.5 micron, the applicable tariff rate is reduced from the current rate of 28.3% ad valorem to the rate in effect for worsted wool suit-type jackets in HTSUS subheading 6203.31.00 (currently, 18.8% ad valorem); and, under subheading 9902.51.12, which covers those worsted wool fabrics having an average fiber diameter of 18.5 micron or less, the applicable tariff rate is reduced from the current U.S. rate of 28.3% to a rate equivalent to the Canadian ''most favored nation'' (MFN) rate for imports of such fabric (currently, 6%).

Both subheadings 9902.51.11 and 9902.51.12 also require that the worsted wool fabric be certified by the importer as being suitable for use in making suits, suit-type jackets, or trousers.

This tariff-rate quota for worsted wool fabric is to be in effect for calendar years 2001, 2002 and 2003. The quota year is thus the calendar year (from January 1–December 31, inclusive) in which the subject fabric is entered or withdrawn for consumption.

The in-quota quantities of worsted wool fabric entered under HTSUS subheading 9902.51.11 or 9902.51.12 that are eligible for the reduced tariffs for each quota year are limited, respectively, to 2.5 million square meter equivalents and 1.5 million square meter equivalents (U.S. Notes 15 and 16 to subchapter II of Chapter 99, HTSUS, respectively, as amended by section 501(d) of the Act). These in-quota quantities may be adjusted on an annual basis as provided in section 504(b) of the Act.

Administration of Tariff-Rate Quota by U.S. Department of Commerce

In implementing the in-quota limits on the quantities of worsted wool fabric that may be entered or withdrawn for consumption subject to the reduced tariffs afforded by subheadings 9902.51.11 and 9902.51.12, the U.S. Department of Commerce has been delegated the authority under section 501(e) of the Act to fairly apportion these in-quota quantities among those persons, including firms, corporations and other legal entities, in the United States, who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers. This delegation of authority to the Department of Commerce was effected by Presidential Proclamation No. 7383 (December 1, 2000).

Accordingly, the Department of Commerce has issued regulations setting up a program for the allocation of the aggregate in-quota quantity established, respectively, for subheadings 9902.51.11 and 9902.51.12 (15 CFR 335.1–335.7; see **Federal Register** dated January 22, 2001 (66 FR 6459)).

In pertinent part, under this program, the usage of the quota is allocated to U.S. suit-makers by virtue of licenses issued to them by the Department of Commerce. Each license is issued for a

stated quantity of fabric and is required to have a unique control number. A suit-maker who has been issued such a license (a licensee) may enter worsted wool fabric under subheading 9902.51.11 or 9902.51.12 at the related in-quota rate of duty, up to the amount authorized in the license.

However, if the importer of record is not the licensee, the importer must have received an authorization from the licensee to act on its behalf, in order to be entitled to the in-quota rate of duty. The licensee may only authorize an importer to import fabric under the license on its behalf by making such an authorization in writing or by an electronic notice to the importer and by providing a copy of such authorization to the Department of Commerce. This authorization must include the unique control number of the license; it must specifically cover the fabric being imported; and it must be in the possession of the importer at the time of filing the entry summary or warehouse withdrawal for consumption (Customs Form 7501), or its electronic equivalent, in order for the importer to be eligible for the applicable in-quota rate of duty.

A licensee may only withdraw an authorization from an importer by notifying the importer in writing or by electronic notice and by providing a copy of this withdrawal notification to the Department of Commerce. It is the responsibility of the licensee to safeguard the use of the license issued. Neither the Department of Commerce nor Customs is liable for any unauthorized or improper use of the license.

Corresponding Customs Rulemaking

In accordance with the rulemaking of the Department of Commerce, Customs is issuing this interim rule in order to set forth a new § 132.18, Customs Regulations (19 CFR 132.18), that prescribes the form and manner by which an importer establishes that a valid license exists for worsted wool fabric subject to the tariff-rate quota that is entered under HTSUS subheading 9902.51.11 or 9902.51.12. In particular, the unique control number assigned to the license must be referenced on the entry summary or warehouse withdrawal for consumption, or its electronic equivalent, in order to entitle the importer to claim the in-quota rate of duty on the worsted wool fabric.

Section 132.18 also makes clear that by claiming the in-quota rate of duty for worsted wool fabric that is entered under HTSUS subheading 9902.51.11 or 9902.51.12, the importer is thus certifying that the worsted wool fabric is suitable for use in making suits, suit-type jackets, or trousers, as required under these subheadings.

In addition, this document revises the Interim (a)(1)(A) List set forth as an Appendix to part 163, Customs Regulations (19 CFR part 163, Appendix) to make reference to the license or written authorization required under new § 132.18. The (a)(1)(A) List provides a listing of the records and information required for the entry of merchandise.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that good cause exists for dispensing with prior public notice and comment procedures for this interim rule. This interim rule implements a preferential tariff benefit in favor of the importing public; it provides a necessary and reasonable means for carrying out this preferential tariff benefit; and it closely parallels existing regulatory provisions that implement similar trade preference programs. Also, for these same reasons, there is no need for a delayed effective date under 5 U.S.C. 553(d). Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Nor does this document meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Paperwork Reduction Act

The collections of information involved in this interim rule have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB ControlNumbers 1515–0065 (Entry summary and continuation sheet) and 1515–0124 (General recordkeeping and record production requirements). This rule does not make any material change to the existing approved information collections.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

List of Subjects

19 CFR Part 132

Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, parts 132 and 163, Customs Regulations (19 CFR parts 132 and 163), are amended as set forth below.

PART 132—QUOTAS

1. The general authority citation for part 132 continues to read, and the specific sectional authority under this part is revised to read, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

§§ 132.15 through 132.18 also issued under 19 U.S.C. 1202 (additional U.S. Note 3 to Chapter 2, HTSUS; subchapter III of Chapter 99, HTSUS; additional U.S. Note 8 to Chapter 17, HTSUS; and subchapter II of Chapter 99, HTSUS, respectively), 1484, 1508.

2. Part 132 is amended by adding a new § 132.18 to read as follows:

§ 132.18 License for certain worsted wool fabric subject to tariff-rate quota.

(a) *Requirement.* For worsted wool fabric that is entered under HTSUS subheading 9902.51.11 or 9902.51.12, the importer must possess a valid license, or a written authorization from the licensee, pursuant to regulations of the U.S. Department of Commerce (15 CFR 335.5), in order to claim the in-quota rate of duty on the worsted wool fabric at the time it is entered or withdrawn from warehouse for consumption. The importer must record the distinct and unique 9-character number for the license covering the worsted wool fabric on the entry summary or warehouse withdrawal for

consumption (Customs Form 7501, column 34), or its electronic equivalent (see paragraph (c)(1) of this section).

(b) *Importer certification.* By entering the worsted wool fabric under HTSUS subheading 9902.51.11 or 9902.51.12, the importer thus certifies that the worsted wool fabric is suitable for use in making suits, suit-type jackets, or trousers, as required under these subheadings.

(c) *Validity of license.*—(1) *License number.* To be valid, the license, or written authorization issued under the license and including its unique control number, must meet the requirements of 15 CFR 335.5, and with respect to the requirement in 15 CFR 335.5(a) that the license have a unique control number, the license must have a distinct and unique identifying number consisting of 9 characters comprised of the following three elements:

(i) The first character must be a ''W'';

(ii) The second and third characters must consist of the last 2 digits of the calendar year for which the license is issued and during which it is in effect; and

(iii) The final 6 characters represent the distinct and unique identifier assigned to the license by the Department of Commerce.

(2) *Use of license.* A license covering worsted wool fabric that is entered under HTSUS subheading 9902.51.11 or 9902.51.12 is in effect, and may be used to obtain the applicable in-quota rate of duty for fabric that is entered or withdrawn for consumption, only during the specific calendar year (January 1—December 31, inclusive) for which the license is issued (see 15 CFR 335.2 and 335.5(b) and (d)).

(d) *Retention and production of license or authorization to Customs.* The license and any written authorization from the licensee to the importer are subject to the recordkeeping requirements of part 163 of this chapter (19 CFR part 163). Specifically, the license and any written authorization must be retained for a period of 5 years in accordance with § 163.4(a) of this chapter, and must be made available to Customs upon request in accordance with § 163.6(a) of this chapter.

PART 163—RECORDKEEPING

1. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

2. The Appendix to part 163 is amended by adding the following new listing under section IV in appropriate numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List

* * * * *

IV. * * *

§ 132.18 License, or written authorization, as applicable, for worsted wool fabric subject to tariff-rate quota

* * * * *

Charles W. Winwood,

Acting Commissioner of Customs.

Approved: April 9, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–10717 Filed 4–30–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 250

[T.D. ATF–451]

RIN 1512–AC38

Delegation of Authority (2000R–415P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule places ATF authorities contained in ATF regulations, with the ''appropriate ATF officer'' and requires that persons file documents required by ATF regulations, with the ''appropriate ATF officer'' or in accordance with the instructions on the ATF form. Also, this final rule removes the definitions of, and references to, specific officers subordinate to the Director and the word ''region.'' Concurrently with this Treasury Decision, ATF Order 1130.23 is being published. Through this order, the Director has delegated all of the authorities in ATF regulations to the appropriate ATF officers and specified the ATF officers with whom applications, notices and other reports, which are not ATF forms, are filed. In addition, this final rule makes a few corrections and provides an additional option for filing a statement of eligibility for flavors.

EFFECTIVE DATE: This rule is effective May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Room 5003, Washington, DC 20226 (telephone 202–927–8210 or e-mail to alctob@atfhq.atf.treas.gov).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Treasury Order 120–01 (formerly 221), dated June 6, 1972, the Secretary of the Treasury delegated to the Director of the Bureau of Alcohol, Tobacco and Firearms (ATF), the authority to enforce, among other laws, the provisions of chapter 51 of the Internal Revenue Code of 1986 (IRC) and the Federal Alcohol Administration (FAA) Act. The Director has subsequently redelegated certain of these authorities to appropriate subordinate officers by way of various means, including by regulation, ATF delegation orders, regional directives, or similar delegation documents. As a result, to ascertain what particular officer is authorized to perform a particular function under chapter 51 of the IRC or the FAA Act, each of these various delegation instruments must be consulted. Similarly, each time a delegation of authority is revoked or redelegated, each of the delegation documents must be reviewed and amended as necessary.

ATF has determined that this multiplicity of delegation instruments complicates and hinders the task of determining which ATF officer is authorized to perform a particular function. ATF also believes these multiple delegation instruments exacerbate the administrative burden associated with maintaining up-to-date delegations, resulting in an undue delay in reflecting current authorities.

Accordingly, this final rule rescinds all authorities of the Director in part 250 that were previously delegated and places those authorities with the ''appropriate ATF officer.'' All of the authorities of the Director that were not previously delegated are also placed with the ''appropriate ATF officer.'' Along with this final rule, ATF is publishing ATF Order 1130.23, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 250, Liquors and Articles from Puerto Rico and the Virgin Islands, which delegates certain of these authorities to the appropriate organizational level. The effect of these changes is to consolidate all delegations of authority in part 250 into one delegation instrument. This action both simplifies the process for determining what ATF officer is authorized to perform a particular function and facilitates the updating of delegations in the future. As a result, delegations of authority will be reflected in a more timely and user-friendly manner.

In addition, this final rule also eliminates all references in the

regulations that identify the ATF officer with whom an ATF form is filed. This is because ATF forms will indicate the officer with whom they must be filed. Similarly, this final rule also amends part 250 to provide that the submission of documents other than ATF forms (such as letterhead applications, notices and reports) must be filed with the ''appropriate ATF officer'' identified in ATF Order 1130.23. These changes will facilitate the identification of the officer with whom forms and other required submissions are filed.

This final rule also makes various technical amendments to Subpart A—Scope of Regulations of 27 CFR part 250. First, a new § 250.3 is added to recognize the authority of the Director to delegate regulatory authorities in part 250 and to identify ATF Order 1130.23 as the instrument reflecting such delegations. Second, § 250.2 is amended to provide that the instructions for an ATF form identify the ATF officer with whom it must be filed.

ATF has made or will make similar changes in delegations to all other parts of Title 27 of the Code of Federal Regulations through separate rulemakings. By amending the regulations part by part, rather than in one large rulemaking document and ATF Order, ATF minimizes the time expended in notifying interested parties of current delegations of authority.

Miscellaneous Changes

We have given an option to file ATF Form 5154.1 for persons who require a statement of eligibility for flavors to be used in the computation of the effective tax rate for distilled spirits. This ATF form may be used in lieu of the statement of composition prescribed by 27 CFR 250.50a(b).

Corrections

Two corrections have been made. First, we have corrected the text of § 250.118 to insure that the district director is referenced in this entire section. Second, we have removed § 250.277 which no longer applies because T.D. ATF–206 (50 FR 23949) eliminated the use and reports of strip stamps.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this rule is not a significant regulatory action because it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 5 U.S.C. 553(b). Similarly it is unnecessary to subject this final rule to the effective date limitation of 5 U.S.C. 553(d).

Drafting Information

The principal author of this document is Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 250

Alcohol and alcoholic beverages, Administrative practice and procedure, Authority delegations (Government agencies), Beer, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine.

Authority and Issuance

Title 27, chapter I, Code of Federal Regulations is amended as follows:

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 1. The authority citation for part 250 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131–5134, 5141, 5146, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

§§ 250.2, 250.11, 250.43, 250.209, 250.314, 250.316, 250.319 and 250.331 [Amended]

Par. 2. In part 250 remove the words ''Director'' each place it appears and add, in substitution, the words ''appropriate ATF officer'' in the following places:

a. Section 250.2(a);

b. The definition of ''Liquor bottle'' in § 250.11;

c. Section 250.43;

d. Section 250.209;

e. The first sentence of § 250.314(b);

f. Section 250.316;

g. Section 250.319; and

h. The third, fourth and last sentence of § 250.331(b).

Par. 3. Section 250.2 is further amended by adding a sentence at the end of paragraph (a) and revising paragraph (b) to read as follows:

§ 250.2 Forms prescribed.

(a) * * * The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site (http://www.atf.treas.gov/).

Par. 4. In Subpart A—Scope of Regulations, a new § 250.3 is added as follows:

§ 250.3 Delegations of the Director.

All of the regulatory authorities of the Director contained in this part 250 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.23, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 250, Liquors and Articles from Puerto Rico and the Virgin Islands. ATF delegation orders, such as ATF Order 1130.23, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150–5950, or by accessing the ATF web site (http://www.atf.treas.gov/).

Par. 5. Section 250.11 is further amended by:

a. Removing the definitions of ''ATF officer'', ''Chief, Puerto Rico Operations,

''Region'', ''Regional director (compliance), and ''United States Bureau of Alcohol, Tobacco and Firearms office''; and

b. Adding a new definition of ''Appropriate ATF officer'' to read as follows:

§ 250.11 Meaning of terms.

* * * * *

Appropriate ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.23, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 250, Liquors and Articles from Puerto Rico and the Virgin Islands.

* * * * *

Par. 6. Section 250.37 is revised to read as follows:

§ 250.37 United States Bureau of Alcohol, Tobacco and Firearms officers.

Appropriate ATF officers are authorized to collect internal revenue taxes on liquors and articles subject to tax, which are to be shipped to the United States.

Par. 7. Section 250.50a(b)(2) is revised to read as follows:

§ 250.50a Verification of eligible flavors.

* * * * *

(b) * * *

(2) A statement of composition using ATF Form 5154.1 or a letterhead request that lists the—

(i) Name and percentage of alcohol by volume of the flavor; and

(ii) Name and quantity of each ingredient used in the manufacture of the flavor.

* * * * *

§§ 250.52, 250.81, 250.96, 250.105, 250.110, 250.112, 250.112a, 250.126 and 250.222 [Amended]

Par. 8. Part 250 is amended by removing the words ''Chief, Puerto Rico Operations'' or ''Chief, Puerto Rican Operations,'' and adding, in substitution, the words ''appropriate ATF officer'' each place it appears in the following places:

a. Section 250.52(b) and (c);
b. Section 250.81;
c. Section 250.96;
d. Section 250.105;
e. Section 250.110;
f. Section 250.112(c)(1), (c)(4) and (e);
g. Section 250.112a(c)(1);
h. Section 250.126; and
i. Section 250.222(b) and (c).

Par. 9. Section 250.54 is revised to read as follows:

§ 250.54 Filing and disposition of formulas.

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed ATF form. The applicant shall maintain copies of approved formulas available for examination by revenue agents.

Par. 10. Section 250.61 is revised to read as follows:

§ 250.61 General.

Every person filing a bond under this subpart, or consent of surety on such bond, must file it in accordance with the instructions on the form.

§§ 250.62a, 250.65, 250.70, 250.70a, 250.71, 250.72, 250.74, 250.75, 250.112, 250.112a, 250.194, 250.276, 250.303 and 250.331 [Amended]

Par. 11. Part 250 is further amended by removing the words ''regional director (compliance)'' each place they appear and adding, in substitution, the words ''appropriate ATF officer'' in the following places:

a. Section 250.62a;
b. Section 250.65;
c. Section 250.70;
d. Section 250.70a;
e. Section 250.71(c) and (d);
f. Section 250.72;
g. Section 250.74;
h. Section 250.75;
i. Section 250.112(e);
j. Section 250.112a(b)(3);
k. Section 250.194;
l. The first and second sentence of § 250.276;
m. Section 250.303; and
n. The first and second sentence of § 250.331(b).

Par. 12. Section 250.112(c)(3) is revised to read as follows:

§ 250.112 Returns for semimonthly periods.

(c) *Filing.* * * *

(3) The remittance may be in any form that is authorized to be accepted under the provisions of § 70.61 of this chapter.

* * * * *

§ 250.112a [Amended]

Par. 13. The first sentence of § 250.112a(b)(1) is amended by removing the words ''regional director (compliance), for each region in which taxes are paid'' and adding in substitution the words ''appropriate ATF officer''.

§ 250.113 [Amended]

Par. 14. Section 250.113(a) is amended by removing the words ''on file with the Chief, Puerto Rico Operations''.

§§ 250.116, 250.174 and 250.310 [Amended]

Par. 15. Part 250 is further amended by inserting the word ''appropriate'' before the words ''ATF officer'' or ''ATF officers'' each place they appear in the following places:

a. The second to the last sentence of § 250.116;
b. Section 250.174(a) and (e); and
c. Section 250.310(a) and (e).

Par. 16. The second to the last sentence in § 250.118 is amended by removing the word ''director'' and adding in substitution the words ''district director of customs''.

Par. 17. Section 250.119 is revised to read as follows:

§ 250.119 Disposition of forms by district director of customs.

Two copies of the Form 487B will be forwarded to the appropriate ATF officer, and one copy of the form will be retained by the district director of customs and be available for inspection by appropriate ATF officers.

Par. 18. The second and third sentences of § 250.128 are revised to read as follows:

§ 250.128 Taxpayment at port of arrival.

* * *The tax may be paid to an appropriate ATF officer, and an ATF receipt obtained, or the tax may be paid to the director of customs, who will issue a customs receipt. If payment is to be made to an appropriate ATF officer, the director of customs will notify the appropriate ATF officer of the amount of tax due. * * *

Par 19. Section 250.172 is amended:

a. In paragraph (a) by removing the preceding comma and the words ''but references therein to a regional director (compliance) shall apply, for purposes of this part, to the Chief, Puerto Rico Operations'';

b. By revising paragraph (b) to read as follows:

§ 250.172 Bonds.

* * * * *

(b) *Approval required.* No person bringing eligible articles into the United States from Puerto Rico may file monthly claims for drawback under the provisions of this subpart until a bond on ATF Form 5154.3 has been approved.

Par. 20. Section 250.173 is amended by:

a. Revising paragraph (a) to read as set forth below; and

b. Removing the phrase ''with the Chief, Puerto Rico Operations,'' from the first sentence of paragraph (d).

§ 250.173 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from Puerto Rico must file claim for drawback on ATF Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate ATF officer must allow the drawback of taxes at a rate of $1 less than the lesser of $10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

* * * * *

§ 250.193 [Amended]

Par. 21. The last sentence of § 250.193(b) is amended by removing the phrase ''regional director (compliance) of the consignee's region'' and adding, in substitution, the words ''appropriate ATF officer''.

§ 250.197 [Amended]

Par. 22. Section 250.197 is amended by removing the phrase ''regional director (compliance) of each region in which a consignee's distilled spirits plant is located'' and adding, in substitution, the words ''appropriate ATF officer''.

Par. 23. Section 250.199f(c) is revised to read as follows:

§ 250.199f Consignee premises.

* * * * *

(c) *Distribution of forms.* The proprietor shall keep and send copies according the instructions on the form.

* * * * *

Par. 24. Section 250.224 is revised to read as follows:

§ 250.224 Filing and disposition of formulas.

Formulas required by this subpart must be submitted, and disposed of, in accordance with the instructions on the prescribed ATF form. The applicant shall maintain copies of approved formulas available for examination by insular agents.

Par. 25. Section 250.275(a) is revised to read as follows:

§ 250.275 Filing.

(a) All records and reports required by this part will be maintained separately, by transaction or reporting date, at the importer's place of business. The appropriate ATF officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to appropriate ATF or Customs officers desiring to examine the files or delay in the timely submission of documents.

* * * * *

Par. 26. The first sentence of § 250.276 is revised to read as follows:

§ 250.276 Retention.

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by appropriate ATF or customs officers. * * *

Par. 27. The undesignated heading preceding § 250.277 is removed.

§ 250.277 [Removed]

Par. 28. Section 250.277 is removed and reserved.

Par. 29. Section 250.308 is amended:

a. By removing in paragraph (a) the preceding comma and the words '', but references therein to a regional director (compliance) shall apply, for purposes of this part to the Chief, Puerto Rico Operations''; and

b. By revising paragraph (b) to read as follows:

§ 250.308 Bonds.

* * * * *

(b) *Approval required.* No person bringing eligible articles into the United States from the Virgin Islands may file monthly claims for drawback under the provisions of this subpart until a bond on ATF Form 5154.3 has been approved.

Par. 30. Section 250.309 is amended by:

a. Revising paragraph (a) to read as set forth below; and

b. Removing the phrase ''with the Chief, Puerto Rico Operations,'' from the first sentence of paragraph (d).

§ 250.309 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands must file claim for drawback on ATF Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate ATF officer must allow the drawback of taxes at a rate of $1 less than the lesser of $10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

* * * * *

§ 250.314 [Amended]

Par. 31. Section 250.314 is amended by:

a. Removing the phrase ''to the Director'' in the second sentence in paragraph (a).

b. Removing the phrase ''from the Director'' in the third sentence in paragraph (a).

c. Removing the word ''Director's'' and adding, in substitution, the words ''appropriate ATF officer's'' in the third sentence in paragraph (b).

Par. 32. Section 250.318 is revised to read as follows:

§ 250.318 Liquor bottles denied entry.

Filled liquor bottles not conforming to the provisions of this subpart shall be denied entry into the United States: *Provided,* That, upon letterhead application, in triplicate, the appropriate ATF officer may, in nonrecurring cases, authorize the release from customs custody of distilled spirits in bottles, except those coming under the provisions of § 250.316, which, through unintentional error, do not conform to the provisions of this subpart, if such officer finds that such release will not afford jeopardy to the revenue.

§ 250.331 [Amended]

Par. 33. Section 250.331 is further amended by:

a. Removing from the first sentence of paragraph (a) the words ''regional director (compliance) of the region in which his place of business is located'' and adding, in substitution, the words ''appropriate ATF officer''.

b. Removing the second sentence of paragraph (b).

Signed: March 14, 2001.

Bradley A. Buckles,

Director.

Approved: March 28, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 01–10673 Filed 4–30–01; 8:45 am]

BILLING CODE 4810–31–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2202

Rules of Ethics and Conduct of Review Commission Employees

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: The Commission hereby eliminates its rules for the ethics and conduct of Commission employees. The ethics and conduct of Commission employees are now governed by rules issued by the Office of Government Ethics (OGE) subsequent to the

Commission's adoption of its rules. Eliminating the Commission's separate rules will prevent confusion in the administration of the Commission's program for ensuring that its employees comply with the accepted standards for ethical conduct.

DATES: Effective May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, One Lafayette Center, 1120 20th St., N.W. 9th Floor, Washington, D.C. 20036–3457, phone 202–606–5410.

SUPPLEMENTARY INFORMATION: Rules for the ethical conduct of employees including Commission employees have been promulgated by the OGE at 5 CFR Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch. The OGE has advised the Commission that these rules supersede 29 CFR Part 2202.

List of Subjects in 29 CFR Part 2202

Conflict of interests.

For the reasons stated, the Occupational Safety and Health Review Commission under the authority of 29 U.S.C. 661(g) amends Title 29, Chapter XX of the Code of Federal Regulations as follows:

PART 2202—[REMOVED AND RESERVED]

1. Part 2202 is removed and reserved.

Dated: April 25, 2001.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 01–10767 Filed 4–30–01; 8:45 am]

BILLING CODE 7600–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 173

[USCG–1999–6094]

RIN 2115–AF87

Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard raises the threshold of property damage for reports of accidents involving recreational vessels when damage to vessels and other property totals $2,000 or more in any one accident or—this represents a change from the Notice of Proposed Rulemaking—when a collision occurs involving two or more vessels, regardless of the amount of damage to property. The higher threshold better accounts for the rising cost of repairs to recreational vessels. This Final Rule will reduce the number of reports of accidents for minor or cosmetic damage, help us maintain statistics for future years comparable to those for past ones, and reduce the burden of paperwork on the public to report such incidents.

DATES: This final rule is effective July 2, 2001.

ADDRESSES: Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1999–6094 and are available for inspection or copying at the Docket Management Facility, U. S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Bruce Schmidt, Project Manager, Office of Boating Safety, Program Management Division, Coast Guard, by e-mail at *bschmidt@comdt.uscg.mil* or by telephone at 202–267–0955.

If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

You may obtain a copy of this rule by calling the U. S. Coast Guard Infoline at 1–800–368–5647 or by accessing either the Web Site for the Office of Boating Safety, at *http://www.uscgboating.org*, or the Internet Site for the Docket Management Facility, at *http://dms.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

On June 20, 2000, we published a Notice of Proposed Rulemaking (NPRM) entitled Raising the Threshold of Property Damage for Reports of Accidents Involving Recreational Vessels (65 FR 38229). We received 17 letters commenting on the proposed rule. No public hearing was requested and none was held.

Regulatory Authority and History

46 U.S.C. 6101 requires the Secretary (who has delegated the authority to the Commandant) to prescribe rules on the reporting of ''marine casualties.'' We use that authority to describe different types of marine casualties, including those involving certain amounts of property damage, that various parties must report. 33 CFR Part 173, Subpart C, contains the rules applicable to recreational vessels.

In 1972, the threshold of property damage for reports of accidents involving recreational vessels was $100. (This was the original threshold.) In 1979, the effects of inflation on the original threshold dictated that we raise the threshold to $200. The purpose of this adjustment was to reduce the number of reports filed for minor incidents.

Even the threshold of $200, however, eventually resulted in the submission of an excessive number of reports of accidents on minor incidents. This trend increased the reporting burden on the boating public, and the administrative burden on both the States and the Coast Guard. On February 6, 1989, to reduce these burdens, we published a Final Rule (54 FR 5608) raising the threshold to $500. As it had been in 1979, the effect of inflation on repair costs was the basis for this change.

The formula described in the preamble of the Final Rule of 1989 rested on a methodology allowing us to adjust the threshold annually by applying a deflator based on the Gross National Product (GNP) to account for inflation. In that preamble, we also stated our intent to review the threshold annually and, if necessary, adjust the threshold in law each time it rose by another $100.

How We Developed the New Methodology for Adjusting the Threshold

After analyzing the formula described in the preamble of the Final Rule of 1989, we determined that further adjustments both in the threshold and in the methodology used to determine it were necessary. Non-safety-related accident reports continued even after the threshold rose to $500 in 1989. We now believe both that the threshold was too low and that the methodology itself was amiss. An inflation index based on the GNP and applied to a base-year value of $500 yields a threshold for 2001 still low enough for the reporting of too many damages that are merely cosmetic. We decided that it is necessary to adjust the base-year value of the threshold to reach the level only where damage due to accidents implicates safety.

The National Association of State Boating Law Administrators (NASBLA) is a professional association consisting of officials of States, commonwealths, and provinces responsible for administering or enforcing the boating laws of those bodies. Within NASBLA,

the Committee on Boating Accident Investigation, Reporting, and Analysis (BAIRAC) has responsibility for reporting and analyzing accidents.

The Boating Law Administrators (BLAs) who serve on BAIRAC are experts in enforcement, in education for boating safety, and in investigation of boating accidents. From their ongoing relationships with facilities that repair recreational boats, as well as from their experience with and knowledge of various types of damage to boats and costs to repair it, they have strongly conveyed the need for the Coast Guard to raise the threshold of property damage for reports of accidents involving recreational vessels to a level that accurately reflects current prices of boats and costs of repair.

BAIRAC called on the Coast Guard to initiate rulemaking to raise the threshold for reports of accidents involving only property damage from $500 to $2,000 and to amend the reportable conditions to include all accidents involving collisions of two or more vessels. The BLAs and the Coast Guard agreed that a threshold of $2,000 for those accidents involving only property damage would enable States' accident investigators to focus on reports of safety-related damage and would eliminate most of the reports of cosmetic damage. However, as we stated in the NPRM we published in 2000, we did not then see the benefit of requiring reports of all accidents involving collisions of two or more vessels, regardless of the amount of damage to property.

In that NPRM, we attempted to define a level of cosmetic damage using data contained in the Boating Accident Report Database (BARD). Data for 1998 show that 1,718 reported collisions of two or more vessels involved only property damage. Of those 1,718, 1,002 involved property damage below the proposed threshold of $2,000. Taking a closer look at the data, we discovered that nearly 90% of those 1,002 involved property damage at or below a threshold of $1,500. At that time, we considered most of these more cosmetic than safety-related, notwithstanding that they involved collisions. So, recognizing the need to reduce the number of reports for minor or cosmetic damage, the need to reduce the administrative burden on the public and the States of reports for such damage, and the need for States' accident investigators to focus on safety-related damage, we did not plan to mandate reports of all accidents involving collisions of two or more vessels. However, as will become clear in our discussion of comments, our position has changed. We now fully concur with BAIRAC that we should require reports of such accidents, regardless of the amount of damage to property.

The threshold of property damage for reports of accidents involving recreational vessels when damage to vessels and other property totals $2,000 or more in any one accident or of accidents involving collisions of two or more vessels, regardless of the amount of damage to property, is the minimum set by Federal rule; but States are free to impose stricter requirements. Thus, a State could require reports of all accidents, even if each report results only in property damage below the threshold of $2,000.

We have also determined that it is necessary to find an inflation-index that tracks the trends in the boat-repair industry more accurately than does the GNP. The GNP gives the total market value of all final goods and services produced in the U.S. for a given year. It comprises spending by all sectors of the economy. Therefore, the GNP deflator measures all changes in prices affecting consumers, private industry, and government.

The Producer Price Index (PPI) is an alternative inflation-index. It gives the average change over time of prices received by sellers of domestic goods and services. The data constituting the PPI are organized by industry and product, making it possible to find specific data about prices of repairs to non-military boats. These data track the specific changes in prices of repairs to recreational boats. As this rulemaking concerns these very prices, we believe the PPI to be more suitable for measuring the changes in those prices with an appropriate threshold of property damage for reports of accidents involving those vessels.

How we calculate the new threshold. For 2001 and beyond, we will use the PPI for Standard Industrial Classification (SIC) 3732, ''Boat Building and Repairing: Boat repairing, non-military boats'', to reckon the threshold. The new value for 2001, of $2,000, will serve as the base value. To reckon the value of the threshold for 2002 using 2001 as the base year, one should run the following calculation:

(Base threshold for 2001) × ([PPI for 2002] / [PPI for 2001])

For example, if the preliminary estimate of the PPI by the Bureau of Labor Statistics for 2002 were 191.0, and for 2001 it were 189.0, the calculation would run as follows:

$2,000 × (191.0 / 189.0) = $2,021.16

Since this increase, rounded to the nearest $100, is less than $500, the threshold would remain at $2000. (An increment of $500 is small enough to serve the interest of safety and yet not so small as to entail too-frequent changes in the threshold.) We will calculate the increase every year; once it, rounded to the nearest $100, reaches $500, we will raise the threshold accordingly.

Discussion of Comments and Changes

We received a total of 17 comments on the proposed amendments to the rules. Eleven comments came from BLAs, and a twelfth from NASBLA. Two came from boating organizations, two from members of the general public, and one from an associate professor of education and safety research. Of the 17, one, from the State of California, arrived after the closing date of October 18, 2000; we accepted it because of the high volume of accident reports generated by the State each year, about 10 percent of all reported accidents occurring there, and because we could accept it without prejudice to other participants in the rulemaking.

Twelve comments, including seven submitted by BLAs and the one submitted by NASBLA, supported raising the threshold of property damage to $2,000 or more. Five of those twelve comments also supported requiring the reporting of all accidents involving collisions of two or more vessels, regardless of the amount of property damage.

The remaining five comments, including the remaining four submitted by BLAs, opposed raising the threshold of property damage at all.

Here follows a summary of each adverse comment:

The first stated that published accident figures are already too low by a factor of 16, and that raising the threshold would only worsen the situation. It further stated that the whole system of reporting accidents needs to be strengthened, not weakened.

The second, from the State of Alabama, suggested that we eliminate the threshold altogether. It argued that the amount of property damage has no relevance for analyzing accidents with the object of preventing them. It also presented criteria for reporting them that the State has been using for around 15 years.

The third, from the State of Connecticut, maintained that the cost of property damage alone does not furnish a fair proxy for safety and that adopting the revised threshold could eliminate the reporting of many important accidents involving smaller boats. Next, it concurs with NASBLA that any reporting should reach all collisions involving any numbers of vessels. Last,

it states that eliminating or not mandating the reporting of all such collisions would likely reduce the value of BARD in illustrating the variety of boating accidents witnessed and investigated in Connecticut.

The fourth, submitted by the State of Ohio, presented a variety of arguments against raising the threshold. (1) We were failing to differentiate what we called ''minor or cosmetic damage'' from what we considered damage worthy of reporting. (2) An instant increase in the threshold from $500 to $2,000 would eliminate statistical comparability for most accidents. (3) Although the Coast Guard wishes to reduce the burden of paperwork on the public, (a) Congress, which enacted the reporting system, must have held that the information warranted the burden; (b) the threshold of $2,000 is totally arbitrary and subjective, with no basis in relevant experience; (c) the Coast Guard appears to have used a criterion other than inflation as the factor for determining the increase from $200 in 1979 to $500 in 1989; and (d) the Coast Guard has not defined a ''non-safety-related accident,'' it has not offered any authority for addressing itself solely to ''safety-related accidents,'' and it has not stated why one level of ''material loss'' is a proper concern of its while another is not. (4) If the Coast Guard accepts the demand of BAIRAC for proposing this change, it should also follow the full recommendation of BAIRAC-specifically, the call to cover all accidents involving collisions of two or more vessels, regardless of dollar amount of damage. (5) To set the threshold at a ''proper'' amount now, the Coast Guard should either fix it at $500 (where it arrived in 1989) but raise it with the PPI from now on or drop it back to the original $100 and raise it appropriately with the PPI. And, last, (6) the system for reporting accidents arose in the first place to benefit the boating community, and, if administered correctly, would be not a burden but rather a benefit.

The fifth, submitted by the State of California, stated that we had not demonstrated that all accidents in which property damage falls below $2,000 or even $500 are any less important, in establishing causation, than those where it falls above $2,000. California believes that even accidents where damage is nominal may serve in identifying problems and may benefit safety analysts as they conceive safety programs for needs emerging in their State. Further, California recommends the reporting of all accidents caused by factors under the control of operators as well as accidents involving defects in equipment, unmarked hazards, and other matters bearing on safety. When analyzing any accident, California considers two questions: whether, if this operator had acted in a more prudent manner, this accident could have been avoided and whether this accident could have been avoided but for the defects in equipment, unmarked hazards, and other matters. If the answer is yes to either question, California considers that accident very seriously when structuring safety programs.

Included in one comment was a recommendation to clarify that reports would be required when the damage in an accident stood not just above but at $2,000. Thus, it would have the Final Rule read not ''Damage to vessels and other property totals more than $2,000 an accident * * *'' but ''Damage to vessels and other property totals $2,000 or more an accident * * *''

After thoughtfully considering all of the above comments, the Coast Guard has decided to raise the threshold of property damage for reports of accidents involving recreational vessels to a level where such damage totals $2,000 or more an accident and to require reports of accidents for collisions involving two or more vessels, regardless of amount of property damage. The higher threshold will go into effect for the remainder of calendar year 2001 after the **EFFECTIVE DATE.**

Our decision to amend the proposed rule so as to require reports of accidents for collisions involving two or more vessels, regardless of amount of property damage, rests on information furnished by the five comments that supported requiring reports of such accidents as well as raising the threshold to a level of $2,000 or more an accident. Even two of the five adverse comments agreed with BAIRAC, on requiring reports of such accidents. The primary justification for reporting all such accidents is that they owe to violation of the Navigation Rules (that is, No Proper Lookout, Excessive Speed, Reckless Operation, or the like). We concur, and add that these accidents are necessarily ''safety-related.''

Over time, collisions involving two or more vessels are the most-reported kind of accident; every year, they represent about a third of all reported accidents. For 1999, BARD shows 2,774 such accidents. Of those, 1,707 (nearly two-thirds) resulted in property damage only: no fatalities and no injuries. The average damage for each of those 1,707 was around $2,900; but the damage for 1,023 (60%) of them came to less than $2,000, and the average damage for those 1,023 was around $1,000. We acknowledge that excluding those 1,023 (about 12 percent of all reported accidents) because of low damage alone would compromise the quality and scope of data captured by BARD. Next, the absence of 1,023 accidents most or all of which were due to violations of Navigation Rules would diminish the usefulness of the data in structuring safety programs. Last, we do not want to forgo valuable data on factors controllable by operators of less-expensive boats just because their boats incur less-expensive repairs. We agree that the reporting of all collisions involving two or more vessels is important both for understanding safety-related incidents at any moment and for tracking statistics over time. Thus, the benefits for the public of our collecting these data outweigh the burden on the public of supplying them.

In conclusion, our intent is to raise the threshold for reporting property damage to a level where we capture almost all useful data and almost no useless ones. Damage worthy of reporting comprises that whose cause implicates the safe operation and navigation of the vessel and whose effect implicates the ''structural integrity'' or ''seaworthiness'' of the vessel. Damage worthy of reporting is by definition worth the paperwork entailed by reporting. And more-selective reporting can only yield more-useful statistics. Again, States remain free to capture all the data they want.

In our previous Final Rule (54 FR 5608 (February 6, 1989)), we proposed to raise the threshold in increments of $100 over time to ensure the adjustment of the threshold to an appropriate level. We have not, nevertheless, raised it since then. Moreover, we doubt whether even the threshold of $500, set then, was high enough and we suspect that the methodology used to calculate it was amiss. (For instance, applying that methodology to the latter threshold would yield a threshold of barely $700 today. Our research suggests, and most of the comments confirm, that such a threshold would fail to capture many useful data.)

We will review the new threshold every year. When it should increase by $500, we will raise it to an appropriate level by appropriate means: Notice-and-comment rulemaking with the participation of all willing parties.

Regulatory Evaluation

This Final Rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed this

Rule under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040 (February 26, 1979)). We expect the economic impact of this Rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Cost of Rule

This Final Rule would impose no added monetary costs on the operator or owner of a recreational vessel or on anyone else. On the contrary, it would decrease costs that the current rule imposes.

Benefits of Rule

Raising the threshold of property damage for reports of accidents involving recreational vessels to $2,000 or more an accident and requiring the reporting of accidents involving collisions of two or more vessels, regardless of amount of damage, for most of the remainder of 2001 would benefit owners and operators of recreational vessels, and officials of States and the Coast Guard, by reducing the current burden of submitting and administering accident reports. In 1999, there were 1,189 reported accidents that involved only property damage—no fatalities and no injuries—and also did not involve any collisions of two or more vessels. Requiring a threshold of $2,000 or more in property damage for reporting an accident would have kept the following 1,189 accidents from being published in our statistics on accidents for 1999:

	Number of accidents	Damage amount
Capsizing	112	85,879
Collision with Fixed Object	302	239,242
Collision with Floating	54	44,702
Falls in Boat	10	5,702
Falls Overboard	14	11,661
Fire or Explosion of Fuel	36	29,010
Fire or Explosion (Other)	46	34,482
Flooding or Swamping	213	161,227
Grounding	186	130,864
Other	39	27,018
Sinking	81	59,985
Skiers' Mishaps	7	5,251
Struck by Boat	19	13,657
Struck by Motor or Propeller	3	1,250
Struck Submerged Object	54	45,809
Unknown Type	13	10,759
Total	1,189	906,498

For these 1,189 accidents, the average amount of damage is about $762.00. If this level of property damage were enough to declare the particular vessel or vessels total losses, the accidents would meet Federal reporting-requirements. If not, this level of damage would count as more ''cosmetic'' than ''safety-related'' and therefore would not meet those requirements.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this Final Rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This Rule applies exclusively to private citizens who own or operate recreational vessels and by definition are not ''small entities''. Further, this Rule will reduce the reporting burden on those private citizens for reporting accidents involving recreational vessels.

Because it expects the effects of this Rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this Rule will not have a significant economic impact on a substantial number of small entities. Furthermore, as private citizens own the vast majority of recreational vessels and are not small entities, the Regulatory Flexibility Act does not apply to most of the public that this Rule would regulate.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this Final Rule so that they could better evaluate its effects on them and participate in the rulemaking. We provided the name, telephone number, and e-mail address of a contact for any small entities that felt either that the Rule would affect their small businesses, organizations, or governmental jurisdictions or that had questions concerning its provisions or options for compliance.

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

Collection of Information

This Final Rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In fact, it should result in an actual reduction of paperwork as it requires reports of fewer accidents.

Federalism

We have analyzed this Final Rule under E.O. 13132, Federalism, and have determined that it does not have enough implications for federalism to warrant the preparation of a Federalism Assessment. States will remain free to impose stricter requirements for reports of accidents involving recreational vessels.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this Final Rule will not result in such an expenditure, we do discuss the effects of this Rule elsewhere in this preamble.

Taking of Private Property

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

Reform of Civil Justice

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

Environment

We have considered the environmental impact of this Final Rule and concluded that, under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.lC, this Rule is categorically excluded from further environmental documentation. The Rule would merely raise the threshold of property damage for reports of accidents involving recreational vessels. A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 173

Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 173 as follows:

Subpart C—Casualty and Accident Reporting

1. The citation of authority for part 173 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A–25; 49 CFR 1.46.

2. Revise § 173.55(a)(3) to read as follows:

§ 173.55 Report of casualty or accident.

(a) * * *

(3) Damage to vessels and other property totals $2,000 or more or there is a complete loss of any vessel; or a collision occurs involving two or more vessels, regardless of the amount of damage to property; or

* * * * *

3. Revise the heading of § 173.57 to read as follows:

§ 173.57 Contents of report.

4. Revise the heading of § 173.59 to read as follows:

§ 173.59 Where to submit report.

Dated: March 15, 2001.

Terry M. Cross,

Rear Admiral, U. S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–10839 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 099–0032a; FRL–6967–8]

Revisions to the Arizona State Implementation Plan, Pinal-Gila Counties Air Quality Control District and Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Pinal-Gila Counties Air Quality Control District (PGCAQCD) and Pinal County Air Quality Control District (PCAQCD) portions of the Arizona State Implementation Plan (SIP). These revisions concern the recision of all of the remaining SIP rules from the defunct PGCAQCD and the recision of certain PCAQCD SIP Rules. We are approving the recision of local rules that no longer regulate permitting procedures for various emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on July 2, 2001 without further notice, unless EPA receives adverse comments by May 31, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may inspect the submittal documents and our technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012

Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, AZ 85232

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used, we mean EPA.

Table of Contents

I. The State's Submittal
A. What rules did the State submit for recision?
B. Are there other versions of the recision submittals?
C. What is the purpose of the recision submittals?
II. EPA's Evaluation and Action
A. How is EPA evaluating the recision submittals?
B. Do the recision submittals meet the evaluation criteria?
C. Public comment and final action
III. Background information
A. Why were these rules originally approved into the SIP?
IV. Administrative Requirements

I. The State's Submittal

A. What Rules Did the State Submit for Recision?

On August 4, 2000, ADEQ submitted certain PGCAQCD SIP rules listed in Tables 1, 2, 3, 4, 5, 6, and 7 for recision with respect to Gila County only. The replacement ADEQ SIP rules are listed where applicable. Other justifications or demonstrations for recision are provided in the notes below Table 7.

On December 20, 2000 (65 FR 79742) EPA clarified that certain PCAQCD rules are SIP-approved by an action on April 9, 1996 (61 FR 15717). We intended that some of these SIP-approved PCAQCD rules shown in Tables 1, 2, and 3 replace or rescind corresponding PGCAQCD SIP rules still in effect in PCAQCD. Therefore, all rules listed in Tables 1, 2, and 3 are rescinded both with respect to Gila County (by the ADEQ submittal) and with respect to PCAQCD (by the EPA approval of replacement PCAQCD SIP rules.)

Certain of the PGCAQCD SIP rules are determined by EPA to not be appropriate for inclusion in the SIP, but were originally erroneously SIP-approved. We are removing these rules from the PGCAQCD portion of the Arizona SIP under section 110(k)(6) as inconsistent with the requirements of section 110(a) and part D of the CAA. These PGCAQCD SIP rules inappropriate for the SIP are also included in Tables 1, 2, and 3. The two recision submittals and the removals in combination rescind all of the rules in Tables 1, 2, and 3 with respect to both Gila County and PCAQCD.

The PGCAQCD SIP rules in Tables 4, 5, and 6 are rescinded with respect to Gila County only, because there is not yet an approved SIP rule replacement for PCAQCD.

The PGCAQCD SIP rules in Table 7 were submitted by ADEQ for recision but are already rescinded in other actions with respect to both Gila County and PCAQCD. These rules are listed in Table 7 for clarity only, and we will take no further action on them.

TABLE 1.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031) FOR RECISION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–1–1.1	Policy and Legal Authority	(Note 1)	(Note 1)
7–1–1.3	Air Pollution Prohibited	(Note 1)	(Note 1)
7–1–2.5(A)	Permits: Transfer	R9–3–317	32932
7–1–2.5(B)	Permits: Expiration	R9–3–306	32567
7–1–2.5(C)	Permits: Posting	R9–3–315	(Note 1)
7–1–2.6	Recordkeeping and Reporting	R9–3–308, 314	29645
7–2–1.1	Non-Specific Particulate	R9–3–201	43861
7–2–1.2	Sulfur Dioxide	R9–3–202 (Note 2)	47514
7–2–1.4	Photochemical Oxidants	R9–3–204	51166
7–2–1.5	Carbon Monoxide	R9–3–205	54819
7–2–1.6	Nitrogen Dioxide	R9–3–205	21946
7–2–1.7	Evaluation	R9–3–216	2–3–110
7–3–1.6	Reduction of Animal or Vegetable Matter	(Note 1)	(Note 1)

TABLE 2.—PGCAQCD RULE (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON DECEMBER 17, 1979, 44 FR 73033) FOR RECISION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–2–1.8	Anti-Degradation	(Note 1)	(Note 1)

TABLE 3.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON AUGUST 7, 1980, APPROVED ON APRIL 12, 1982, 47 FR 15580) FOR RECISION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–1–1.2	Definitions	R9–3–101	1–3–140
7–1–1.3(C)	Air Pollution Prohibited	(Note 1)	(Note 1)

TABLE 4.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031) FOR RECISION WITH RESPECT TO GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–1.2(A)	Fugitive Dust	R9–3–404	None
7–3–1.2(B)	Fugitive Dust	R9–3–405	None
7–3–1.2(C)	Fugitive Dust	R9–3–405	None
7–3–1.2(D)	Fugitive Dust	R9–3–406	None
7–3–1.2(E)	Fugitive Dust	R9–3–409	None

TABLE 4.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031) FOR RECISION WITH RESPECT TO GILA COUNTY ONLY—Continued

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–1.3	Open Burning	(Note 2)	None
7–3–1.4	Incineration	(Note 2)	None
7–3–1.5	Wood Waste Burners	R9–3–504	None
7–3–1.7	Particulate Emissions—Fuel Burning Equipment	R9–3–503	None
7–3–1.8	Process Industries	R9–3–502	None
7–3–2.2	Fuel Burning Installations	R9–3–503	None
7–3–2.3	Sulfite Pulp Mills	(Note 2)	None
7–3–2.4	Sulfuric Acid Plants	R9–3–507	None
7–3–3.1	Storage of Volatile Organic Compounds	R9–3–510	None
7–3–3.2	Loading of Volatile Organic Compounds	R9–3–510	None
7–3–3.3	Pumps and Compressors	R9–3–510	None
7–3–4.1	Emission Standards—Carbon Monoxide from Stationary Sources: Industrial	R9–3–502	None
7–3–5.1	Emission Standards—Nitrogen Oxides: Fuel Burning Equipment	R9–3–503	None
7–3–5.2	Nitric Acid Plants	R9–3–506	None

TABLE 5.—PGCAQCD RULE (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON DECEMBER 17, 1979, 44 FR 73033) FOR RECISION WITH RESPECT TO GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–2.5	Other Industries	(Note 2)	None

TABLE 6.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON AUGUST 7, 1980, APPROVED ON APRIL 12, 1982, 47 FR 15580) FOR RECISION WITH RESPECT TO GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7–3–1.1	Visible Emissions: General	R9–3–501	None
7–3–1.4(C)	Incineration	(Note 2)	None
7–3–1.7(F)	Particulate Emissions—Fuel Burning Equipment	R9–3–503	None
7–3–3.4(A)	Organic Solvents	R9–3–101	None
7–3–3.4(B)	Organic Solvents	R9–3–502	None
7–3–3.4(C)	Organic Solvents	R9–3–525	None
7–3–3.4(D)	Organic Solvents	R9–3–527	None
7–3–3.4(E)	Organic Solvents	R9–3–502	None
7–3–3.4(F)	Organic Solvents	R9–3–502	None
7–3–3.4(G)	Organic Solvents	R9–3–502	None
7–3–3.4(H)	Organic Solvents	(Note 1)	(Note 1)
7–3–3.4(I)	Organic Solvents	R9–3–101	None
7–3–3.4(J)	Organic Solvents	R9–3–502	None

TABLE 7.—PGCAQCD RULES SUBMITTED FOR RECISION BUT ALREADY RESCINDED WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Recision reference
7–1–2.2	Permit Unit Description and Fees	(Note 3)
7–1–2.4	Appeals to Hearing Board	(Note 3)
7–1–2.7	Enforcement	(Note 3)
7–1–4.1	Violations: Orders of Abatement	(Note 4)
7–1–4.2	Hearings on Orders of Abatement	(Note 4)
7–1–5.1	Classification and Reporting; Production of Records; Confidentiality of Records; Violation; Penalty	(Note 4)
7–1–5.2	Special Inspection Warrant	(Note 4)
7–1–5.3	Decisions of Hearing Board; Subpoenas; Effective Date	(Note 4)
7–1–5.4	Judicial Review; Grounds; Procedures	(Note 4)
7–1–5.5	Notice of Hearing; Publication; Service	(Note 4)
7–1–5.6	Injunctive Relief	(Note 4)
7–2–1.3	Non-Methane Hydrocarbons	(Note 3)
7–3–6.1	Major Sources: Policy and Legal Authority	(Note 3)

Note 1: Designates a rule determined by EPA to be not appropriate for inclusion in the SIP, because it is unenforceable, or replaced by a federal standard, or refers to a non-criteria pollutant, or refers to local procedural matters, such as those concerning assessment of fees, enforcement, and local hearing board procedures.

Note 2: Designates a rule without an exact parallel ADEQ SIP rule or PCAQCD SIP rule, for which information was provided by the ADEQ to show that rescinding the PGCAQCD rule would not conflict with section 110(l) of the CAA.

Note 3: 40 CFR 52.120(c)(18)(iv)(B).

Note 4: 40 CFR 52.120(c)(18)(iv)(A).

On December 29, 2000, we found that the submittal of August 4, 2000 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of the Recision Submittals?

There are no previous recision submittals for PGCAQCD on which we have not acted.

C. What Is the Purpose of the Recision Submittals?

The PGCAQCD originally adopted a set of air pollution control rules that we approved into the Arizona SIP. Gila County and Pinal County later dissolved the PGCAQCD.[1] Gila County elected to have the ADEQ administer Arizona state rules in Gila County. The remaining PGCAQCD SIP rules in Gila County are defunct and not used to enforce air regulations in Gila County. This action rescinds all remaining PGCAQCD rules from the SIP with respect to Gila County. This action also rescinds part of the remaining PGCAQCD SIP rules that have been replaced with SIP Rules with respect to PCAQCD.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Recision Submittals?

Generally, section 110(l) and 193 of the CAA require that the recision of SIP rules must not relax existing requirements of the SIP. If requirements are relaxed, the ADEQ must demonstrate that the modifications do not interfere with attainment of the NAAQS or otherwise violate sections 110(l) or 193.

B. Do the Recision Submittals Meet the Evaluation Criteria?

We believe the recision submittals are consistent with the CAA and relevant policy and guidance regarding SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, we are approving the recision submittals, because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same recision submittal. If we receive adverse comments by May 31, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final recision will be effective without further notice on July 2, 2001. This will remove the rules from the federally enforceable SIP.

III. Background Information

A. Why Were These Rules Originally Approved Into the SIP?

The rules were intended to regulate some of the seven criteria pollutants, which harm human health and the environment, and regulate permitting procedures for control of these pollutants. Section 110(a) of the CAA required states to submit regulations that control the emission of these pollutants.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 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 (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. 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. 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

[1] The Pinal-Gila Counties Air Pollution District originally had jurisdiction in Pinal County and Gila County. On April 1, 1988, Gila County gave jurisdiction for air quality control to ADEQ. On April 4, 1988, Gila County dissolved the PGCAQCD on behalf of Gila County. On August 15, 1988, Pinal County renamed the PGCAQCD the Pinal County Air Quality Control District, but continued to enforce the PGCAQCD rules. On November 23, 1992, Pinal County formally dissolved the PGCAQCD on behalf of Pinal County. In 1993 and later, PCAQCD adopted PCAQCD replacement rules, many of which subsequently became SIP-approved PCAQCD rules.

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 July 2, 2001. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compound.

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

Dated: March 20, 2001.

Michael Schulz,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(18)(iv)(D), (c)(18)(iv)(E), (c)(18)(iv)(F), (c)(18)(iv)(G), (c)(46)(i)(B), and (c)(46)(i)(C) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(18) * * *

(iv) * * *

(D) Previously approved on November 15, 1978 in paragraph (c)(18)(iv) of this section and now deleted without replacement Rules 7–1–1.1, 7–1–1.3, 7–1–2.5, 7–1–2.6, 7–2–1.1, 7–2–1.2, 7–2–1.4, 7–2–1.5, 7–2–1.6, 7–2–1.7, and 7–3–1.6.

(E) Previously approved on December 17, 1979 in paragraph (c)(18)(iv) of this section and now deleted without replacement Rule 7–2–1.8.

(F) Previously approved on November 15, 1978 in paragraph (c)(18)(iv) of this section and now deleted without replacement with respect to Gila County only Rules 7–3–1.2, 7–3–1.3, 7–3–1.4, 7–3–1.5, 7–3–1.7, 7–3–1.8, 7–3–2.2, 7–3–2.3, 7–3–2.4, 7–3–3.1, 7–3–3.2, 7–3–3.3, 7–3–4.1, 7–3–5.1, and 7–3–5.2.

(G) Previously approved on December 17, 1979 in paragraph (c)(18)(iv) of this section and now deleted without replacement with respect to Gila County only Rule 7–3–2.5.

* * * * *

(46) * * *

(i) * * *

(B) Previously approved on April 12, 1982 in paragraph (c)(46)(i)(A) of this section and now deleted without replacement Rules 7–1–1.2 and 7–1–1.3(C).

(C) Previously approved on April 12, 1982 in paragraph (c)(46)(i)(A) of this section and now deleted without replacement with respect to Gila County only Rules 7–3–1.1, 7–3–1.4(C), 7–3–1.7(F), and 7–3–3.4.

* * * * *

[FR Doc. 01–10651 Filed 4–30–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–928; MM Docket No. 00–13, RM–9679]

Radio Broadcasting Services; Aberdeen, Elma and Montesano, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at joint request of KAYO Broadcasting and Marrow, Inc., substitutes Channel 271C2 for Channel 271C3 at Elma, reallots Channel 271C2 from Elma to Montesano, Washington, and modifies Station KSWW(FM)'s license accordingly. We also reallot Channel 257C1 from Aberdeen to Elma, as a replacement service, and modify Station KAYO–FM's license accordingly. *See* 65 FR 7816, February 16, 2000. Channel 271C2 can be reallotted to Montesano in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.5 kilometers (9.0 miles) northwest to avoid a short-spacing to the licensed site of Station KINK–FM, Channel 270C, Portland, Oregon. The coordinates for Channel 271C2 at Montesano are 47–03–44 North Latitude and 123–44–44 West Longitude. See Supplementary Information, *infra.*

DATES: Effective May 29, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–13, adopted April 4, 2001, and released April 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

In addition, Channel 257C1 can be realloted to Elma in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.5 kilometers (9.0 miles) west to avoid a short-spacing to the licensed site of Station KWJJ–FM, Channel 258C1, Portland Oregon. The coordinates for Channel 257C1 at Elma are 46–57–31 North Latitude and 123–35–18 West Longitude. The allotment of Channel 257C1 at Elma is short-spaced to the licensed site of Station CFOX(FM), Channel 257C, Vancouver, British Columbia, and to the proposed allotment of Channel 258A at Metchosin/Sooke, British Columbia. Also, the allotment of Channel 271C2 at Montesano is short-spaced to the licensed site of Station CFUV–FM, Channel 270B, Victoria, British Columbia, and to the proposed allotment of Channel 269A at Nanaimo, British Columbia. Since Elma and Montesano are located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence for Channel 271C2 at Montesano, and for Channel 257C1 at Elma, as specially-negotiated, short-spaced allotments, were requested, but have not yet been received. Therefore, if a construction permit is granted prior to the receipt of formal concurrence by the Canadian government for these allotments, the construction permit will include the following condition: ''Operation with

the facilities specified herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the USA-Canadian FM Broadcast Agreement.''

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 54, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 257C1 at Aberdeen; removing Channel 271C3 and adding Channel 257C1 at Elma; and by adding Montesano, Channel 271C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–10700 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–879; MM Docket No. 00–54; RM–9835 & RM–9907]

Radio Broadcasting Services; Bogata, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Bogata Broadcasting Company (''BBC'') filed a Petition for Reconsideration of the Report and Order which allotted Channel 263A to Bogata, Texas. *See* 65 FR 67655, November 13, 2000. BBC has withdrawn its interest in Channel 263A at Bogata and requests that the allotment be rescinded. Action in this document grants the Petition for Reconsideration, deleting Channel 263A and Bogata from the FM Table of Allotments. With this action, this proceeding is terminated.

DATES: Effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–54, March 28, 2001, and released April 6, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 263A and Bogata.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–10701 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–927; MM Docket No. 00–166; RM–9951; RM–10015; RM–10016]

Radio Broadcasting Services; Wickenburg, Bagdad and Aguila, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 242C3 to Wickenburg, Arizona, as that community's third local FM service, in response to a petition for rule making filed on behalf of Wickenburg Broadcasting. *See* 65 FR 56857, September 20, 2000. In response to a counterproposal filed on behalf of Bagdad Broadcasting Company, this document also allots Channel 246C3 to Bagdad, Arizona, as that community's second local FM service (RM–10015). Additionally, in response to a counterproposal filed on behalf of Circle S Broadcasting Co., Inc., this document allots Channel 297C3 to Aguila, Arizona, as that community's first local aural service (RM–10016) and partially denies the Circle S counterproposal to the extent it also requested modification of its Station KSWG(FM), Channel 231C3, Wickenburg to specify operation on Channel 242C3 at Wickenburg. Coordinates used for Channel 242C3 at Wickenburg are 34–01–01 NL; 112–41–46 WL; coordinates for Channel 246C3 at Bagdad are 34–36–11 NL; 113–12–04 WL; coordinates used for Channel 297C3 at Aguila are 33–56–34 NL; 113–10–24 WL. As Wickenburg, Bagdad and Aguila are all located within 320 kilometers (199 miles) of the US-Mexico border, concurrence of the Mexican government has been requested for Channels 242C3, 246C3 and 297C3, respectively, at those communities but has not been received. Therefore, if construction permits are granted for the specified channels at Wickenburg, Bagdad and Aguila prior to receipt of final notification by the Mexican government, the authorizations will include the following condition: ''Operation with the facilities specified herein is subject to modification, suspension or termination without right to a hearing if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement, or if specifically objected to by Mexico.'' With this action, this docketed proceeding is terminated.

DATES: Effective May 29, 2001. Filing windows for Channel 242C3 at Wickenburg, Arizona, Channel 246C3 at Bagdad, Arizona, and Channel 297C3 at Aguila, Arizona, will not be opened at this time. Instead, the issue of opening those allotments for auction will be addressed by the Commission in a subsequent Order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–166, adopted April 4, 2001, and released April 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Aguila, Channel 297C3; adding Channel 246C3 at Bagdad; and adding Channel 242C3 at Wickenburg.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–10704 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–929; MM Docket No. 98–155, RM–9082, RM–9133]

Radio Broadcasting Services; Alva, Mooreland, Tishomingo and Tuttle, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Reconsideration filed by Ralph Tyler directed to the *Report and Order* in this proceeding which denied his proposal for to reallot Channel 259C3 from Tishomingo to Tuttle, Oklahoma, and modify his Station KTSH license to specifyTuttle as the community of license. *See* 65 FR 82296, December 28, 2000. With this action, the proceeding is terminated.

DATES: Effective May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 98–155, adopted April 4, 2001, and released April 13, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 M Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–10703 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–930; MM Docket No. 89–120, RM–6701, 6999, 7000, 7001]

FM Broadcasting Services; Northwye, Cuba, Waynesville, Lake Ozark, and Eldon, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In MM Docket No. 89–120, the Commission dismissed as moot the petition for reconsideration filed by Lake Broadcasting, Inc., licensee of Station KBMX(FM), Channel 270A (101.9 MHz), Eldon, Missouri, and grantee of the construction permit for Station KFXE (FM), Channel 271A (102.1), Cuba, Missouri. Lake had requested reconsideration of the Report and Order, 57 FR 6561, published February 26, 1992. The Commission dismissed Lake's petition for reconsideration following the denial of certiorari by the U.S. Supreme Court in Lake's appeal of the revocation of its licenses and construction permits. *See Contemporary Media, Inc., et al.,* v. *Federal Communications Commission,* 214 F. 3d 187 (D.C. Cir 2000), cert. denied, 532 U.S. ____ (2001). Michael Rice, Lake's sole owner and president, had been convicted of the felonies of deviate sexual conduct and sodomy of minors. Lake and other licensees owned or controlled by Rice also made repeated misrepresentations to the Commission as to Rice's continued involvement with their stations. With this action, the proceeding is terminated.

DATES: Effective May 1, 2001.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Memorandum Opinion and Order, MM Docket 89–120, adopted April 4, 2001, and released April 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center (room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor, International Transcription Service, 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–10702 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 00–10; FCC 01–123]

RIN 3060–AH39

Establishment of a Class A TV Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements the Community Broadcasters Protection Act of 1999, which directs the FCC to establish a Class A television service to provide a measure of primary status to certain low-power television stations. This document addresses a wide range of issues related to the implementation of the statute, including the protected service area of Class A stations, Class A interference protection requirements vis a vis other TV stations, eligibility criteria for Class A status, common ownership restrictions applicable to Class A stations, the treatment of modification applications filed by Class A licensees, and general operating requirements.

DATES: Effective May 31, 2001, except for 47 CFR 73.1545(e), which 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.

FOR FURTHER INFORMATION CONTACT: Debra Sabourin, Policy and Rules Division, Mass Media Bureau, (202) 418–2130, or Keith Larson, Office of the Bureau Chief, Mass Media Bureau, (202) 418–2600.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration (''*MO&O*''), FCC 01–123, adopted April 5, 2001; released April 13, 2001. The full text of the

Commission's *MO&O* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW–A306), 445 12 St., SW., Washington, DC. The complete text of this *MO&O* may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 1231 20th St., NW., Washington, DC 20036.

Paperwork Reduction Act

This document contains new or modified information collection requirements. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget.

Synopsis of Memorandum Opinion and Order

I. Introduction

1. April 2000 we released a *Report and Order* (''*R&O*''), 65 FR 29985, May 10, 2000, establishing a Class A television service. Our action implemented the Community Broadcasters Protection Act of 1999 (CBPA), which was signed into law November 29, 1999. Community Broadcasters Protection Act of 1999, Public Law 106–113, 113 Stat. Appendix I at pp. 1501A–594—1501A–598 (1999), *codified* at 47 U.S.C. 336 (f) (CBPA). Pursuant to the CBPA and our implementing rules, certain qualifying low-power television (LPTV) stations will be accorded Class A status. Class A licensees will have ''primary'' status as television broadcasters, thereby gaining a measure of interference protection from full-service television stations, even as those stations convert to a digital format. The CBPA and our *R&O* will facilitate the acquisition of capital needed by LPTV stations to allow them to continue to provide free, over-the-air programming, particularly locally-produced programming, to their communities. In this *MO&O*, we dispose of petitions for reconsideration of the *R&O*, make changes to some of our rules, and provide clarification of other rules.

II. Background

2. From its creation by the Commission in 1982, the low power television service has been a secondary spectrum priority service whose members may not cause objectionable interference to existing full-service stations, and * * * must yield to facilities increases of existing full-service stations or to new full-service stations where interference occurs. Currently, there are approximately 2,300 licensed LPTV stations in approximately 1,000 communities, operating in all 50 states. These stations serve both rural and urban audiences. Because they operate at reduced power levels, LPTV stations serve a much smaller geographic region than full-service stations and can fit into areas where a higher power station cannot be accommodated in the Table of Allotments. In many cases, LPTV stations may be the only television station in an area providing local news, weather, and public affairs programming. Even in some well-served markets, LPTV stations may provide the only local service to residents of discrete geographical communities within those markets. Many LPTV stations air ''niche'' programming, often locally produced, to residents of specific ethnic, racial, and interest communities within the larger area, including programming in foreign languages.

3. In the CBPA, Congress found that the future of low-power television is uncertain. Because LPTV stations had secondary spectrum status, they could be displaced by full-service TV stations that sought to expand their own service area, or by new full-service stations that entered the same market. The statute found that this regulatory status affects the ability of LPTV stations to raise necessary capital. In addition, Congress recognized that the conversion to digital television further complicates the uncertain future of LPTV stations. In assigning DTV channels, the Commission maintained the secondary status of LPTV stations and TV translators and, in order to provide all full-service stations with a second channel, was compelled to establish DTV allotments that will displace a number of LPTV stations. Although the Commission has taken a number of steps to mitigate the impact of the DTV transition on stations in the LPTV service, that transition nonetheless would have significant adverse effects on many stations, particularly LPTV stations operating in urban areas where there are few, if any, available replacement channels for displaced stations.

4. Congress sought in the CBPA to address some of these issues by providing certain low power television stations—to be known as Class A stations—''primary'' spectrum use status. Congress also recognized, however, that, because, of the emerging DTV service, not all LPTV stations could be guaranteed a certain future. Congress recognized the importance and engineering complexity of the Commission's plan to convert full-service stations to digital format, and protected the ability of these stations to provide both digital and analog service during the transition.

5. Congress also recognized, however, that, because of the emerging DTV service, not all LPTV stations could be guaranteed a certain future. Congress recognized the importance and engineering complexity of the FCC's plan to convert full-service stations to digital format, and protected the ability of these stations to provide both digital and analog service during the transition.

III. Discussion

A. Application and Certification for License

1. Statutory Timeframes

6. Section 336(f)(1)(B) of the CBPA states: ''* * * Within 60 days after such date of enactment, licensees intending to seek class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this subsection. * * * section 336(f)(1)(C) provides that, consistent with the requirements set forth in the CBPA, a licensee ''may'' submit an application for Class A designation within 30 days after final regulations are adopted implementing the CBPA. 47 U.S.C. 336(f)(1)(B), (C).

7. The 60-day certification period was clearly specified by Congress in 47 U.S.C. 336(f)(1)(B) of the CBPA. The statute states that licensees intending to seek Class A designation ''shall'' submit a certification of eligibility within 60 days after the date of enactment of the Act. The CBPA was signed into law on November 29, 1999; thus, the time for filing a certificate of eligibility ended 60 days later, on January 28, 2000. To comply with the requirements of the statute, parties must have made the requisite submission within the time period specified. Section 47 U.S.C. 336(f)(1)(C) states that applicants ''may'' file license applications within 30 days from the adoption of final implementing rules. Section 336(f)(1)(B), in contrast, states that licensees intending to seek Class A designation ''shall'' file a certification of eligibility within 60 days after enactment. Thus, even though no licensee was required to file a certificate of eligibility, any licensee that wished to do so was required to file within 60 days after enactment. The use of the word ''may'' in relation to applications indicates that the 30 day filing period is permissive only, and not mandatory. Thus, applicants were not required to file within 30 days following adoption of final rules, although they were permitted to do so. Allowing a longer filing period was appropriate to give LPTV licensees adequate time to

prepare and file their Class A applications.

2. Ongoing Eligibility

8. The intent of Congress in enacting the CBPA was to establish the rights of a very specific, already-existing group of LPTV stations. The statute itself states its intent to apply to a small number of stations: ''Since the creation of low-power television licensees by the Federal Communications Commission, a small number of license holders have operated their stations in a manner beneficial to the public good providing broadcasting to their communities that would not otherwise be available.'' The statute specifically states that an eligible low-power station must have met certain requirements ''during the 90 days preceding the date of the enactment of the Community Broadcasters Protection Act of 1999.'' 47 U.S.C. 336(f)(2)(A)(i). During that 90-day period, a qualifying station was to have ''broadcast a minimum of 18 hours per day and an average of at least 3 hours weekly of local programming * * *'' and been ''in compliance with the Commission's requirements applicable to low-power television stations * * *'' 47 U.S.C. 336(f)(2)(A)(i)(III). To comply with the requirements of the statute, parties must make the requisite showing for the time period specified.

B. Qualifying Low-Power Television Stations

1. Locally-Produced Programming

9. Section 336(f)(2)(A) of the CBPA requires that, during the 90 days preceding the date of enactment of the CBPA, LPTV stations must have broadcast an average of at least 3 hours per week of programming produced within the ''market area'' served by the station. In the *R&O*, we determined that the predicted Grade B contour was the appropriate measure for determining the provision of locally oriented programming for the communities served by LPTV stations. We clarify the ''local programming'' requirement. For a Class A station's programming to qualify as ''local programming'' under the CBPA, the programming must be produced within the same ''market area'' in which it is broadcast. For a single Class A station, ''locally produced programming'' is programming produced within the predicted Grade B contour of the station broadcasting the program or produced at the station's main studio. With respect to a group of commonly controlled stations, Class A stations whose predicted Grade B contours are physically contiguous to each other may consider the programming produced within any of these contours as ''local programming.'' If a Class A station is one of a group of commonly controlled Class A stations, but its predicted Grade B contour is not physically contiguous to that of another Class A station in the commonly-owned group, it may not consider the programming produced in any of those distant stations' contours ''local programming.''

2. Operating Requirements

10. To qualify for Class A status, the CBPA provides that, during the 90 days preceding enactment of the statute, a station must have been in compliance with the Commission's requirements for LPTV stations. 47 U.S.C. 336(f)(2)(A)(i)(III). In addition, beginning on the date of its application for a Class A license and thereafter, a station must be ''in compliance with the Commission's operating rules for full-power stations.'' 47 U.S.C. 336(f)(2)(A)(ii). We intend to apply to Class A licensees all part 73 rules, except for those which are inconsistent with the manner in which LPTV stations are authorized or the lower power at which these stations operate. We will apply the part 73 regulations to Class A applicants or licensees, except for those that cannot apply for technical or other reasons, because this course of action is most consistent with the language in the CBPA.

11. *Main Studio Requirements.* The Commission requires stations licensed under part 73 to maintain a ''meaningful management and staff presence'' at the station's main studio in order to serve the needs and interests of the residents of the station's community of license. The Commission has defined a minimally acceptable ''meaningful presence'' as full-time managerial and full-time staff personnel. It stated that there must be ''management and staff presence'' on a full-time basis during normal business hours to be considered ''meaningful.'' It further explained that the standard does not necessarily require two people at the main studio; rather, management and staff presence are required on a full-time basis, which may consist of more than two people working on part-time bases. Jones Eastern of the Outer Banks, Inc., 6 FCC Rcd 3615 (1991), clarified, 7 FCC Rcd 6800 (1992), 10 FCC Rcd 3759 (1995).

12. While we recognize that LPTV stations face financial constraints due to their generally smaller coverage areas, we do not believe it is appropriate to exempt Class A stations from the same staffing requirements we impose on full service stations under part 73. The CBPA defines a ''qualifying'' LPTV station as one that ''from and after the date of its application for a class A license, * * * is in compliance with the Commission's operating rules for full-power television stations.'' The Commission's main studio staffing requirements are intended to ensure that stations maintain a local responsive presence in the community. Exposure to daily community activities and other local media of communications helps stations identify community needs and interests, which is necessary to operate in today's competitive marketplace and to meet our community service requirements. To accomplish these objectives, stations must maintain, at a minimum, full-time managerial and full-time staff personnel. In light of the CBPA's intent that Class A stations comply with all of the requirements of full-power TV stations, we believe it is both reasonable and appropriate to require Class A stations to meet the same obligations with respect to maintaining a local community presence as their full service counterparts.

13. We will, however, amend our main studio requirement. For a single Class A station, a station's main studio shall be located within the station's predicted Grade B contour. With respect to a group of commonly controlled stations, Class A stations whose predicted Grade B contours are physically contiguous to each other may locate their main studio within any of these contours. Thus, two or more commonly owned Class A stations having contiguous predicted Grade B contours may construct and maintain one main studio within their combined boundaries, provided that main studio functions as the main studio for all the stations. If a Class A station is one of a group of commonly controlled Class A stations, but its predicted Grade B contour is not physically contiguous to that of another Class A station in the commonly-owned group, its main studio shall be located within its own predicted Grade B contour. We will amend our rule accordingly, and note that our requirement applies only to newly created main studios.

14. *Power Limits.* We will not raise the ERP limit for Class A stations beyond the current LPTV maximum power levels. These power levels are sufficient to preserve existing service, which is consistent with Congress' objective underlying the CBPA. Congress emphasized in the CBPA the importance of balancing the needs of LPTV licensees against the needs of full-service stations as they transition to a digital format. We do not wish to risk hindering the implementation of digital

television. We will retain the current LPTV maximum power level requirements for Class A stations.

15. *Ongoing Obligations.* In the *R&O,* we adopted a rule requiring Class A television broadcast stations to broadcast a minimum of eighteen hours per day and an average of at least three hours per week of locally produced programming each quarter. The CBPA makes clear that Class A licensees must ''continue'' to meet the qualifying low-power station eligibility criteria, indicating an intent that the criteria to qualify for Class A status create ongoing obligations. Moreover, it would be inconsistent with the overall intent of the CBPA—to afford Class A status only to stations that provide a substantial amount of locally-originated programming—to relieve stations of that obligation once Class A status has been achieved. We thus affirm our previous conclusion that Class A licensees must continue to meet the minimum operating hours and locally-produced programming obligations. Of course, Class A licensees may apply to the Commission for a waiver of the rules.

16. *Fines and Penalties.* We clarify that Class A licensees are subject to the regulations regarding fines and penalties applicable to full power stations. Although Class A licensees will not be subject to loss of license for failure to continue to comply with the eligibility requirements in 47 U.S.C.(f)(2)(A) of the CPBA, they are subject to loss of Class A status if they fail to meet these ongoing obligations.

17. *DTV Broadcast Requirements.* We permit Class A television stations that convert to digital operation to offer telecommunications services of any nature, consistent with the public interest, convenience and necessity, on an ancillary or supplementary basis in the same manner as full power DTV stations. In this regard, digital Class A stations must broadcast a free over-the-air video program service at least comparable to NTSC technical quality under the digital transmission standard applicable to full service stations. Such services will be subject to the fees due under § 73.624(g) and be subject to the same requirement that they not derogate the free over-the-air video program stream required of digital broadcasters. Taking this action furthers the Commission's goal of encouraging the transition of television broadcasting from analog to digital operation. By enabling Class A stations to generate additional revenues from ancillary or supplementary services, we seek to encourage the early conversion of Class A stations from analog to digital operation. Sections 73.624(c) and 73.624(g) will, therefore, apply to Class A television stations converting to digital operations. Section 73.624(b) will apply only to the extent that such stations must also transmit at least one over-the-air video program signal at no direct charge to viewers of the digital Class A station.

3. Mandatory Carriage

18. Both the language of the CBPA and the accompanying conference report are silent with respect to the issue of must carry rights for Class A stations. It is unlikely that Congress intended to grant Class A stations full must carry rights, equivalent to those of full-service stations, without addressing the issue directly. This conclusion with respect to Class A must carry rights is consistent with the view recently expressed by the Commission in its *R&O* implementing the Satellite Home Viewer Improvement Act of 1999. In that Order, the Commission concluded that Class A stations are low power stations for mandatory carriage purposes, and are therefore not entitled to mandatory satellite carriage. *R&O,* In the Matter of Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage Issues, Retransmission Consent Issues, CS Docket Nos. 00–96 and 99–363, FCC 00–417 (released November 30, 2000).

19. We believe that Congress intended that Class A stations have the same limited must carry rights as LPTV stations. Section 614(a) of the Communications Act, as amended, requires the carriage of local television broadcast stations and ''qualified'' low power television stations in certain limited circumstances. Section 614(h)(2) defines the term ''qualified low power station'' as any television broadcast station ''conforming to the rules established for Low Power Television Stations contained in part 74 of title 47, Code of Federal Regulations'' that complies with the other criteria established in that section. 47 U.S.C. 534(h)(2). Thus, to be eligible for must carry, Class A stations, like other low power television stations, must comply with the part 74 rules and the other eligibility criteria established by statute and our rules.

20. Just as it is unreasonable to conclude that Congress intended to confer on Class A stations the same must carry rights as full-service stations without addressing this issue directly in the CBPA, we also believe that it is unlikely that Congress intended to take away from LPTV stations their existing must carry rights if they elect to convert to Class A. The principal intent of the CBPA was to provide additional certainty to LPTV stations during the digital transition and to alleviate the limitations that ''secondary service'' imposed on the ability of these stations to attract capital and to continue to provide high quality broadcast programming. Given the severe impact loss of must carry rights would impose on Class A stations who enjoyed these rights as LPTV stations, we conclude it is unlikely that Congress intended to remove these rights without specific mention in the CBPA.

4. Alternative Eligibility Criteria

21. Section 336(f)(2)(A) of the CBPA defines the eligibility criteria for Class A stations. Section 336(f)(2)(B) provides that a station may also qualify for Class A status if the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

22. Foreign language stations should have the same eligibility requirements as any other potential Class A station. We recognize that foreign language stations provide a valuable service in providing access to national news and entertainment that might not otherwise exist for non-English speaking communities. In enacting the CBPA, however, Congress intended to preserve the service of a small class of existing LPTV stations that were providing a specified level of local programming to their communities. To fulfill the intent of the statute, foreign language stations, like other potential Class A stations, must meet the local programming criteria to qualify for Class A status. We will not establish different criteria for foreign language stations that do not meet the local programming criteria. We also decline to establish alternative criteria under the CBPA for foreign language stations based on the foreign language nature of their programming. An applicant's qualification for Class A status is not contingent upon whether it serves a particular audience, but upon whether it meets the eligibility criteria set out in the CBPA.

23. We also allow deviation from the CBPA Class A eligibility criteria by waiver only where such deviations are insignificant or when compelling circumstances exist in individual cases. We disagree with CBA and other petitioners who contend that section 336(f)(2)(B) establishes a broad obligation independent of section 336(f)(2)(A) under which the Commission may determine that other groups of LPTV stations may qualify for Class A status for public interest or any

other reasons. Congress intended to protect a small group of LPTV stations that were providing local programming.

C. Class A Interference Protection Rights and Responsibilities

1. Protection of Pending NTSC TV Applications and Facilities

24. The CBPA requires that the Commission preserve the service areas of LPTV stations pending the final resolution of a Class A application. We concluded in our *R&O,* that that provision requires protection from the date of filing of an acceptable certification of eligibility for Class A status. With respect to NTSC facilities, section 336(f)(7)(A) of the CBPA provides that the Commission may not grant a Class A license, nor approve a modification of license, unless the applicant shows that the proposed Class A station will not cause interference within the predicted Grade B contour (as of the date of enactment of the * * * [CBPA] * * * or as proposed in a change application filed on or before such date) of any television station transmitting in analog format. In our *R&O,* we interpreted this provision to require Class A stations to protect both existing analog stations and full-service applicants where the Commission has completed all processing short of grant necessary to provide a reasonably ascertainable Grade B contour. Specifically, we required Class A applicants to protect the predicted Grade B contour (as of November 29, 1999, or as proposed in a change application filed on or before that date) of full-power analog stations licensed on or before November 29, 1999. We also required Class A applicants to protect the Grade B contour of full-power analog facilities for which a construction permit was authorized on or before November 29, 1999. Finally, we required Class A applicants to protect the facilities proposed in any application for full-power analog facilities that was pending on November 29, 1999, for which the Commission had completed all processing short of grant as of that date, and for which the identity of the successful applicant was known. The applications in this latter category are post-auction applications, applications proposed for grant in pending settlements, and any singleton applications cut off from further filings. We did not require Class A applicants for initial Class A authorization to protect pending rule making petitions for new or modified NTSC channel allotments or full-service applications that were not accepted for filing by November 29, 1999, including most pending television freeze waiver applications.

25. Our decision to protect the delineated categories of pending NTSC applications is not inconsistent with either the language of the CBPA or the underlying intent of Congress. Section 336(f)(7)(A)(i) of the statute requires Class A applicants and licensees to protect the predicted Grade B contour (as of * * * [November 29, 1999], or as proposed in a change application filed on or before such date) of analog facilities. Thus, Class A stations must protect the predicted Grade B contour of analog stations licensed or granted a construction permit as of November 29, 1999, as well as of facilities proposed in certain pending analog applications. As we noted in the *R&O,* the phrase ''predicted Grade B contour'' is singular. The assertion that the phrase ''transmitting in analog format'' is ambiguous is not relevant to our interpretation of the separate phrase ''predicted Grade B contour.'' This latter phrase, as modified by the parenthetical in section 336(f)(7)(A)(i), limits the facilities proposed in applications pending as of November 29, 1999 that must be protected by Class A stations to those for which there is a single, reasonably ascertainable predicted Grade B contour as of that date. These applications consist of post-auction applications, applications proposed for grant in pending settlements, and any singleton applications cut off from further filing. The applications in each of these categories have progressed through the cut-off stage and the identity of the successful applicant in each case has been determined. Class A applicants can identify a single predicted Grade B contour with respect to these applications for which protection must be afforded and are not required to show that they will not interfere with multiple, hypothetical contours that may not turn out to be actual contours, if the applicant in question does not ultimately receive the station license.

26. This interpretation is consistent with both the language of section 336(f)(7)(A)(i) and with the intent of Congress as expressed in the overall statutory scheme. Throughout the CBPA, Congress attempted to balance the enhanced rights it conferred on Class A stations against those of full service stations in light of the limited spectrum available. Requiring Class A applicants to protect applications that have progressed through the cut-off stage strikes an appropriate balance between the rights of pending NTSC applicants and the interests of LPTV stations seeking primary status. Applicants that have prosecuted their applications through the cut-off stage and to the point that the identity of the successful applicant is known have in most cases invested substantial resources in filing and prosecuting their applications. Most of these applications have been pending for some time, and LPTV stations affected by the facilities proposed in these applications have long been on notice that they would ultimately be displaced or be required to reduce their facilities. Requiring Class A applicants to protect applications that had progressed through this stage by November 29, 1999 is both equitable and a reasonable reading of the CBPA.

27. We estimate that there are still pending before the Commission applications that may account for approximately 180 potential new NTSC stations. The grant of this number of new full service stations would likely displace a significant number of LPTV stations, many of which would be unlikely to be able to successfully locate replacement spectrum within the core. In light of the primary intent of the CBPA to protect those presently operating LPTV stations that can qualify under the statute, we conclude that our interpretation of section 336(f)(7)(A)(i) appropriately balances the rights of these stations against those of pending NTSC applicants.With respect to applications for which a settlement is pending as of the date of enactment of the CBPA, we clarify that where such a settlement includes a channel change, and the application for the channel change has not been accepted for filing with the Commission, we will treat that channel change application in the same way as any other pending NTSC application for purposes of determining priority vis a vis Class A. Thus, where a pending settlement depends upon a channel change which has not been accepted for filing by the Commission, and that new channel proposal conflicts with the protected facilities of a Class A-certified LPTV station, the settlement will not be protected.

2. DTV Maximization and Allotment Adjustments

28. The CBPA provides that a Class A application for license or license modification may not be granted where the proposal would interfere with DTV stations seeking to ''maximize power'' under the Commission's rules, for those stations that complied with the notification requirements of section 336(f)(1)(D) of the statute. Section 336(f)(1)(D) requires that, to be entitled to protection by Class A applicants, DTV stations were required to have filed an application for maximization or a

notice of intent to seek maximization by December 31, 1999, and have filed a bona fide application for maximization by May 1, 2000. Approximately 370 DTV maximization applications were filed in accordance with that statutory deadline. In the *R&O,* we interpreted the use of the term ''maximization'' in the statute to refer to power and/or antenna height increases above the values given in the DTV Allotment Table, and to site changes that would extend the service area of DTV facilities beyond a station's NTSC replication facilities.

29. The CBPA provided an exception to the provision for preservation of the service areas of Class A-certified LPTV stations. According to section 336 (f)(1)(D), if, thereafter, ''technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary (i) to ensure replication of the full-power digital television applicant's service area * * * and (ii) to permit maximization of a full-power digital television applicant's service area * * *'' (if the applicant complied with the notification and application requirements established by that section).

30. As we indicated in the *R&O,* the statutory language is somewhat ambiguous regarding the protection to be accorded by Class A applicants to DTV stations seeking to replicate or maximize power. Although section 336(f)(1)(D) appears to tie replication and maximization to resolution of technical problems, section 336(f)(7) appears to require all applicants for a Class A license or modification of license to demonstrate protection to stations seeking to replicate or maximize power, as long as the station seeking to maximize has complied with the notification and application requirements of section 336(f)(1)(D), without reference to any need to resolve technical problems on the part of the DTV station. Despite the reference in section 336(f)(1)(D) to technical problems, we concluded in the *R&O,* that it was most consistent with the statutory schemes for both Class A LPTV service and digital full-service broadcasting to require Class A stations to protect all DTV stations seeking to replicate or maximize facilities, as provided in section 336(f)(7)(A)(ii), regardless of the existence of ''technical problems,'' provided stations seeking to maximize complied with the notification requirements of section 336(f)(1)(D) of the statute. We interpreted section 336(f)(1)(D) as providing DTV stations with the flexibility to make adjustments to the facilities proposed in these maximization applications, including channel changes, where necessary to resolve technical problems that prevented implementation of the facilities proposed therein. Consistent with this statutory interpretation, we also provided that the maximized service areas resulting from timely filed maximization application proposals could be carried over to a DTV station's final in-core DTV channels, such as a station's in-core analog channel, to the extent the in-core channel facilities for maintaining the maximized service area would provide the required protection to other DTV stations. Such maximized facilities on post-transition channels will have priority over conflicting Class A facilities.

A. Methods of Interference Protection to Class A Facilities

1. Analog Full-Service TV Protection to Analog Class A—Frequency Offset

31. We are persuaded to modify our decisions in the *R&O,* regarding use of carrier offsets by Class A station entities. Requiring use of carrier offsets will provide for greater spectrum efficiency by making room for more new LPTV or Class A stations and/or by allowing more existing stations to increase facilities. First, we will require that, within nine months of the date of release of this *MO&O,* all Class A station licensees operate with a carrier offset. Within that time period, we will also require that Class A construction permits and pending applications for such permits be modified or amended to specify a carrier offset. To do so, station licensees, permittees, and applicants shall specify the carrier offset in a letter to the Commission staff, referencing their license, permit, or pending application. Class A stations operating with an offset must meet the +/− 1 kilohertz frequency tolerance requirements of § 73.1545(c) of the Commission's Rules. We understand that most stations not currently operating with an offset could readily do so at modest cost by modifying their existing transmitters. A small number of stations may have to obtain new transmitters equipped for offset operation. With regard to offset conversion, we will not impose the transmitter equipment performance requirements of § 73.1590 of our rules. However, stations converting to offset or changing their offset will be required to measure the visual carrier frequency and the difference between the aural and visual carriers to determine compliance with the requirements of § 73.1545(c). This data must be kept on file at the transmitter or remote control point, and be made available upon request to authorized Commission representatives.

32. Second, we will require all Class A stations or Class A-eligible LPTV stations seeking facilities increases to specify a carrier offset in their modification applications, regardless of whether the advantages of offset operation can be realized with respect to all neighboring co-channel stations. As noted above, such a requirement will improve spectrum efficiency generally for new as well as existing stations.

33. Finally, until the time at which all Class A entities are required to specify use of a carrier offset, we may, on a case-by-case basis, direct Class A station licensees, permittees and Class A-eligible LPTV applicants (affected stations) to operate their stations with a carrier offset at the request of a displaced Class A station, displaced Class A-eligible LPTV station, or applicant or allotment petitioner for a new NTSC television station (requesting stations). The requesting party must first attempt to negotiate a voluntary offset agreement with the affected Class A entity. Such agreements should be included with the applications of the requesting station and offset notification of the affected station. The Commission staff will process the related applications and offset notifications in a coordinated manner. In the event a voluntary agreement cannot be reached, the requesting station may file (or amend) its application, despite the interference conflict with the affected station. The application must set forth the requesting station's efforts to reach agreement with the affected station and request that the affected station be directed to specify a carrier offset. A copy of the application (or amendment to a pending application) must be sent to the affected station, which will be given 30 days to file comments. If the requesting station's application is otherwise acceptable (that is, except for the conflict with the affected station), the Commission staff may direct the affected station to file within 30 days a letter notification specifying a particular carrier offset. It will process the related applications and offset notifications in a coordinated manner.

34. This Class A proceeding has not addressed carrier offset issues with regard to television translator and non-Class A LPTV stations. Therefore, the above provisions do not, as a matter of policy, apply to these stations. Many translators and LPTV stations do not operate with a frequency offset. Channel

displacement among LPTV and translator stations has been extensive. The difficulties faced by translator and LPTV licensees, including Class-A eligibles, in finding replacement channels could be lessened if translators and LPTV stations operated with carrier offsets. We strongly encourage such stations to enter into voluntary offset agreements, particularly where this would accommodate use of a replacement channel by a displaced station. On a case-by-case basis, we reserve the right to modify the license of a TV translator or non-Class A LPTV station subject to the provisions of the Communications Act of 1934, as amended.

2. Alternative Means of Interference Protection

35. In the *R&O,* we concurred with commenters who favor permitting Class A stations to enter into interference or relocation agreements with full-service, LPTV, TV translator and other Class A licensees, permittees or applicants. We required agreements to be submitted with the related applications for initial or modified broadcast facilities. We said we would approve of such agreements if we find them to be consistent with the public interest. We reaffirm our decision in the *R&O.* We will approve interference or relocation agreements between Class A applicants and applicants for full-service television stations, provided we find the agreements to be consistent with the public interest.

E. Methods of Interference Protection by Class A to Other Facilities

1. Grandfathering of LPTV Interference Waivers

36. In the *R&O,* we adopted interference protection requirements for Class A applicants, as directed by the CBPA. These require protection to certain authorized and proposed NTSC TV, DTV, LPTV and TV translator and land mobile radio services. Applicants for Class A authorizations must certify in their applications that their proposed facilities comply with the applicable interference protection requirements in the Commission's Rules.

37. As requested and to guide applicants for initial Class A authorizations, we provide the following clarification. Existing waivers of the LPTV station interference protection requirements may be used as a basis for certifying compliance with the Class A interference protection requirements provided: (1) Construction of the facilities for which Class A status is sought was authorized on the basis of a waiver of the interference standards with respect to a protected station; (2) all engineering parameters under that LPTV authorization remain unchanged; (3) all authorized engineering parameters of the protected station associated with the waiver remain unchanged; and (4) the LPTV licensee has no knowledge that its station is causing interference to the reception of the protected station within its protected service area; e.g., Grade B contour for NTSC TV stations. We also reiterate that any interference from existing LPTV facilities within the protected contour of later authorized or proposed LPTV or TV translator facilities is permitted by the LPTV rules and is also grandfathered.

2. Land Mobile Radio Service and TV Channel 16

38. The CBPA, at section 336(f)(7)(C), provides that the Commission may not authorize a Class A station that will cause interference to certain land mobile radio uses of television channels. In the *R&O,* we stated that it is most consistent with the statutory scheme and the waiver granted for public safety land mobile use of Channel 16 in the New York City metropolitan area that LPTV station WEBR–LP and the New York police and public safety agencies continue to cooperate to ensure that neither party interferes with the other's transmission. Pursuant to our decision in the *R&O,* because the application reflected the parties' commitment to the agreement, the Mass Media Bureau granted the application on August 21, 2000 and did not impose a condition that WEBR–LP's authority to operate as a Class A station be subject to the agreement.

F. Remaining Issues

1. Issuance of DTV Licenses to Class A, TV Translator, and LPTV Stations

39. In the *R&O,* we noted that Class A stations may convert their existing channel to digital broadcasting at any time. We also concluded that the plain reading of the CBPA, as well as its legislative history, does not require us to issue an additional license for DTV services to Class A or TV translator licensees, but does require us to accept DTV applications from licensees of Class A or TV translator stations that meet the interference protection requirements set forth in the statute. Recognizing that a number of outstanding issues regarding the transition to DTV must be resolved, we said we would defer matters regarding the issuance of additional DTV licenses for Class A stations to a future DTV rulemaking.

40. We reaffirm our decision in the *R&O.* The statute requires that we shall accept a license application for such services that meet certain interference protection requirements. Nothing in the statute requires that we assign a second DTV channel to Class A stations. A Class A station may convert its existing channel to digital broadcasting at any time, or it may compete with other interested parties for additional channels for DTV.

41. We must exercise restraint with respect to issuing additional DTV licenses in order to preserve spectrum to accommodate needs associated with the transition of full-service stations to digital service. For instance, in our DTV periodic review proceeding we expressed our belief that more out-of-core stations than initially anticipated must be accommodated with in-core channels and that this effort will be made more difficult because there are more stations occupying core channels than initially planned for. We therefore defer matters regarding the issuance of additional DTV licenses for Class A stations to a future rulemaking. Issues regarding the means of issuing such licenses will be considered in that proceeding.

2. Stations Operating Between 698 and 806 MHz

42. In the *R&O,* we decided not to impose any time limit on the filing of a Class A application by LPTV licensees operating on channels outside the core channels 2–51. We said that the CBPA provides that, if a qualified applicant for a Class A license operating on an out-of-core channel locates an in-core channel, the Commission ''shall issue a Class A license simultaneously with the assignment of such channel,'' but does not impose a time limit on the filing of such applications. We required stations operating on these channels to have filed a certification of eligibility within the time frame established in the statute (i.e., by January 28, 2000), and granted these stations a presumption of displacement, permitting them to file displacement applications immediately if they can locate a replacement channel within the core spectrum.

43. We also stated that, when a qualified LPTV station outside the core seeking Class A status locates an in-core channel, we will require the station to file a Class A application simultaneously with its application for modification of license to move to the in-core channel. We said we will provide interference protection to such stations on the in-core channel from the

date of grant of a construction permit for the in-core channel. Because the CBPA prohibits the award of Class A status to stations outside the core, we believed it would be inconsistent with the statute to provide interference protection on a channel outside the core. We stated that contour protection would commence with the award of a construction permit on the in-core channel, rather than a license to cover construction.

44. We decline to reconsider our decision not to impose a six month time limit on LPTV licensees on out-of-core channels seeking Class A status. The CBPA provides that, if a qualified applicant for a Class A license operating on an out-of-core channel locates an in-core channel, the Commission ''shall issue a Class A license simultaneously with the assignment of such channel.'' The statute does not require that we impose a time limit on the filing of such applications, and we believe many LPTV stations outside the core will need additional time to locate an in-core channel. In most cases, it would be in the best interest of qualified LPTV stations operating outside the core to try to locate an in-core channel now, as the core spectrum is becoming increasingly crowded and it is likely to become increasingly difficult to locate an in-core channel in the future.

45. We wish to clarify our policy with respect to those certified-eligible LPTV stations that are licensed on a core channel, and have received or applied for a displacement construction permit on an out-of-core channel. The authorized or proposed non-core facilities will not receive Class A protections. However, stations having a non-core construction permit or pending displacement application for such a permit as of the Class A filing deadline, and that have filed timely certifications of eligibility, will not be required to file a Class A application by that deadline, but rather at such later time as they file a displacement application for an available in-core channel. This will preserve Class A opportunities for a number of displaced LPTV stations.

3. Call Signs

46. In the *R&O,* we allowed Class A stations to use standard television call signs with the suffix ''-CA'' to distinguish the stations from ''-LP'' stations. We said that, upon grant of its initial Class A application, the qualifying LPTV licensee can change its station's existing numerical or four-letter low power call sign to a four-letter call sign with the ''CA'' suffix.

47. We reaffirm our decision. As we have stated elsewhere in this proceeding, Congress in the CBPA intended to create a distinct group of stations that are neither LPTV stations nor full power broadcast stations. Use of the ''-CA'' suffix appropriately distinguishes this unique group of stations from secondary LPTV stations that use the ''-LP'' suffix and from primary full power stations that use the ''-TV'' suffix. We note further that use of the suffix is not required for purposes of station promotion, such as station letterhead.

IV. Conclusion

48. In this *MO&O,* we generally reaffirm the decisions we reached in the *R&O,* although we make some changes and clarify certain aspects of our rules, as described previously. Pursuant to the CBPA and our implementing rules, certain qualifying LPTV stations will be accorded ''primary'' status as television broadcasters. The actions we have taken today and in the *R&O* will facilitate the acquisition of capital needed by these stations to allow them to continue to provide free, over-the-air programming to their local communities. By improving the viability of these stations, our action today promotes our fundamental goals of ensuring diversity and localism in television broadcasting.

V. Administrative Matters

49. *Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, as amended, *See* 5 U.S.C. 601 *et seq.,* the Commission's Supplemental Final Regulatory Flexibility Analysis has been completed.

50. *Paperwork Reduction Act Analysis.* The actions taken in this *MO&O* have been analyzed with respect to the paperwork Reduction Act of 1995, and found to impose new or modified reporting and recordkeeping 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 Act.

VI. Supplemental Final Regulatory Flexibility Analysis

51. As required by the Regulatory Flexibility Act (RFA), *see* 5 U.S.C. 601 *et seq.*, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice and a Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *R&O.* The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. No comments were received in response to the IRFA or the FRFA. This present Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) conforms to the RFA. *See* 5 U.S.C. 604.

Need for, and Objectives of, the Memorandum Opinion and Order on Reconsideration

52. The Community Broadcasters Protection Act of 1999 (CBPA) directed the Commission, within 120 days after the date of enactment, to prescribe regulations establishing a Class A television license available to licensees of qualifying low-power television (LPTV) stations. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licensees, and that Class A licensees be accorded primary status as a television broadcaster as long as the station continues to meet the requirements set forth in the statute for a qualifying low-power station. In addition to other matters, the CBPA sets out certain certification and application procedures for low-power television licensees seeking to obtain Class A status, prescribes the criteria low-power stations must meet to be eligible for a Class A license, and outlines the interference protection Class A applicants must provide to analog (or NTSC), digital (DTV), LPTV, and TV translator stations.

53. The Commission adopted the *R&O,* to implement the CBPA. In that Order, we determined that the service areas of LPTV licensees would be preserved from the date the Commission receives a certification of eligibility for Class A status, as long as the certification is ultimately approved by the Commission. The *R&O,* interpreted the CBPA to require that Class A stations protect both existing analog stations and full power analog applicants that have completed all processing short of grant. Similarly, the *R&O* required Class A stations to protect the digital service areas of DTV facilities proposed in an application pending as of the CBPA enactment date (November 29, 1999) and that had completed all processing short of grant as of that date. The *R&O,* generally applied to Class A applicants and licensees all part 73 regulations except those that cannot apply for technical or other reasons. The *R&O* also addressed a wide range of other issues related to the implementation of the CBPA, including the protected service area of Class A stations, Class A interference protection requirements vis-a-vis other TV stations, common ownership restrictions applicable to Class A stations, and the treatment of modification applications filed by Class A licensees.

54. In this *MO&O,* we do not change most of the determinations made in the *R&O.* We do, however, adopt the following changes. We modify our main studio location requirements with respect to LPTV stations in a commonly owned group. We also clarified our definition of ''local programming'' with respect to LPTV stations in a commonly owned group. We permit Class A television stations that convert to digital operation to offer ancillary or supplementary services in the same manner as full power DTV stations. We clarify that Class A stations have the same limited must carry rights as LPTV stations, but do not have the same must carry rights as full service television stations under part 73 of the Commission's rules. To foster efficient spectrum utilization, we modify our decision regarding the use of carrier frequency offsets by Class A stations, by establishing a deadline for the required use of offsets and requiring the use of such offsets to accommodate, where possible, certain Class A and full-service NTSC station proposals.

Summary of Significant Issues Raised by Public Comments

55. No comments were received in response to the IRFA. Furthermore, no petitions or comments were received on the *R&O,* concerning the FRFA. Two petitioners, however, did file Petitions for Reconsideration raising concerns about the main studio staffing requirements. These petitioners advised that the Commission Class A staffing requirements were too costly. As a result of petitioners' comments, we clarified that the staffing standard does not necessarily require two full-time staff to be present at the main studio. Rather, management and staff presence are required on a full-time basis, which may consist of more than two people working on part-time bases. In addition, the Commission amended the main studio requirement so that commonly owned Class A stations having contiguous boundaries may share a single main studio. Further analysis of this issue may be found below in the section on minimizing significant impacts.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Apply

56. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules. 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 5 U.S.C. 601(3). 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). 15 U.S.C. 632.

57. *Small TV Broadcast Stations.* The SBA defines small television broadcasting stations as television broadcasting stations with $10.5 million or less in annual receipts. 13 CFR 121.201 (SIC Code 4833). The *MO&O* modifies certain rules applicable to Class A television licenses, which are available to licensees of qualifying LPTV stations. According to the Commission staff review of the BIA Publications, Inc., Master Access Television Analyzer Database, virtually all LPTV broadcast stations have revenues of less than $10.5 million. Currently, there are approximately 2,200 licensed LPTV stations. Public Notice, ''Broadcast Station Totals as [of] September 30, 1999'' (released November 22, 1999). The Commission notes, however, that under SBA's definition, revenues of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. The Commission's estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

58. We anticipate that the frequency offset requirement in the *MO&O* will result in changes to the reporting and recordkeeping requirements of Class A stations. When a Class A station begins operating with a frequency offset, it will be necessary for it to notify the Commission in writing.

Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.

59. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c)(1)–(4).

60. The R&O, adopted a number of rules designed to help LPTV stations seeking to convert to Class A status and exempts Class A licensees from part 73 rules that clearly could not apply, either due to technical differences in the operation of low-power and full-power stations, or for other reasons. Although the *R&O* applied the main studio rule for the first time to LPTV stations who qualify as Class A stations, requiring them to locate their main studios within the station's Grade B contour, as determined pursuant to the Commission's rules, the *R&O* grandfathers the main studios at the site in use as of November 28, 1999. As discussed, several petitioners expressed concern about the main studio requirement and its effect on small entities. Petitioners argued that the cost of the main studio staffing requirement, as adopted in the *R&O*, was financially prohibitive for small businesses and would result in the demise of Class A stations. This *MO&O* both clarifies and modifies the rules set forth in the *R&O*. These revisions work together to reduce both the staffing burden and the burden of maintaining multiple studios by permitting commonly owned LPTV stations having contiguous boundaries to share a main studio and staff. This alternative significantly reduces the costs associated with maintaining multiple studios and additional staff. In contrast the Commission could have merely clarified the staffing rule as set forth in the *R&O* and not modified the main studio location rule; however, the result works to benefit those small entities with multiple stations. Any further relaxation of the main studio rules would have been inconsistent with the intention and language of the CPBA which requires Class A stations to have a local presence and local programming.

61. In the *MO&O* we permit Class A television stations that convert to digital operation to offer ancillary or supplementary services in the same manner as full power DTV stations. A petitioner to the *R&O* requested a modification of the rules to allow such stations to offer telecommunications services on either an ancillary or supplemental basis in the event that the station decides to convert to DTV. We have complied with this request and have created an alternative for Class A stations which are interested in converting to digital operation. Since

this is optional, it in no way should be perceived as a requirement for Class A licensure or operation. Class A stations are not required to convert to DTV under the CBPA.

62. Lastly, we modify our decision regarding the use of carrier frequency offsets by Class A stations. We now require the use of frequency offsets to accommodate, where possible, certain Class A and full-service NTSC stations and, more generally, will require all Class A stations to specify operation with an offset within nine months of the release of this *MO&O*. In response to the *R&O*, two parties requested this modification in order to allow the stations to make more efficient use of scarce broadcast spectrum. These frequency offsets are of a nominal nature and if required, would result in the expenditure of modest financial resources. We believe that offset operations will greatly facilitate an increase in the number of Class A stations by maximizing use of the broadcast spectrum. The alternative, if we had not granted petitioners' requests, would have been to continue with the existing rule. Such a continuation would have resulted in fewer LPTV stations becoming Class A stations. Furthermore, this modification only affects those LPTV stations which choose to apply for a Class A license.

63. *Report to Congress:* The Commission will send a copy of the *MO&O*, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *MO&O*, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *MO&O* and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. See 5 U.S.C. 604(b).

VII. Ordering Clauses

64. Pursuant to authority contained in sections 1, 4(i), 303, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, and 336(f), part 73 of the Commission's rules, *are amended* as set forth.

65. The amendments set forth *shall be effective* May 31, 2001, except for 47 CFR 73.1545(e), which 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.

66. The petitions for reconsideration or clarification listed *are granted* to the extent provided herein and otherwise *are denied*.

67. The Motion for Acceptance of late-Filed Petition for Reconsideration, filed on June 12, 2000 by Larry L. Schrecongost, *is granted*.

68. The Emergency Petition for Extension of Time, filed on December 4, 2000 by John W. Smith, Jr., *is dismissed*.

69. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *MO&O*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

This proceeding is terminated.

List of Subjects in 47 CFR Part 73

Television, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons set forth in the preamble part 73 title 47 of the Code of Federal Regulations is amended to read as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

2. Section 73.1125 is amended by revising paragraph (c) to read as follows:

§ 73.1125 Station main studio location.

* * * * *

(c) Each Class A television station shall maintain a main studio at a location within the station's predicted Grade B contour, as defined in § 73.683 and calculated using the method specified in § 73.684. With respect to a group of commonly controlled stations, Class A stations whose predicted Grade B contours are physically contiguous to each other may locate their main studio within any of these contours. If a Class A station is one of a group of commonly controlled Class A stations, but its predicted Grade B contour is not physically contiguous to that of another Class A station in the commonly owned group, its main studio shall be located within its own predicted Grade B contour. Alternatively, a Class A television station shall maintain a main studio at the site used by the station as of November 29, 1999.

* * * * *

3. Section 73.1545 is amended by revising paragraph (e) and adding a note to paragraph (e) to read as follows.

§ 73.1545 Carrier frequency departure tolerances.

* * * * *

(e) *Class A TV stations.* The departure of the carrier frequency of Class A TV stations may not exceed the values specified in § 74.761 of this chapter. Provided, however, that Class A TV stations licensed to operate with a carrier offset, including those stations licensed with a maximum effective radiated power and/or antenna height greater than the values specified in their initial Class A TV station authorization, must comply with paragraph (c) of this section.

Note to paragraph (e): At a date not later than nine months after release of the Memorandum Opinion and Order on Reconsideration in MM Docket No. 00–10 (the proceeding that established the Class A TV service), all licensed Class A stations must operate with a carrier frequency offset. See *Memorandum Opinion and Order on Reconsideration*, In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 13, 2001.

4. Section 73.6000 is revised to read as follows:

§ 73.6000 Definitions.

Locally produced programming. For the purpose of this subpart, locally produced programming is programming:

(1) Produced within the predicted Grade B contour of the station broadcasting the program or within the contiguous predicted Grade B contours of any of the stations in a commonly owned group; or

(2) Programming produced at the station's main studio.

Note to § 73.6000: *See Report and Order,* In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 4, 2000; *Memorandum Opinion and Order on Reconsideration,* In the Matter of Establishment of a Class A Television Service, MM Docket No. 00–10, released April 13, 2001.

5. Section 73.6024 is amended by revising paragraph (c) to read as follows:

§ 73.6024 Transmission standards and system requirements.

* * * * *

(c) A Class A TV station must meet the offset carrier frequency and frequency tolerance provisions of § 73.1545 of this part.

6. Section 73.6026 is revised to read as follows:

§ 73.6026 Broadcast regulations applicable to Class A television stations.

The following rules are applicable to Class A television stations:

§ 73.603 Numerical designation of television channels.
§ 73.624(b), (c) and (g) Digital television broadcast stations. Section 73.624(b) will apply only to the extent that such stations must also transmit at least one over-the-air video program signal at no direct charge to viewers of the digital Class A station
§ 73.635 Use of common antenna site.
§ 73.642 Subscription TV service.
§ 73.643 Subscription TV operating requirements.
§ 73.644 Subscription TV transmission systems.
§ 73.646 Telecommunications Service on the Vertical Blanking Interval and in the Visual Signal.
§ 73.653 Operation of TV aural and visual transmitters.
§ 73.658 Affiliation agreements and network program practice; territorial exclusivity in non-network program arrangements.
§ 73.664 Determining operating power.
§ 73.665 Use of TV aural baseband subcarriers.
§ 73.667 TV subsidiary communications services.
§ 73.669 TV stereophonic aural and multiplex subcarrier operation.
§ 73.670 Commercial limits in children's programs.
§ 73.671 Educational and informational programming for children.
§ 73.673 Public information initiatives regarding educational and informational programming for children.
§ 73.688 Indicating instruments.
§ 73.691 Visual modulation monitoring.

[FR Doc. 01–10706 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 042501D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season amount of the Pacific cod total allowable catch (TAC) apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 26, 2001, until 1200 hrs, A.l.t., June 10, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

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

The 2001 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA is 1,098 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season amount of the Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 948 mt, and is setting aside the remaining 150 as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2001 A season Pacific cod TAC specified for the offshore component constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2001 A season Pacific cod TAC specified for the offshore component constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: April 25, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–10784 Filed 4–26–01; 4:30 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; I.D. 042601A]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 2001 Pacific halibut bycatch allowance specified for the trawl yellowfin sole fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 26, 2001, until 1200 hrs, A.l.t., May 21, 2001.

ADDRESSES: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the

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

The second seasonal apportionment of the 2001 halibut bycatch allowance specified for the BSAI trawl yellowfin sole fishery category, which is defined at § 679.21(e)(3)(iv)(B)(1), is 196 metric tons through May 20 (66 FR 7276, January 22, 2001).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2001 halibut bycatch allowance specified for the trawl yellowfin sole fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the halibut bycatch allowance for the yellowfin sole fishery category constitutes good cause to waive the requirement to provide prior notice opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A) as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the halibut bycatch allowance for the yellowfin sole fishery category constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 26, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–10864 Filed 4–26–01; 4:30 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 84
Tuesday, May 1, 2001

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.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1604

Uniformed Services Accounts

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) proposes to add a new part to its regulations explaining the rules under which members of the uniformed services can participate in the Thrift Savings Plan (TSP).

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Comments may be sent to Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest at (202) 942–1661.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA have been codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479. The TSP is a tax-deferred retirement savings plan for Federal employees which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The National Defense Authorization Act for Fiscal Year 2000, Public Law 106–65, 113 Stat. 512, as amended by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, 114 Stat. 1654, extended the opportunity to participate in the TSP to uniformed services members. The uniformed services include the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration. Therefore, beginning on October 9, 2001, uniformed services members can elect to contribute to the TSP, with contributions to commence in January 2002. Generally, uniformed services members are covered by the TSP regulations found at 5 CFR chapter VI. However, uniformed services members will contribute to the TSP under rules that differ substantially from those that apply to civilian accounts; this proposed rule supplements TSP regulations to explain those differences.

Analysis

An eligible employee elects to contribute to the TSP by making a contribution election within 60 days after appointment to a TSP-eligible position or during a TSP open season, as described at 5 CFR part 1600. Proposed § 1604.3 supplements part 1600 by explaining special open season rules for uniformed services members and by describing the initial uniformed services open season to begin October 9, 2001, and to end January 31, 2002. Proposed § 1604.4 further supplements part 1600 by explaining special uniformed services contribution rules, most notably those allowing TSP contributions from incentive and special pay (including bonuses), and contributions from pay that is not subject to Federal income taxation. Uniformed services accounts thereby differ from civilian accounts, which consist solely of contributions from basic pay that is subject to Federal income taxation; to account for these differences, the TSP will maintain separate uniformed services and civilian accounts, as described in proposed§ 1604.5.

The TSP error correction regulations are codified at 5 CFR part 1605. Proposed § 1604.6 explains a special error correction rule that will apply if a uniformed services employing agency fails to deduct a TSP contribution from bonus pay. Under the standard error correction procedures, a participant can establish a schedule of makeup contributions to replace the missed contribution through future payroll deductions. That schedule may not exceed four times the number of pay periods over which the error occurred. Because bonuses are paid in a single monthly pay period, current procedures would limit to four months the schedule of makeup contributions relating to a missed bonus contribution. The Board believes that four months is insufficient time to replace a bonus contribution because the dollar amount of the bonus might exceed the uniformed services member's monthly basic pay. Therefore, proposed § 1604.6 allows a schedule of makeup contributions of up to four times the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution.

The regulations codified at 5 CFR parts 1650, 1651, and 1655 govern TSP withdrawals, death benefits, and loans, respectively. Proposed §§ 1604.7, 1604.8, and 1604.10 supplement those regulations. Proposed § 1604.7(d) provides for a uniformed services member to use the definition of separation from service found at proposed § 1604.2 to determine whether he or she is eligible for a withdrawal under part 1650. Other provisions of those sections call for participants to use separate forms for uniformed services and civilian accounts, describe the spousal rights applicable to uniformed services members, and explain how non-taxable sums are treated differently from taxable sums when they are distributed from the TSP.

Under 5 CFR part 1653, a TSP account can be divided in an action for divorce, annulment, or legal separation, and is subject to legal process relating to child support, alimony, or child abuse. Proposed § 1604.9 supplements the part 1653 regulations. Proposed § 1604.9(a) pertains to participants for whom the TSP maintains both a uniformed services account and a civilian account, and states that a court order or legal process must expressly state from which account(s) payment is to be made. Proposed §§ 1604.9(b) and (c) explain how non-taxable sums are treated differently from taxable sums when they are paid from the TSP pursuant to a court order or legal process.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

List of Subjects in 5 CFR Part 1604

Employment benefit plans, Government employees, Military personnel, Pensions, Retirement.

For the reasons set out in the preamble, the Board proposes to add a new 5 CFR part 1604 to read as follows:

PART 1604—UNIFORMED SERVICES ACCOUNTS

Sec.
1604.1 Applicability.
1604.2 Definitions.
1604.3 Contribution elections.
1604.4 Contributions.
1604.5 Separate service member and civilian accounts.
1604.6 Error correction.
1604.7 Withdrawals.
1604.8 Death benefits.
1604.9 Court orders and legal processes.
1604.10 Loans.

Authority: 5 U.S.C. 8474(b)(5) and (c)(1); sec. 661(b), Pub. L. 106–65, 113 Stat. 512, 672 (5 U.S.C. 8440e).

§ 1604.1 Applicability.

This part describes the special features of TSP participation applicable to members of the uniformed services. Uniformed services members are also covered by the other regulations of 5 CFR chapter VI to the extent they do not conflict with the regulations of this part.

§ 1604.2 Definitions.

As used in this part:

Basic pay means basic pay payable under 37 U.S.C. 204 and compensation received under 37 U.S.C. 206.

Bonus contributions means contributions made by participants from a bonus as defined in 37 U.S.C. chapter 5.

Civilian account means the account to which contributions have been made by or on behalf of a civilian employee.

Civilian employee means a TSP participant covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or equivalent retirement plans.

Combat zone compensation means compensation received for active service during a month in which a member of the Armed Forces serves in a combat zone.

Combat zone contributions means employee contributions that are made from compensation subject to the Federal income tax exclusion at 26 U.S.C. 112 for combat zone compensation.

Employee contributions means contributions made by participants from basic pay, incentive pay, and special pay (including bonuses).

Employing agency means the organization that employs an individual who is eligible to contribute to the TSP and that has authority to make compensation decisions for that employee.

Federal civilian retirement system means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, or any equivalent Federal civilian retirement system.

Periodic contributions means employee contributions made from recurring incentive pay and special pay (including bonuses) as defined in 37 U.S.C. chapter 5.

Ready Reserve means those members of the uniformed services described at 10 U.S.C. 10142.

Regular contributions means employee contributions made from basic pay.

Separation from service means a transfer to inactive status or to a retired list pursuant to a provision of title 10, United States Code, or a release from active duty that is not followed within 31 full calendar days by a resumption of active duty.

Service member means a member of the uniformed services on active duty or a member of the Ready Reserve in any pay status.

Service member account means the account to which contributions have been made by or on behalf of a member of the uniformed services.

Special and incentive pay means pay payable as special or incentive pay under 37 U.S.C. chapter 5.

TSP record keeper means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. The TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

Uniformed services means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

§ 1604.3 Contribution elections.

A service member may make contribution elections as described in 5 CFR part 1600, with the following exceptions:

(a) *Initial uniformed services open season.* A service member may make a contribution election during an initial uniformed services TSP open season beginning October 9, 2001, and ending January 31, 2002. Contributions based on an election made on or before December 31, 2001, will be deducted from pay the first full pay period of January 2002; elections made in January 2002 will be effective during the first full pay period after the election is received.

(b) *New service members.* An individual who is appointed as a service member may make a TSP contribution election within 60 days after the effective date of the appointment; contributions based on such an election will be made during the first full pay period after the election is received.

(c) *Conversion between active duty and Ready Reserve status.* A service member who converts from Ready Reserve status to active duty status (for more than 30 days), or who converts from active duty to Ready Reserve status, may make a TSP contribution election within 60 days after the effective date of the conversion; contributions based on such an election will be made during the first full pay period after it is received.

(d) *TSP open season elections.* In addition to being able to make a contribution election during the periods described in paragraphs (a) through (c) of this section, as applicable, a service member may make a contribution election during any TSP open season thereafter (as described at 5 CFR part 1600, subpart B).

(e) *Source of contributions.* A service member may elect to contribute sums to the TSP from basic pay, incentive pay, and special pay (including bonuses). Except for an election to contribute from bonuses, all contribution elections must be made during one of the periods described in paragraphs (a) through (d) of this section. An election pertaining to a bonus contribution may be made before the service member receives the bonus pay; however, the service member must be making a regular contribution in order to make a bonus contribution. A service member may elect to contribute from special or incentive pay (including bonuses) in anticipation of receiving such pay (that is, he or she does not have to be receiving the special pay or incentive pay when the contribution election is made); those elections will take effect

when the service member receives the special or incentive pay.

§ 1604.4 Contributions.

(a) *Employee contributions.* Subject to the regulations at 5 CFR part 1600 and the following limitations, a service member may make regular contributions to the TSP from basic pay. If the service member makes regular contributions, he or she also may contribute all or a portion of incentive pay and special pay (including bonuses) to the TSP:

(1) *Temporary percentage limitations.* Subject to paragraph (a)(2) of this section, the maximum service member TSP regular employee contribution (including combat zone contributions) for 2001 is 6 percent of basic pay per pay period. The maximum contribution will increase one percent a year until 2005, after which the percentage of basic pay limit will not apply and the maximum contribution will be limited only as provided in paragraph (a)(2) of this section.

(2) *Internal Revenue Code limitations.* The dollar amount of TSP employee contributions is limited by three different provisions of the Internal Revenue Code (I.R.C.). If a service member's employee contributions exceed any of these limitations, the service member may request a refund of employee contributions (and associated earnings) from the TSP on the form titled ''Request for Return of Excess Employee Contributions to Participant,'' which can be obtained from the TSP record keeper. The completed form must be returned to the TSP record keeper by February 20 of the year after the excess contributions were made.

(i) *Limit on elective deferrals.* Section 402(g) of the I.R.C. (26 U.S.C. 402(g)) places a dollar limit on the amount a person may save on a tax-deferred basis through retirement savings plans. (The limit is periodically adjusted by the Internal Revenue Service; it is $10,500 in 2001.) The TSP will not accept any employee contributions that exceed the I.R.C. section 402(g) limit. If a service member contributes to a civilian TSP account or to another qualified employer plan described at I.R.C. sections 401(k), 403(b), or 408(k) (26 U.S.C. 401(k), 403(b), or 408(k)), and the total employee contributions from taxable income made to all plans exceed the I.R.C. section 402(g) limit, he or she may request a refund of employee contributions from the TSP to conform with the limit. (Combat zone contributions are not taken into consideration when determining the application of the I.R.C. section 402(g) limit.)

(ii) *Section 457 limit.* If a service member contributes to the TSP and to a plan described at I.R.C. section 457 (26 U.S.C. 457) (generally, a deferred compensation plan for a state or local government or tax-exempt organization), the total amount the service member may contribute to all tax-deferred savings plans cannot exceed the dollar limit found at section 457(c)(as opposed to the I.R.C. section 402(g) limit described in paragraph (a)(2)(i) of this section). (The limit is periodically adjusted by the Internal Revenue Service; it is $8,500 in 2001.) A service member who contributes to a section 457 plan should consult that plan's administrator concerning any limit on the amount he or she can also contribute to the TSP. (Combat zone contributions are not taken into consideration when determining the application of the I.R.C. section 457(c) limit.)

(iii) *Limit on contributions to qualified plans.* Section 415(c) of the I.R.C. (26 U.S.C. 415(c)) also places an annual limit on the combined amount that can be contributed to the TSP and to other Federal civilian retirement systems (as defined in § 1604.2). (The limit is periodically adjusted by the Internal Revenue Service; it is the lesser of 25 percent of compensation or $35,000 in 2001.) For purposes of applying this limit, compensation includes combat zone compensation. In implementation of this law, no employee contribution may be made to the TSP for any year to the extent that the sum of the employee's contributions to the TSP and to a Federal civilian retirement system, when added to the employer's contributions to the TSP for that year, would exceed the I.R.C. section 415(c) limit. (If a service member contributes to a civilian TSP account and to a service member TSP account in a single calendar year, the annual limit on contributions will be derived from the participant's combined service member and civilian compensation.) Combat zone contributions are taken into consideration when determining the application of the I.R.C. section 415(c) limit.

(b) *Matching contributions.* When the Secretary of a military department (i.e., the Army, Navy and Air Force) authorizes matching contributions for a service member, the service member's regular contributions will be matched dollar-for-dollar on the first three percent of basic pay contributed to the TSP, and 50 cents on the dollar on the next two percent of basic pay contributed. Matching contributions only apply to regular contributions. Matching contributions are not taken into consideration when determining the application of the contribution limits found at I.R.C. sections 402(g) and 457 (described in paragraphs (a)(2)(i) and (a)(2)(ii) of this section, respectively), but they are taken into consideration when determining the application of the contribution limit found at I.R.C. section 415 (described in paragraph (a)(2)(iii) of this section).

(c) *Deduction and transmittal of contributions.* A service member's employing agency will deduct regular contributions from the service member's basic pay each pay period based on his or her contribution election and will transmit the contributions to the TSP. If a service member also elects to make periodic contributions to the TSP, the employing agency must deduct (and transmit to the TSP) these contributions from the service member's incentive pay or special pay (including bonuses), as applicable.

§ 1604.5 Separate service member and civilian accounts.

(a) *Separate accounts.* Service member accounts are maintained separately from civilian accounts. Therefore, service members making both civilian and uniformed services TSP contributions will have two TSP accounts. For those participants, the accounts are treated separately except in the following circumstances:

(1) If a participant contributes to a service member account and a civilian account, the contributions to both accounts together cannot exceed the Internal Revenue Code contribution limits described in § 1604.4(a)(2).

(2) An active duty member of the uniformed services may obtain a loan from his or her account, as described at § 1604.10, and the loan will be disbursed from the uniformed services account. If the TSP maintains a service member account and a civilian account for an individual, the TSP will calculate the Internal Revenue Code maximum loan amount using both account balances, as described in § 1604.10(a)(3).

(b) *Transfers between TSP accounts.* Service member and civilian TSP account balances may be combined through a transfer (thus producing one account), and the transferred funds will be treated as employee contributions and otherwise invested as described at 5 CFR part 1600. Transfers under this section are subject to the following rules:

(1) An account balance can be transferred once the TSP is informed (by the participant's employing agency) that the participant has separated from either civilian or uniformed services employment.

(2) Combat zone contributions may not be transferred from a uniformed services TSP account to a civilian TSP account.

(3) Transferred funds will be allocated among the TSP's investment funds according to the contribution allocation in effect for the gaining account.

(4) If a service member's account balance exceeds $3,500, the service member must obtain the consent of his or her spouse before transferring the balance into a civilian account. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(5) Before the transfer can be accomplished, any outstanding loans from the account to be transferred must be closed as described in 5 CFR part 1655.

§ 1604.6 Error correction.

(a) *General rule.* A service member's employing agency must correct the service member's account if, as the result of employing agency error, a service member does not receive the TSP contributions to which he or she is entitled. Except as provided in paragraph (b) of this section, those corrections must be made in accordance with 5 CFR part 1605.

(b) *Missed bonus contributions.* This paragraph (b) applies when an employing agency fails to implement a contribution election that was properly submitted by a service member requesting that a TSP contribution be deducted from bonus pay. Within 30 days of receiving the employing agency's acknowledgment of the error, a service member may establish a schedule of makeup contributions with his or her employing agency to replace the missed contribution through future payroll deductions. These makeup contributions can be made in addition to any TSP contributions that the service member is otherwise entitled to make.

(1) The schedule of makeup contributions may not exceed four times the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution. For example, a service member who earns $29,000 yearly in basic pay and who missed a $2,500 bonus contribution to the TSP can establish a schedule of makeup contributions with a maximum duration of 8 months. This is because it takes the service member 2 months to earn $2,500 in basic pay (at $2,416.67 per month).

(2) At its discretion, an employing agency may set a ceiling on the length of a schedule of employee makeup contributions. The ceiling may not, however, be less than twice the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution.

§ 1604.7 Withdrawals.

A service member may withdraw all or a portion of his or her account under the rules in 5 CFR part 1650, with the following exceptions:

(a) *Separate accounts.* If the TSP maintains a service member account and a civilian account for an individual, a separate withdrawal request must be made for each account.

(b) *Spousal rights.* The spouse of a service member participant has the same TSP spousal rights as the spouse of a civilian participant covered under the Federal Employees' Retirement System; those spousal rights in the context of a withdrawal (and the process by which a service member may obtain an exception to them) are explained at 5 CFR part 1650.

(c) *Combat zone contributions.* If a service member account contains combat zone contributions, the withdrawal will be distributed *pro rata* from all sources. If a participant requests the TSP to transfer all, or a portion, of a withdrawal to an Individual Retirement Account (IRA) or other eligible retirement plan, the *pro rata* share of the withdrawal attributable combat zone contributions (if any) cannot be transferred.

(d) *Separation.* The definition of separation from service at § 1604.2 applies when determining a service member's eligibility for a withdrawal.

§ 1604.8 Death benefits.

The account balance of a deceased service member will be paid as described at 5 CFR part 1651, with the following exceptions:

(a) *Separate accounts.* To designate a beneficiary for a TSP death benefit, a service member must file a valid beneficiary designation form. If the TSP maintains a service member account and a civilian account for an individual, a separate beneficiary designation form must be filed for each account.

(b) *Combat zone contributions.* If a service member account contains combat zone contributions, the death benefit payment will be made *pro rata* from all sources.

(c) *Trustee-to-trustee transfers.* The surviving spouse of a TSP participant can request the TSP to transfer a death benefit payment to an Individual Retirement Account (IRA); the *pro rata* share attributable to combat zone contributions (if any) cannot be transferred.

§ 1604.9 Court orders and legal processes.

A TSP account can be divided in an action for divorce, annulment, or legal separation, and is subject to legal process relating to child support, alimony, or child abuse. The TSP will make a payment from a service member's account under such orders or processes as described at 5 CFR part 1653, with the following exceptions:

(a) *Separate accounts.* To qualify for enforcement against the TSP, a court order or legal process must expressly relate to the TSP. Therefore, if the TSP maintains a service member account and a civilian account for an individual, a qualifying court order or legal process must expressly state from which account payment is to be made.

(b) *Combat zone contributions.* If a service member account contains combat zone contributions, the payment will be made *pro rata* from all sources.

(c) *Trustee-to-trustee transfers.* The current or former spouse of a TSP participant can request the TSP to transfer a court-ordered payment to an Individual Retirement Account (IRA) or other eligible retirement plan; the *pro rata* share attributable to combat zone contributions (if any) cannot be transferred.

(d) *Transfer to a TSP account.* If the TSP maintains an account for a court order payee who is the current or former spouse of the participant, the payee can request the TSP to transfer the court-ordered payment to the payee's TSP account; the *pro rata* share attributable to combat zone contributions (if any) cannot be transferred.

§ 1604.10 Loans.

A service member may be eligible for a TSP loan as described at 5 CFR part 1655, with the following exceptions:

(a) *Separate accounts.* If the TSP maintains a service member account and a civilian account for an individual:

(1) A separate loan application must be made for each account;

(2) A participant may have no more than two loans outstanding from each account at any time; one loan from each account may be a loan for the purchase of a primary residence;

(3) The Internal Revenue Code maximum loan amount test, which is described in 5 CFR part 1655, will be applied using the combined balances in both TSP accounts; and

(4) Separate TSP loan statements will be issued for each account.

(b) *Spousal rights.* Before a loan agreement is approved for a service member account, the participant's

spouse must consent to the loan by signing the loan agreement. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(c) *Combat zone contributions.* If a service member account contains combat zone contributions, the loan will be distributed *pro rata* from all sources; loan repayments will be credited on a similar *pro rata* basis. If a loan is declared a taxable distribution, the *pro rata* share of the loan attributable to combat zone contributions (if any) will not be reported as taxable income to the participant.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 01–10698 Filed 4–30–01; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–72–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2; A300 B4; A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600); A310; A319; A320; A321; A330; and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 B2; A300 B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; A319; A320; A321; A330; and A340 series airplanes. This proposal would require replacement of Labinal actuators in certain powered cockpit seats by new improved actuators. This action is necessary to prevent uncommanded horizontal movement of the cockpit seats or loss of ability to lock the seats in place during flight, which could limit the ability of the crew to perform necessary tasks, leading to reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 31, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–72–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–72–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from SOGERMA Z.I. de l'arsenal, BP. 109–17303 Rochefort Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–72–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–72–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Airbus Model A300 B2; A300 B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; A319; A320; A321; A330; and A340 series airplanes, equipped with certain powered cockpit seats manufactured by SOGERMA. The DGAC advises that there have been incidents of uncommanded horizontal movement of the seats during flight. Investigation indicated that these incidents were due to broken Labinal actuators for the electric brake on the seats. This condition, if not corrected, could result in uncommanded movement of the cockpit seats or loss of ability to lock the seats into place during flight, which could limit the ability of the crew to perform necessary tasks, leading to reduced controllability of the airplane.

Explanation of Relevant Service Information

SOGERMA has issued Service Bulletin SB TAAI2–25–402, Revision 1, dated December 21, 2000, which describes procedures for replacement of the Labinal actuators in the cockpit seats with new improved actuators. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2000–524(B), dated December 27, 2000, in order to

assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness 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 this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 548 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would be provided at no cost to the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $131,520, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figure 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 proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Airbus Industrie: Docket 2001–NM–72–AD.

Applicability: Model A300 B2; A300 B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); A310; A319; A320; A321; A330; and A340 series airplanes; certificated in any category; equipped with powered cockpit seats manufactured by SOGERMA and having the serial numbers listed in SOGERMA Service Bulletin SB TAAI2–25–402, Revision 1, dated December 21, 2000.

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 (c) 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 uncommanded horizontal movement of the cockpit seats or loss of ability to lock the seats into place during flight, which could limit the ability of the crew to perform necessary tasks, leading to reduced controllability of the airplane, accomplish the following:

Replacement

(a) Within 6 months after the effective date of this AD: Remove Labinal actuators having part number (P/N) 4136290003 and replace them with Labinal actuators having P/N 4136290004 or 4136290005 or AVIAC actuators having P/N 6147–6, in accordance with SOGERMA Service Bulletin SB TAAI2–25–402, Revision 1, dated December 21, 2000.

Spares

(b) As of the effective date of this AD, no person shall install a powered cockpit seat which has a Labinal actuator having P/N 4136290003 on any airplane.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–524(B), dated December 27, 2000.

Issued in Renton, Washington, on April 24, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10724 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–380–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, –320, –500, and ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Aerospatiale Model ATR42–200, –300, –320, –500, and ATR72 series airplanes. This proposal would require a revision of the Airplane Flight Manual to add instructions that prohibit the flightcrew from selecting the reverse position on the engines in the event of propeller thrust dissymmetry. This action is necessary to ensure that the flightcrew is advised of the hazard associated with selecting reverse thrust during propeller thrust dissymmetry, which could result in reduced controllability of the airplane during landing. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 31, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–380–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–380–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–NM–380–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2000–NM–380–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Aerospatiale Model ATR42–200, –300, –320, –500, and ATR72 series airplanes. The DGAC advises of an incident in which a Model ATR42–320 series airplane swerved off the runway. At the time of the incident, the ''low pitch'' condition was not equally effective for both engines. The resulting propeller thrust dissymmetry, combined with the flightcrew's concurrent selection of reverse thrust, resulted in the reduced controllability of the airplane during landing.

The design of Model ATR42 and ATR72 series airplanes is similar, and these airplanes incorporate similar equipment including engines and propellers; therefore, these airplanes are subject to the identified unsafe condition.

FAA's Determination

In light of this information, the FAA finds that certain procedures should be amended in the FAA-approved airplane flight manual (AFM) for the affected airplanes prohibiting the flightcrew from selecting the reverse position on the engines in the event of propeller thrust dissymmetry. We have determined that the current AFMs for these airplanes do not adequately define such procedures.

The DGAC has mandated this AFM revision and issued French airworthiness directives 2000–436–080(B) and 2000–437–052(B), both dated October 18, 2000, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type-certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept us informed of the situation described above. We have examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of the Proposed AD

We have identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing to adopt this AD, which

would require revising the Normal Procedures section of the AFM.

Cost of Compliance

We estimate that this AD would affect 69 airplanes of U.S. registry. The proposed actions would take approximately 1 work hour per airplane, at an average labor rate of $60 per work hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $4,140, or $60 per airplane.

We base these cost estimates on assumptions that no operator has yet done any of the actions in this proposed AD, and that no operator would do those actions in the future unless this proposed AD is adopted. The cost figures discussed in AD rulemaking actions represent only the time necessary to do the specific actions required by the AD. These figures typically do not include incidental costs, such as the time required for access and close, or for planning or other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Aerospatiale: Docket 2000–NM–380–AD.

Applicability: All Model ATR42–200, –300, –320, –500, and ATR72 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flightcrew is advised of the hazard associated with selecting reverse thrust during propeller thrust dissymmetry, which could result in reduced controllability of the airplane during landing, accomplish the following:

Revision of Airplane Flight Manual (AFM)

(a) Within 5 days after the effective date of this AD, revise the Normal Procedures section of the FAA-approved AFM, under ''APPROACH AND LANDING,'' to include the following. This may be accomplished by inserting a copy of this AD into the AFM.

''NORMAL LANDING

- After nose wheel touchdown

Both PL—GI
Both LO PITCH lights—Check illuminated

CAUTION: If a thrust dissymmetry occurs or if one LO PITCH light is not illuminated, the use of any reverse is not allowed.''

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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 2: French airworthiness directives 2000–436–080(B) and 2000–437–052(B), both dated October 18, 2000, also address the subject of this AD.

Issued in Renton, Washington, on April 24, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10725 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–367–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes. This proposal would require initial and repetitive inspections of certain areas of the wing spars to detect cracking or corrosion; and follow-on corrective actions and repair, if necessary. This proposal is prompted by reports of cracks and corrosion in the upper chord of the front and rear spars of the wing and reports of cracks propagating from previously repaired areas. The actions specified in the proposed AD are intended to detect and correct such cracking or corrosion of the upper and lower chords of the wing spars, which could result in reduced structural integrity of the wing.

DATES: Comments must be received by June 15, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), ANM–114, Attention: Rules Docket No. 99–NM–367–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 99–NM–367–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Nenita Odesa, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2557; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–367–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–367–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received numerous reports of cracking and corrosion in the upper chord of both the front and rear spars of the wing. Cracks were reported by 18 operators in the upper and rear spar chord on 38 airplanes. In addition, 5 operators reported cracks propagating from repairs that were accomplished previously on 6 airplanes per Boeing Service Bulletin 737–57–1067, Revision 3, dated May 24, 1990, or earlier revisions. Findings indicate that 2 of those cracks were found in the front spar upper chord, and 4 cracks in the rear spar upper chord. Corrosion also was found in the external surfaces of the upper and lower chords of the front and rear spars on 64 airplanes. Such cracking and corrosion, if not corrected, could result in reduced structural integrity of the wing.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–57–1067, Revision 4, dated November 7, 1991. Revision 4 adds initial and repetitive inspections for airplanes on which a previous repair to the upper chord of the front or rear spar was made per Revision 3, or earlier revisions, of the service bulletin. Revision 4 includes the following procedures:

- An initial (detailed) visual inspection for cracks of the external surfaces of the upper and lower chords of the front spar outboard of the engine nacelle, upper and lower chords of the rear spar, and the lower chord of the front spar inboard of the engine nacelle.
- An initial eddy current inspection for cracks of the external surfaces of the vertical legs of the upper chords of the front and rear spars.
- Repetitive close (detailed) visual inspections for cracks and corrosion of the external surfaces of the upper and lower chords of the front and rear spars.
- Repetitive eddy current inspections for cracks of the external surfaces of the vertical legs of the upper chords of the front and rear spars.
- Follow-on corrective actions that include cleaning the exposed front and rear spar cavities, removing corrosion by blending out the damaged surface areas, and applying a corrosion-inhibiting compound to the accessible areas of the upper and lower chords of the front and rear spars.
- Crack and corrosion repair that includes removing corrosion; inspecting the rework area for cracks, and repairing any cracks found in the specific chord surfaces of the front and rear spars, which includes installing a nesting angle if necessary and refinishing the blend out area; and applying a corrosion-inhibiting compound.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that this proposed AD differs from the service bulletin in that it would NOT allow the following actions:

1. Repair of certain damage (that exceeds the limits specified in the service bulletin) to be accomplished by contacting Boeing for repair instructions; rather, it would require that such repairs be accomplished per a method approved by the FAA.
2. Flight with a horizontal crack in the upper chords of the front or rear spars; rather, it would require repair per a method approved by the FAA.
3. ''Close visual inspections''; rather, it would require ''detailed visual inspections.'' A note has been added following paragraph (a) of this proposed AD to clarify this.

Operators also should note that Part II of the service bulletin does not include repair procedures if a horizontal crack is found in the upper chords of the front or rear spars. However, paragraph (d)(3) of this proposed AD requires repair of such cracking per a method approved by the FAA, as cited in paragraph (f) of this AD.

Operators also should note that the service bulletin specifies initial detailed visual and eddy current inspections ''upon the accumulation of 20 years airframe age or within 1 year after receipt of Revision 3 of the service bulletin.'' However, since all airplanes in the applicability of this AD are over 20 years old, the FAA has determined that it is unnecessary to include the specification for the airframe age in this proposed AD.

Clarification of Action Required for Previous Repair

The Accomplishment Instructions of the previously referenced service bulletin do not specifically include procedures for repetitive eddy current inspections for airplanes on which a previous repair to the upper chord of the front or rear spar was made per Boeing Service Bulletin 737–57–1067, Revision 3, or earlier revisions. However, such action is specified in the service bulletin in an ''Action'' paragraph of the Summary, and in paragraph C., ''Description.'' Paragraphs (d)(3), (d)(4)(ii), and (e) of this AD specify repair per a method approved by the FAA, which is cited in paragraph (f) of this AD.

Cost Impact

There are approximately 168 Boeing Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 45 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 30 work hours per airplane to do the initial detailed visual and eddy current inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the initial inspections on U.S. operators is estimated to be $81,000, or $1,800 per airplane.

The FAA estimates that it would take approximately 30 work hours per airplane to do the repetitive inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $81,000, or $1,800 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would do those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Boeing: Docket 99–NM–367–AD.

Applicability: Model 737 series airplanes, line numbers 1 through 310 inclusive, and 323; 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 per paragraph (g) 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 detect and correct cracking or corrosion of the upper and lower chords of the front and rear spars of the wing, which could result in reduced structural integrity of the wing, do the following:

Initial Detailed Visual and Eddy Current Inspections (Part I)

(a) Within 12 months after the effective date of this AD: Do an initial detailed visual inspection to detect cracking or corrosion of the upper and lower chords of the front and rear spars, and an eddy current inspection to detect cracking of the vertical legs of the upper chords of the front and rear spars, per Part I of the Accomplishment Instructions of Boeing Service Bulletin 737–57–1067, Revision 4, dated November 7, 1991. Before further flight following the inspections, do the follow-on corrective actions required by paragraph (d) of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive 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 an intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Repetitive Detailed Visual and Eddy Current Inspections (Part II)

(b) Repeat the initial detailed visual inspection required by paragraph (a) of this AD at intervals not to exceed 12 months per Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–57–1067, Revision 4, dated November 7, 1991. Before further flight following the inspection, do the follow-on corrective actions required by paragraph (d) of this AD.

(c) Repeat the initial eddy current inspection required by paragraph (a) of this AD at intervals not to exceed 48 months per Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–57–1067, Revision 4, dated November 7, 1991. Before further flight following the inspection, do the follow-on corrective actions required by paragraph (d) of this AD.

Follow-on Corrective Actions (Parts I, II, and III)

(d) Do the follow-on corrective actions (including cleaning spar cavities, removing corrosion, and applying corrosion-inhibiting compound) required by paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this AD, as applicable.

(1) If no cracking or corrosion is found, apply a corrosion-inhibiting compound to the accessible areas of the upper and lower chords of both the front and rear spars per Part I or Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–57–1067, Revision 4, dated November 7, 1991, as applicable.

(2) If any corrosion is found, repair per Part III of the Accomplishment Instructions of Boeing Service Bulletin 737–57–1067, Revision 4, dated November 7, 1991.

(3) If a horizontal crack is found in the upper chords of the front or rear spars, repair per paragraph (f) of this AD.

(4) If any cracking is found other than that identified in paragraph (d)(3) of this AD, repair per paragraph (d)(4)(i) or (d)(4)(ii) of this AD, as applicable.

(i) If damage of the chords of the front or rear spar is within the limits specified in the service bulletin, before further flight, repair per Part III of the Accomplishment Instructions of Boeing Service Bulletin 737–57–1067, Revision 4, dated November 7, 1991.

(ii) If damage of the chords of the front or rear spar exceeds the limits specified in the service bulletin, before further flight, repair per paragraph (f) of this AD.

Initial and Repetitive Eddy Current Inspections of Previous Repairs

(e) For airplanes on which a previous repair to the upper chord of the front or rear spar was made per Boeing Service Bulletin 737–57–1067, Revision 3, dated May 24, 1990, or earlier revisions: Within 12 months after the effective date of this AD, do an eddy current inspection of the repair area to detect cracking per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Repeat this inspection thereafter at intervals not to exceed 12

months. If any discrepancy is found, before further flight, repair per paragraph (f) of this AD. For a repair method to be approved by the Manager, SACO, as required by this paragraph, the approval letter must specifically reference this AD.

Repair

(f) Repair (including removing corrosion; inspecting the rework area for cracks; refinishing the blend-out area; installing a nesting angle repair; and applying chemical film treatment, primer, sealant, and corrosion-inhibiting compound) any discrepancy specified in paragraphs (d)(3), (d)(4)(ii), and (e) of this AD, per a method approved by the Manager, Seattle ACO; or per data meeting the type certification basis of the airplane approved by a Boeing Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

Alternative Methods of Compliance

(g) 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, Seattle ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permit

(h) Special flight permits may be issued per §§ 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.

Issued in Renton, Washington, on April 24, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10729 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–211–AD]

RIN 2120–AA64

Airworthiness Directives; BAe Systems (Operations) Limited Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain BAe Systems (Operations) Limited Model Avro 146–RJ series airplanes. This proposal would require modification of the passenger service units. This action is necessary to prevent failure of the passenger service units to deliver oxygen to the passengers in the event of decompression of the airplane, which could result in injury to the passengers. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 31, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–211–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–211–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–NM–211–AD.'' The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2000–NM–211–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for, notified the FAA that an unsafe condition may exist on certain BAe Systems (Operations) Limited Model Avro 146–RJ series airplanes. The CAA advises that the current design of the support lanyards on the passenger service units (PSUs) could restrict operation of the oxygen generator drop-down lids. Failure of the PSUs to deliver oxygen to the passengers in the event of decompression of the airplane could result in injury to the passengers.

Relevant Service Information

The manufacturer has issued BAe Systems (Operations) Limited Service Bulletin SB.25–418–36215A, dated

April 5, 2000; and Revision 1, dated October 17, 2000. The service bulletin describes procedures for modifying the PSUs. The modification involves relocating the lanyard from the third attachment lug (next to the speaker installation) to the end attachment lug on the PSUs. These actions are intended to adequately address the unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 004–04–2000 to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that this AD would affect 40 airplanes of U.S. registry. The proposed actions would take approximately 5 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would be provided at no cost to the operators. Based on these figures, the FAA estimates the cost of the proposed AD on U.S. operators to be $12,000, or $300 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed 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 proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket 2000–NM–211–AD.

Applicability: Model Avro 146–RJ series airplanes, certificated in any category, as listed in BAe Systems (Operations) Limited Service Bulletin SB.25–418–36215A, Revision 1, dated October 17, 2000.

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 failure of the passenger service units (PSUs) to deliver oxygen to the passengers in the event of decompression of the airplane, which could result in injury to the passengers, accomplish the following:

Modification

(a) Within 90 days after the effective date of this AD, modify the PSUs by relocating the lanyard, in accordance with BAe Systems (Operations) Limited Service Bulletin SB.25–418–36215A, dated April 5, 2000; or Revision 1, dated October 17, 2000.

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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in British airworthiness directive 004–04–2000.

Issued in Renton, Washington, on April 24, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10728 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 24, 101

RIN 1515–AC63

User and Navigation Fees; Other Reimbursement Charges

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations regarding the proper assessment of user and navigation fees, as well as other reimbursement charges for Customs services performed in connection with, among other things, the processing of vehicles, vessels, aircraft and merchandise arriving in the United States. It is believed that the proposed amendments would conform the regulations with the intent of the Customs user fee statute. The proposed amendments also reflect existing operational policy and administrative practice in this area.

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT Kimberly Nott, Office of Field Operations, 202–927–1364.

SUPPLEMENTARY INFORMATION:

Background

The Customs user fee statute, codified at 19 U.S.C. 58c, authorizes a schedule of fees that are chargeable to users of various services provided by Customs in connection with the activities that are listed in section 58c(a). Under the user fee statute, in pertinent part, a fee is charged to reimburse the Government for Customs services that are provided, among other things, for processing certain vehicles, vessels, aircraft and merchandise that arrive in the United States. In particular, a user fee is charged for Customs services that are provided in connection with the arrival of a commercial vessel of 100 net tons or more (19 U.S.C. 58c(a)(1)), and in connection with the arrival of a private vessel or private aircraft (19 U.S.C. 58c(a)(4)).

Definition of Arrival for Purposes of the User Fee Statute

For purposes of the applicability of a user fee for providing Customs services in connection with the arrival of a vessel or aircraft as described above, the statute generally defines the term arrival'' as being an arrival that occurs within a port of entry in the Customs territory of the United States (19 U.S.C. 58c(c)(2)). Each Customs port of entry has specific geographical limits that are defined by regulation (19 CFR 101.3(b)).

Section 58c is implemented by § 24.22, Customs Regulations (19 CFR 24.22). Section 24.22(a)(2), however, defines the term arrival'' as being an arrival within a Customs port of entry or any place serviced by any such port. Customs has concluded that this definition of arrival is overbroad and conflicts with a more suitable definition of arrival in section 58c, which, on its face, clearly does not mean to require the assessment of a user fee at every location serviced by Customs.

Accordingly, Customs proposes to amend § 24.22(a)(2) to define an arrival as occurring at any place within the limits of a Customs port of entry or at a designated Customs station. A Customs station is any place other than a port of entry where Customs officers or employees are lawfully stationed to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States (19 CFR 101.1). However, under the proposed amendment, for purposes of the applicability of user fees in accordance with 19 U.S.C. 58c(c)(2), a Customs station would essentially be considered as the functional equivalent of a Customs port of entry. The definition of ''Customs station'' in § 101.1, Customs Regulations (19 CFR 101.1) would be amended to conform with this.

A list of places that have been designated as Customs stations appears in § 101.4(c), Customs Regulations (19 CFR 101.4(c)); also, Customs stations may be temporarily designated as such by the port director as provided in § 101.4(d), Customs Regulations (19 CFR 101.4(d)).

Customs believes that the definition of arrival in proposed § 24.22(a)(2) would conform with the intent of the user fee statute. Moreover, it reflects existing Customs operational policy and administrative practice in this area. Further, the definition would simplify the collection of user fees by listing the specific locations where only these fees are applicable and must be assessed for Customs services.

In this latter respect, where user fees are assessed under section 58c, the law is quite clear that no charges other than user fees may be collected to reimburse the Government for any cargo inspection, clearance, or other Customs activity, expense or service performed (even on an overtime basis); or for any Customs personnel provided in connection with the arrival or departure of a commercial vessel, or its passengers, crew, stores, material, or cargo, for the United States (19 U.S.C. 58c(e)(6)(A)(i) and (ii)).

User Fees, Navigation Fees, Other Reimbursement Charges; Arrival of Commercial Vessel

In cases where Customs user fees do not apply, the cost of Customs services is reimbursable to the Government under the circumstances and to the extent otherwise specifically authorized in the law. The specific circumstances where the cost of Customs services would be otherwise reimbursable to the Government are described in § 24.17, Customs Regulations (19 CFR 24.17). Furthermore, certain navigation fees for vessels, as listed in § 4.98, Customs Regulations (19 CFR 4.98), may be assessed as well, to the extent they are also applicable (19 CFR 24.21(b)(1)).

The services listed in § 4.98(a)(1) for which a navigation fee is applicable relate to the arrival of any vessel. However, § 4.98(a) would conflict with proposed § 24.22(a)(2), and with the user fee statute, insofar as it also requires the collection of a navigation fee for Customs services that are provided in connection with the arrival of a commercial vessel of 100 net tons or more or any private vessel in a Customs port of entry or a designated Customs station where, as already mentioned, a user fee would apply (19 U.S.C. 58c(a)(1)). The user fee would of course include Customs services as enumerated in § 4.98(a)(1). Accordingly, it is proposed to amend the introductory text of paragraph (a)(1) in § 4.98 to exclude the assessment of navigation fees on commercial vessels of 100 net tons or more and on any private vessels that arrive within a Customs port of entry or a designated Customs station, where user fees would apply to these vessels.

In addition, § 24.17(a)(4), Customs Regulations (19 CFR 24.17(a)(4)), currently requires that the owner, master, or agent of a vessel sought to be entered must reimburse the Government for the salary and expenses of any Customs officer or employee stationed at or sent to a designated Customs station or any other place that is not a port of entry for services rendered in connection with the entry or clearance of the vessel.

As such, § 24.17(a)(4) would also be in conflict with the definition of arrival in proposed § 24.22(a)(2), and with the

user fee statute, to the extent that it requires reimbursement other than user fees at a designated Customs station. Accordingly, it is proposed to revise § 24.17(a)(4) to require reimbursement for services afforded by Customs at any place that is not a port of entry or a designated Customs station. For the same reason, §§ 24.17(a)(5) and 101.4(b)(3) would be similarly revised.

User Fees, Other Reimbursement Charges; Arrival of Private Vessel or Private Aircraft

Section 58c(a)(4), as noted, provides for an annual user fee to cover Customs services that must be furnished in processing the arrival of a private vessel or private aircraft. Section 24.22(e)(1), which implements this provision, requires, however, that, notwithstanding payment of the user fee under section 58c, all overtime charges provided for Customs services remain payable as well. Again, as previously discussed, the user fee statute precludes the assessment of other charges, including charges for overtime services, where user fees are applicable (19 U.S.C. 58c(e)(6)(A)(i)). Accordingly, it is proposed to amend § 24.22(e)(1) by removing the provision allowing for the collection of overtime charges.

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Regulatory Flexibility Act and Executive Order 12866

The proposed amendments are intended to conform with statutory law, reflect existing Customs operational policy and administrative practice, and simplify the collection of user fees by listing the specific locations where only these fees are applicable and must be assessed for Customs services. Accordingly, it is certified, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that, if adopted, the proposed rule will not have a significant economic impact on a substantial number of small entities. Nor do the proposed amendments meet the criteria for a ''significant regulatory action'' under E.O. 12866.

List of Subjects

19 CFR Part 4

Arrival, Cargo vessels, Common carriers, Customs duties and inspection, Entry, Fees, Fishing vessels, Freight, Harbors, Imports, Landing, Maritime carriers, Merchandise, Passenger vessels, Reporting and recordkeeping requirements, Shipping, Vessels.

19 CFR Part 24

Customs duties and inspection, Fees, Harbors, Reporting and recordkeeping requirements, User fees.

19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Harbors, Reporting and recordkeeping requirements, User fees.

Proposed Amendments to the Regulations

It is proposed that parts 4, 24, and 101, Customs Regulations (19 CFR parts 4, 24, and 101) be amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 would continue to read as follows, and the specific authority citation for § 4.98 would be revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.98 also issued under 19 U.S.C. 58a;

* * * * *

2. It is proposed to amend § 4.98 by revising the introductory text of paragraph (a)(1) to read as follows:

§ 4.98 Navigation fees.

(a)(1) The Customs Service will publish a General Notice in the **Federal Register** and Customs Bulletin periodically, setting forth a revised schedule of navigation fees for the following services provided to commercial vessels of 100 net tons or more and any private vessels that arrive at a place other than a Customs port of entry or a designated Customs station and to commercial vessels of less than 100 net tons that arrive anywhere in the United States, including a Customs port of entry or a designated Customs station:

* * * * *

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general and relevant specific authority citations for part 24 would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

* * * * *

Section 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562; 46 U.S.C. 2110, 2111, 2112 ;

* * * * *

2. It is proposed to amend § 24.17 by revising the first sentence of paragraph (a)(4) and by revising paragraph (a)(5) to read as follows:

§ 24.17 Reimbursable services of Customs employees.

(a) * * *

(4) When a Customs employee is assigned pursuant to § 101.4 of this chapter to a place which is not a port of entry or a designated Customs station for service in connection with the entry or clearance of a vessel, the owner, master, or agent of the vessel will be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns. * * *

(5) When a Customs employee is assigned under the authority of section 447, Tariff Act of 1930, to make entry of a vessel at a place other than a port of entry or designated Customs station or to supervise the unlading of cargo, the private interest will be charged the full compensation and authorized travel and subsistence expenses of such employee from the time he leaves his official station until he returns.

* * * * *

3. It is proposed to amend § 24.22 by revising paragraph (a)(2) to read as set forth below; and by removing the last sentence of paragraph (e)(1):

§ 24.22 Fees for certain services.

(a) *Definitions.* * * *

* * * * *

(2) The term *arrival* means arrival at any place within the limits of a port of entry in the Customs territory of the United States, at any designated Customs station as listed in § 101.4(c) of this chapter, or at any temporary Customs station designated by the port director under § 101.4(d) of this chapter.

* * * * *

PART 101—GENERAL PROVISIONS

1. The general and relevant specific sectional authority citations for part 101 would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

2. It is proposed to amend § 101.1 by revising the definition for ''Customs station'' to read as follows:

§ 101.1 Definitions.

* * * * *

Customs station. Other than for purposes of assessing user fees under 19 U.S.C. 58c where a ''Customs station'' is the functional equivalent of a port of entry, a ''Customs station'' is any place, other than a port of entry, at which Customs officers or employees are stationed, under the authority contained in article IX of the President's Message of March 3, 1913 (T.D. 33249), to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States.

* * * * *

3. It is proposed to amend § 101.4 by revising the section heading, paragraph (b), introductory text, and paragraph (b)(3) to read as follows:

§ 101.4 Entry and clearance of vessels at Customs stations and places other than a port of entry.

* * * * *

(b) *Authorization to enter.* Authorization to enter or be cleared at a Customs station, or any other place that is not a port of entry, will be granted by the director of the port under whose jurisdiction the station or place falls provided the port director is notified in advance of the arrival of the vessel concerned and the following conditions are met:

* * * * *

(3) The owner, master, or agent of a vessel sought to be entered at a place other than a port of entry or designated Customs station reimburses the Government for the salary and expenses of the Customs officer or employee stationed at or sent to such other place which is not a port of entry or a designated Customs station for services rendered in connection with the entry or clearance of the vessel, and

* * * * *

Raymond W. Kelly,

Commissioner of Customs.

Approved: October 26, 2000.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–10718 Filed 4–30–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 916]

RIN 1512–AA07

Proposed Rockpile Viticultural Area (2000R–436P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) has received a petition proposing the establishment of a viticultural area located in northwest Sonoma County, California. The proposed Rockpile viticultural area would consist of approximately 14,000 acres of land which the petitioner states is at or above the 800′ elevation, includes areas of small rock and gravel mixed in the topsoil, some with outcroppings of larger rock, and growing conditions favorable for commercial wine grapes.

DATES: Written comments must be received by July 2, 2001.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 916). Copies of the petition, the proposed regulations, the appropriate maps, and any written comments received will be available for public inspection during normal business hours at the ATF Reading Room, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226. Submit e-mail comments to: nprm@atfhq.atf.treas.gov. E-mail comments must contain your name, mailing address, and e-mail address. They must also reference this notice number and be legible when printed on not more than three pages 8½″ x 11″ in size. We will treat e-mail as originals and we will not acknowledge receipt of e-mail. See Public Participation section of this notice for alternative means of commenting.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Specialist, Regulations Division (San Francisco, CA), Bureau of Alcohol, Tobacco and Firearms, 221 Main Street, 11th Floor, San Francisco, CA (415) 744–7011.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations 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. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

27 CFR 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.

Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/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 relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

The Bureau of Alcohol, Tobacco and Firearms (ATF) has received a petition proposing a new viticultural area to be

called Rockpile. The proposed viticultural area is located in northwest Sonoma County, California, and encompasses approximately 14,000 acres, of which 148 acres are planted to vineyards. This proposed area overlaps approximately 2,500 acres with the approved Dry Creek Valley viticultural area.

Evidence That the Name of the Area Is Locally or Nationally Known

Initial reference to the Rockpile name dates to 1858 (*The Sonoma Democrat* newspaper, Santa Rosa, CA, 10/28/1882), and is based on cattle-raising at this ''Rock Pile Ranch'' location. According to the petitioner, in 1911 an investment partnership purchased about 21,000 acres of property in this area, naming it *La Roca Monte Rancho*, Spanish for the Rocky Peak. The property soon became known by its English name of *Rockpile Ranch.*

The Rockpile local name usage is noted on the current USGS Warm Springs Dam, Cloverdale and Big Foot Mountain Quadrangle maps, all parts of the petition. The most recent AAA Mendocino and Sonoma Coast Region map shows Rockpile Road within the proposed viticultural area.

Historical or Current Evidence That the Boundaries of the Viticultural Area Are as Specified in the Petition

The boundaries are based on historical name usage and the combination of geographical features, predominantly elevation and rocky terrain.

The historical name usage, according to the petitioner and as researched by historian Cathy Park, stems from a 1911 investment partnership that purchased land in the petitioned area. Acquisitions included the existing Rockpile Ranch, Rockpile Peak and surrounding areas. To manage this vast sheep-raising and hunting property, the area was eventually divided into Rockpile #1, Rockpile #2 and Rockpile #3 ranches. During the Depression much of the property was sold, but 18,000 acres of the Rockpile Ranch #3 area was preserved as a working sheep ranch. By the 1930's the area became locally known as Rockpile, and the winding road to the ranch headquarters was named Rockpile Road. USGS and AAA maps identify the area and road as Rockpile.

The predominant geographic highlight is the 800′ and above elevation of the entire petitioned area. This feature makes it higher than other grape-growing areas in the immediate proximity.

Evidence Relating to the Geographical Features (Climate, Soil, Elevation, Physical Features, etc.) Which Distinguish Viticultural Features of the Proposed Area From Surrounding Areas

The petitioner has defined the proposed viticultural area based on a geographic combination of elevation, terrain and climate.

The elevation of the Rockpile area, as shown on the USGS maps, spans from 800′ to approximately 1900′. According to the petition, the east and north side boundaries are delineated by the 800′ elevation, while the south and west boundaries average close to 1,800′ in elevation. Currently, vineyards are established from 800′ to 1,800′ elevations, with approximately 95% of the planted area above the 1,000′ elevation. This higher elevation provides different climatic influences.

Spring daytime temperatures in the proposed area run five to ten degrees cooler than the Healdsburg area, approximately ten miles southeast, according to the petition. In the absence of a marine inversion layer, or fog, the temperature decreases about six degrees Fahrenheit for additional 1,000 feet of elevation. The cool prevailing northwesterly spring breezes, which are not as prevalent at the lower elevations of the protected valley floors, increase the cooling effect. According to the petition, the viticultural effect of this cooling creates a delayed bud break and slower growth, resulting in delayed bloom and fruit set.

Summer weather in the Rockpile area, according to the petition, is slightly warmer than the area valleys due to less fog and more clear weather, resulting in increased sunshine and warmer temperatures. On days when the marine inversion is shallower than 1,000 feet, Rockpile is above the fog.

Fall night temperatures, as stated in the petition, can be warmer than in the surrounding areas, with less fog at 800′ and above than at lower elevations. The crucial grape ripening period of September and early October is generally warmer and drier in the Rockpile locality than in surrounding viticultural areas.

The soils, according to the petition, differ from neighboring valley viticultural areas by the relative absence of silt and sand, the higher oxidized iron properties (red color), and the clay subsoil. The topsoil, generally loam to clay loam with a red to brown color, is twelve to twenty-four inches in depth in the better viticultural locations. There are areas of small rock and gravel mixed in the topsoil, some with outcroppings of larger rock. The topsoil depth, and amounts of clay, rock and organic matter vary within the area. The topsoil is acid to very acid, and the subsoil is more clay-like in texture; however, areas of weathered shale and sandstone, in addition to the topography, contribute to well-drained vineyard conditions.

Proposed Boundaries

The proposed viticultural area is in northwest Sonoma County, California. The approved USGS maps for determining the boundary of the proposed Rockpile viticultural area are Warm Springs Dam Quadrangle, California—Sonoma Co., 7.5 Minute Series, edition of 1978; Cloverdale Quadrangle, California, 7.5 Minute Series, edition of 1975; Tombs Creek Quadrangle, California—Sonoma Co., 7.5 Minute Series, edition of 1978; and Big Foot Mountain Quadrangle, California, 7.5 Minute Series, edition of 1991.

The area is of an irregular east-to-west rectangular shape, with Rockpile Road running through its length. The eastern portion starts at the western edge of the Lake Sonoma Recreational Area and Warm Springs Dam, and runs in a west-northwesterly direction. The western portion of the petitioned area encompasses Rockpile Peak and Rockpile Ranch #3.

A portion of Rockpile's proposed eastside overlaps with the northwest corner of the Dry Creek Valley viticultural area. Approximately 2,500 acres, or 3% of the Dry Creek Valley viticultural area and 18% of the Rockpile area, is common territory. This overlapping area is flanked by the Dry Creek estuary to the north and Warm Springs Creek estuary to the south.

Public Participation—Written Comments

ATF requests comments from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so. However, assurance of consideration can only be given to comments received on or before the closing date.

ATF will not recognize any submitted material as confidential and comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927–8602, provided the comments: (1) are legible; (2) are 8½″ x 11″ in size, (3) contain a written signature, and (4) are three pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Any person who desires an opportunity to comment orally at a public hearing on the proposed regulation should submit his or her request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from that area.

No new requirements are proposed. Accordingly, a regulatory flexibility anlysis is not required.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this Executive Order.

Drafting Information

The principal author of this document is N.A. Sutton, Regulations Division (San Francisco), Bureau of Alcohol, Tobacco, and Firearms.

List Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas, is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

Par 2. Subpart C is amended by adding Section 9.173 to read as follows:

§ 9.173 Rockpile.

(a) *Name.* The name of the viticultural area described in this section is ''Rockpile.''

(b) *Approved map.* The appropriate maps for determining the boundary of the Rockpile viticultural area are four 1:24,000 Scale USGS topography maps. They are titled:

(1) Warm Springs Dam Quadrangle, CA—Sonoma Co. 1978

(2) Cloverdale Quadrangle, CA 1975

(3) Tombs Creek Quadrangle, CA—Sonoma Co. 1978

(4) Big Foot Mountain Quadrangle, CA 1991

(c) *Boundary.* The proposed viticultural area is located in northwest Sonoma County, California. The boundary encircles the Rockpile Ranch area, located west of Lake Sonoma. The point of beginning is the intersection of Rockpile Road and the boundary line between Section 14 and 15, Township 10 N, Range 11 W (Warm Springs Dam Quadrangle);

(1) Then proceed north along the Sections 15 and 10 east boundary lines to the intersection of the 800′ contour line, Township 10N, Range 11W (Warm Springs Dam Quadrangle);

(2) Then proceed west along the 800′ contour line through Sections 10, 9, 4, 5, 32 and into Section 31, Townships 10 and 11 N, Range 11 W (Warm Springs Dam and Cloverdale Quadrangles);

(3) Then proceed west along the 800′ contour line in Section 31, following the line as it reverses to the east direction, Township 11 N, Range 11 W (Big Foot Mountain Quadrangle);

(4) Then proceed along the 800′ contour line east through Sections 31, 32 and 33, and northwest through Sections 33, 32, 29 and 30, Township 11 N, Range 11 W (Cloverdale Quadrangle);

(5) Then proceed west along the 800′ contour line through Sections 30, 25, 24, 23, 14, 15, 22, 21, 20 to the intersection with the east boundary line of Section 19, Township 11 N, Range 12 W (Big Foot Mountain Quadrangle);

(6) Then proceed south along the east boundary line of Sections 19, 30 and 31 to the intersection with the Township 11 N and 10 N boundary line, Township 11 N, Range 12 W (Big Foot Mountain Quadrangle);

(7) Then proceed east along the Township 10 and 11 N boundary line to the intersection with the Sections 2 and 1 boundary line, Township 10 and 11 N, Range 12 W (Big Foot Mountain Quadrangle);

(8) Then proceed south along the Section 1 west boundary line, turning east at the southwest corner of Section 1 and continuing east to Section 6, Township 10 N, Range 12 W (Big Foot Mountain and Tombs Creek Quadrangles);

(9) Then proceed east along the south boundary of Section 6 to the intersection with Section 8, Township 10 N, Range 11 W (Tombs Creek and Warm Springs Dam Quadrangles);

(10) Then proceed south along the west boundary of Section 8, turning east at its southwest corner and continuing east to the intersection with the 876′ market, Township 10 N, Range 11 W (Warm Springs Dam Quadrangle);

(11) Then proceed straight south in Section 16 to the intersection with the 800' contour line Township 10 N, Range 11 W (Warm Springs Dam Quadrangle);

(12) Then follow the 800′ contour line as it meanders west, southeast, southwest and east to its intersection with Section 14, and continues north along the west boundary line of Section 14, returning to the point of beginning at Rockpile Road and the Section 14 west boundary line, Township 10 N, Range 11 W (Warm Springs Dam Quadrangle).

Signed: April 13, 2001.

Bradley A. Buckles,

Director.

[FR Doc. 01–10811 Filed 4–30–01; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–2001–8659]

RIN 2115–AG06

Notification of Arrival: Addition of Charterer to Required Information

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend advance notification requirements in the Notice of Arrival regulations for vessels bound for ports or places in the United States. In addition to the information already required by these regulations, the proposed changes would require the owner, master, operator, agent, or person in charge of the vessel to identify the charterer(s) of their vessel. With the proposed addition of the charterer information in the notice, we will be able to better identify the charterers associated with substandard vessels.

DATES: Comments and related material must reach the Docket Management Facility on or before July 2, 2001. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before June 15, 2001.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–8659), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Project Manager CDR Mark Prescott, Coast Guard, telephone 202–267–0225. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting positive and negative comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–8659), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your positive or negative comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard initiated the Port State Control Program (PSC) in April of 1994, because of concerns raised over the steady increase in the number of substandard non-U.S. flagged vessels visiting U.S. waters. The goal of the Program was to eliminate substandard vessels from U.S. waters. To meet this goal the Coast Guard developed a risk-based targeting matrix that evaluated a foreign vessel's Flag State, owner, operator, classification society, ship type, and its compliance history. The use of the matrix allowed limited Coast Guard resources to be directed to those vessels that posed the greatest risk to safety and the environment. The basis of the matrix is derived from information obtained as part of a vessel's notification of arrival required by 33 CFR part 160, subpart C. The targeting matrix is a tool the Captain of the Port (COTP) uses to assign a score to each arriving foreign vessel, and then prioritize vessel boardings based on the total number of points assigned to each vessel. Those vessels, representing the highest risk, are then targeted for boarding. If a vessel is determined to be substandard, it is detained until the deficiencies are corrected. Although the number of detentions of substandard vessels fell from 547 in 1997 to 193 in 2000, there are still too many of these vessels calling on U.S. ports.

Current factors, obtained from the notice of arrival and used in the PSC matrix, include the vessel's class society, flag state, owner and operator. The Coast Guard believes that the proposed addition of charterer, as a factor to consider in the Port State targeting scheme, would further improve our ability to identify vessels most likely to pose the highest risks.

A recent study sponsored by the Netherlands Ministry of Transport indicates that the expense of operating a substandard vessel is 14 percent less than the operating cost of a compliant vessel. We know that many companies chartering vessels to move their cargo go to great lengths to ensure that the vessels they charter are sound and pose minimal risks. In other cases, individuals or corporations select a vessel based solely on the cost of chartering the vessel, foregoing any examination of the vessel's condition or safety and casualty history. We feel these two scenarios demonstrate the value of collecting the arriving vessel's charterer as one more factor in the PSC control matrix.

For purposes of this rulemaking the Coast Guard considers the ''charterer'' to be the person or organization who contracts for the vessel or the majority of the carrying capacity of a vessel for the transportation of cargo to a stated port for a specified period. With the proposed addition of the charterer information in the notice, we will be

able to better identify the charterers associated with substandard vessels. Vessels that are associated with targeted charterers will be assigned points, with the appropriate weighting, in the targeting matrix. This additional information will enable us to better prioritize inspections of vessels of greater risk.

Regulatory History

We published in the **Federal Register**, on August 18, 2000, a notice of request for comments entitled *Notification of Arrival; Addition of Charterer or Cargo Owner to Required Information* (65 FR 50481). You should refer to this notice for a comprehensive discussion of background information relating to this rulemaking. You can find this notice electronically through the Web Site for the Docket Management System at *http://dms.dot.gov* under docket number USCG–2000–7796.

Discussion of Comments

The Coast Guard received sixteen comment letters in response to the notice of request for comments published in the **Federal Register** on August 18, 2000. The notice outlined the Coast Guard's statutory authority for collecting specific information from vessels arriving at ports in the United States. It also asked thirteen questions relative to adding charterer and cargo owner information to that information already required to be reported in the notice of arrival under 33 CFR part 160, subpart C. Only five comment letters answered all of the questions asked within the notice. To concentrate on all of answers and comments addressing the specific questions asked in our notice, we have organized this discussion into sections. Each of the thirteen questions asked in the notice is designated as an independent section, and is identified within section headings. A general overview of the responses suggests that collection of charterer would be of value for the PSC matrix and entails minimal costs. The collection of cargo owner would be more difficult and less valuable, particularly in cases of containers or multiple cargo owners.

Question 1: What Role Do the Charterer and Cargo Owner Play in Ensuring Ships Are in Compliance With International Safety and Pollution Regulations? To What Extent Should They Be Held Accountable?

The vast majority of respondents to this question felt that the vessel owner is ultimately responsible for the condition of the vessel. Their opinion on the role played by the charterer and cargo owner in ensuring the quality of the vessel was split. Seven of the twelve respondents felt that the charterer shared in the responsibility and pointed out that, particularly among bulk liquid transporters, there was significant effort made by the charterer to select vessels with the best record of compliance. None of the respondents felt the charterer or cargo owner should be held accountable for ship selection. It was generally felt that the role of the cargo owner was more difficult to determine and in some cases there would be multiple cargo owners. Many of these responses support the Coast Guard belief that the charterer does have an influence on the quality of vessels carrying their product and therefore support our proposal to add charterer to the information required on the notice of arrival.

Question 2: Would Publication of a List of Charterers and Cargo Owners That Are Associated With Detentions Improve Compliance With International Safety Standards?

Eleven comments responded to this question. Seven of the comments indicate that publishing such a list would not improve compliance with international safety standards. Four respondents believe that publishing a list of charterers and cargo owners associated with detentions would or may have a measurable impact. One respondent states that enforcement of existing regulations would be more sensible than adding new regulations. The Coast Guard agrees that publication of the list of charterers associated with vessel detentions is not likely to significantly influence a charterer's practices. However, we believe this information will be useful in targeting vessels for PSC boarding and would distribute this information to our field units for that purpose.

Question 3: Should the Charterer and Cargo Owner Be Included in the Coast Guard's Port State Control targeting matrix? If So, Does the Type of Chartering Agreement Matter When a Decision Is Being Made To Determine Who Should Be Associated With a Detention?

Eleven comments responded to this question. Six of the respondents believe including the charterer and cargo owner in the targeting matrix holds merit, whereas five respondents disagreed or had reservations. There was one comment suggesting that including the port facility along with the charterer would be of value and another suggesting that the insurer should be included. One respondent that supported adding charterer and cargo owner to the PSC matrix mentioned that trying to collect and evaluate this information may prove to be unwieldy, particularly with the potential for many cargo owners for a single vessel. The Coast Guard agrees with the comments supporting inclusion of the charterer and cargo owner information in our targeting matrix and also with the comment concerning the difficulty in managing the cargo owner data. The Coast Guard believes that requiring the vessel to provide the cargo owner information in the notice of arrival will be an overall greater burden on industry than providing the charterer, with perhaps less value. Because of this, and the fact that it would be much more difficult for us to collect and evaluate the cargo owner, we do not propose to add cargo owner information to the notice of arrival requirement. One comment indicated that only after the Coast Guard had sufficient time to collect and analyze data on the role of the charterer in vessel detentions, would it be relevant to use charterer in its PSC matrix. We agree with this comment, and we will need to have charterer data for some time in order to assess the weight to assign in our boarding matrix and to be able to differentiate those charterers most likely to be associated with vessel detentions.

Question 4: What Is the Screening Process Used by Your Company Prior to Chartering a Vessel? How Is the Final Vessel Selection Made?

Question 5: What Factors Are Considered When You Select a Vessel for Charter?

Eight of the sixteen total responses to the docket addressed these questions. The same eight responders addressed question five and, because of the connection between the two questions, we will address them both here. All comments noted specific elements used in screening a vessel prior to chartering. The extent to which these elements are considered appears to vary from one company to another. Some companies rely on information from trade associations or data collection organizations, some have extensive in-house vetting processes or contract for such services. There appears to be variations between types of vessels being chartered, bulk liquid vs. dry bulk vs. container ships. Those elements considered included availability, cost, compliance with regulations, cargo carrying capacity, vessel suitability for the cargo, vessel stability, terms of contract, ownership, history of the vessel and the owner's fleet, inspection

history, age, Flag State, class society and past knowledge or use of the vessel. The comments reinforce our belief that individuals and corporations vary considerably in the methodology and tools used in making a decision on which vessel to charter. They also vary greatly in philosophy regarding whether to rely on the owner to supply a properly certificated vessel, or whether they need to expend greater resources to ensure that the vessel meets all applicable international marine safety and environmental protection standards. We feel that where the emphasis is placed to a greater extent on cost in selecting a vessel for charter, there will be a higher likelihood that the vessel will be substandard. For this reason, we believe that targeting vessels that are chartered by companies frequently associated with substandard vessels for PSC examinations, will improve our ability to keep substandard ships out of U.S. waters. Therefore, we propose to collect charterer information from all vessels, and use this information to improve our foreign vessel targeting matrix.

Question 6: Do You Consider a Vessel's Safety or Casualty Record, Including Its Port State Control History in Your Decision Process?

Seven of the eight comments submitted to the docket in response to this question indicated that they use the vessel's safety or casualty record in the chartering decision process. The degree of importance placed on safety and casualty records varies but several felt it was very important. One respondent who felt it was important stressed the use of the Coast Guard's PSIX database and encouraged the frequent updating of that Port State Control Database. These responses further validate the charterer's role in the quality of vessels being chartered. The Coast Guard believes that the extent to which charterers are selective in their chartering decisions will be another factor that can be used in PSC boarding decisions.

Question 7: Does a Charterer or Cargo Owner Change During a Voyage? If Yes, What Are the Circumstances and in General How Often Does This Occur?

The responses to this question generally indicate that it is rare for either charterer or cargo owner to change during a voyage. It was more likely however, that the cargo owner would change and possibly more than once during a voyage. For reasons stated earlier, the Coast Guard is not proposing to collect information on the cargo owner, so such change would not affect the purpose of this regulatory change to the notice of arrival requirements. Regarding a change of charterer, we feel this is a much less frequent occurrence, and that providing the current charterer would not be a burden to the Master or vessel prior to arrival.

Question 8: In Those Instances Where the Charterer Changes During the Voyage or There Are Multiple Cargo Owners or Cargo Ownership Changes How Is Responsibility for Ensuring Compliance With International Maritime Safety and Pollution Prevention Standards Determined?

Five responses provided a specific answer to who is responsible for compliance with international safety and pollution standards under the circumstances mentioned in the question. Three of the responses emphasized that the vessel owner was responsible regardless of such changes. Two comments indicate that some vetting could still take place prior to a cargo owner or charterer change, and that they played some role. We appreciate the information provided within the responses to this question. At this point the relevancy of the question is marginal, because we are not proposing to collect cargo owner information, and a change to the charterer during a voyage is apparently a rare event.

Question 9: What Documentation Does the Vessel Owner, Agent, Master, Person-in-Charge or Operator Have That Identifies the Charterer or Cargo Owner? Is This Documentation Available Onboard the Vessel?

There was a mixed response as to the availability of the cargo owner and or charterer information being available onboard the vessel. The Coast Guard believes that today's technology easily enables a vessel or vessel agent to communicate with its home office or vessel owner, allowing charterer information to be readily available for notice of arrival reporting. As mentioned earlier, identifying the cargo owner, particularly in situations with multiple cargo owners, is a more onerous task, and the Coast Guard is not proposing to add this information to the required notice of arrival.

Question 10: How Is the Cost of a Delay Resulting From a Port State Control Action or Detention Measured or Determined? Who Absorbs or Pays for It?

We received 12 comments to question ten. According to eight commenters the cargo owner measures the cost of delay and the vessel owner pays for the actual delay. Three other respondents believe the cargo owner absorbs the cost of delay. One commenter did not directly respond to this question. We appreciate the information provided within the responses to this question. However, the cost of delay is not included in the regulatory cost estimates. Generally, the Coast Guard does not evaluate these types of expenses, because the industry can avoid them by complying with the applicable regulations.

Question 11: Would Requiring That the Name of the Charterer and Cargo Owner Be Provided as Part of the Notice of Arrival Have an Impact on Small Businesses?

We received 11 comments to this question. Four commenters argue that requiring them to include the name of the charterer and cargo owner in the notice of arrival information would create a high additional cost. Once again the concerns lie with providing the name or names of cargo owners, which the Coast Guard does not propose to collect.

Question 12: What Would the Cost Be to Your Company of Adding the Name of Charterer and Cargo Owner to the Information Reported in the Notice of Arrival? Does this Cost Differ According to the Type of Charter, Cargo Owner or Vessel Type? What Is the Basis for Your Estimate?

We received ten comments addressing this question. Six comments indicate that there would be a minimal cost burden placed on their company by identifying the charterer in the notice of arrival. However, two respondents, representing container and break-bulk shipping operations, estimate that their company would be burdened with a significant cost increase by adding this information to the notice of arrival. The four remaining respondents did not directly answer this question. We appreciate the information provided, and believe that the associated cost for providing charterer information to be minimal. Therefore, we propose to include charterer information in the notice of arrival.

Question 13: What Is Your Estimate of the Total Cost to Industry of Adding the Name of the Charterer and Cargo Owner to the Information Reported in the Notice of Arrival? What Is the Total Cost by Charterer, Cargo Owner or Vessel Type? What Is the Basis for Your Estimate?

Eleven comments concerning this question were submitted to the docket. Nine of those commenters were unable to provide an answer because they lack

the information necessary to give a proper response. Another commenter went beyond the scope of this question. One commenter estimates the burden of cost to the industry would be worth considering. We appreciate the information provided within the responses to this question. We reviewed the comments and incorporated the information into our regulatory analysis.

Discussion of Proposed Rule

This rulemaking would revise 33 CFR part 160, subpart C. The statutory authority for this rulemaking is 33 U.S.C. 1231. Specifically, this rulemaking would amend 33 CFR 160.203 by adding the definition of charterer and 33 CFR 160.201, 160.207, and 160.211 by including the name of the charterer as part of the information required by vessels bound for ports or places in the United States.

Adding the definition of charterer is necessary to differentiate between long term chartering agreements (bare boat or demise charters), where the charterer is essentially the operator of the vessel, and an individual that ''leases'' a vessel to move goods or materials for short periods of time or a single voyage.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040, February 26, 1979).

A draft Regulatory Evaluation under paragraph 10(e) is available in the docket as indicated under **ADDRESSES.** A summary of the Evaluation follows:

Under the Port State Control (PSC) program the Coast Guard developed a risk-based matrix to better identify substandard foreign vessels calling in U.S. ports. The matrix evaluates a foreign vessel's Flag State, owner, operator, classification society, ship type, and compliance history and assigns scores to each vessel. Based on these scores, the Coast Guard boards and examines vessels that are likely to pose risks to safety or the environment. Vessels found to have deficiencies are detained until the deficiencies have been corrected.

While the number of substandard vessel detentions has fallen since the implementation of PSC, too many substandard vessels are calling on U.S. ports. A recent study by the Netherlands Ministry of Transport indicates that the expense of operating a substandard vessel is approximately 14 percent lower than the expense of operating a compliant vessel. When individuals or corporations select vessels to carry their products, the cost to charter vessels is a prime consideration in some cases. Thus, many vessels selected for transport based on cost alone are likely to be substandard. By requiring vessels to report their charterers in the notifications of arrival, the Coast Guard will be able to better identify potentially substandard vessels.

The proposed addition of charterer as a factor that is considered when determining vessel risk in our Port State Control targeting scheme would improve our ability to determine which vessels are likely to be substandard. Charterers who are continually associated with substandard vessels would be assigned points, with the appropriate weighting, in the targeting matrix. Currently, we can not calculate the number or percentage of detentions that would cause a charterer to be targeted, because we do not have the essential charterer data. With the proposed addition of the charterer information in the notice of arrival, we will be able to better identify the charterers associated with substandard vessels and better identify the high risk vessels requiring inspection.

Population: There are approximately 10,000 vessels submitting 67,300 notice of arrivals annually that would be subject to this rule.

Cost and benefit: We determined that vessel owners and operators will incur the costs of this rule. The Coast Guard will not incur additional costs as a result of the increase in information collected. The increased costs will be the result of additional time spent completing the charterer information in the Notice of Arrival paperwork. This additional effort is relatively minimal.

The potential benefits of the proposed rule are not quantifiable but include the following: (1) U.S. waters will experience increased safety; (2) U.S. waters will experience a decrease in damage to property and the environment; (3) Coast Guard will target substandard vessels traveling U.S. waters that pose safety and environmental risks; (4) Coast Guard will spend less effort on compliant vessels; (5) Coast Guard will spend more effort examining previously unboarded vessels; (6) Coast Guard will have more information on foreign vessels traveling U.S. waters; (7) Coast Guard and vessel owners will have better understanding of the risks posed by foreign vessels; and (8) degrees of liability will be clarified.

Alternatives: The only alternative to the proposed rule we consider is to take no action. The Coast Guard would continue to collect the information currently required under 33 CFR part 160, subpart C, boarding vessels based on the current PSC targeting matrix. The Coast Guard believes that factoring the charterer into the targeting matrix is an important element in risk analysis for the PSC program. Currently, too many substandard vessels that pose risks to public safety and the environment enter U.S. ports. The additional information collected under the proposed rule would help the Coast Guard identify owners of substandard vessels and would address vessel deficiencies more efficiently. The ''no action'' alternative is not further explored.

The annual costs for the proposed rule are summarized as follows:

TABLE 1: TOTAL ANNUAL COSTS SUMMARY

Estimated number of port calls	Clerical labor minutes per port call	Clerical labor minutes per year	Cost per clerical labor hour	Cost per clerical labor minutes	Total annual cost
67,300	1	67,300	$31.00	$0.52	$35,000

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000.

We estimate that this rule will not affect a significant number of small businesses because the proposed rule imposes minimal impacts. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult CDR Mark Prescott, Project Manager, Office of Operating and Environmental Standards (G–MSO), telephone 202–267–0225. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, record keeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Notification of Arrival: Addition of Charterer to Required Information

Summary of the Collection of Information: This rulemaking will amend 33 CFR 160.201, 160.207, and 160.211 to include the name of the charterer as part of the information required by vessels bound for ports or places in the United States. This collection of information will add minimal burden to the information collection described in OMB 2115–0557, Advanced Notice of Vessel Arrival and Departure.

Proposed Use of Information: The Coast Guard will use the information collected to identify those foreign vessels that pose the highest risks to U.S. waterways and ports and target these vessels for inspection.

Description of the Respondents: The respondents are vessel crews traveling U.S. waterways and hailing U.S. ports that must issue an Advanced Notice of Arrival.

Number of Respondents: The estimated number of vessels with crews that will provide the information is 10,000 annually.

Frequency of Response: Crews on approximately 10,000 vessels will issue an Advanced Notice of Arrival 6 to 7 times annually.

Burden of Response: It is estimated that adding the name of the charterer on the Notice of Arrival will require 1 minute of clerical labor per response.

Estimate of Total Annual Burden: It is estimated that vessels will make 67,300 port calls annually. Each of these port calls will require 1 minute of clerical labor to complete the charterer information on the Notice of Arrival. The estimated annual burden is 67,300 minutes, or 1,122 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

We analyzed this rule under Executive Order 13132, Federalism. Because this rule amends the existing federal Advance Notice of Arrival rules, if those existing rules are preemptive, then perforce this rule, which would amend the existing rule to add ''charterer'' to the list of required information to be supplied in an Advance Notice of Arrival, will also be preemptive. The Coast Guard believes that its existing Advance Notice of Arrival regulation in 33 CFR 160.213, which are issued under Title I of the Ports and Waterways Safety Act, is preemptive of any state rule, which would also require the vessel to provide the state (or one of its political subdivisions) advance notice of arrival. See, *U.S.* v. *Locke,* 529 U.S. 89, 120 S.CT 1135 (2000). However, the Coast Guard has, in numerous instances, through Memoranda of Agreement with an interested State, cooperated with the States and agreed to provide the information contained in the Advance Notice of Arrival to the states. It will continue to do so.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. The proposed rule is a procedural regulation that does not have any environmental impact because the action does not have a significant effect on the quality of the human environment. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 160

Administrative practice and procedure; Harbors; Hazardous materials transportation; Marine safety; Navigation (water); Reporting and record keeping requirements; Vessels;

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 160, subpart C as follows:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

Subpart C—Notifications of Arrivals, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

1. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46.

2. In § 160.201 redesignate paragraphs (c)(3)(vii), (viii), (ix), and (x) as paragraphs (c)(3)(viii), (ix), (x), and (xi) respectively, and add paragraph (c)(3)(vii) to read as follows:

§ 160.201 Applicability and exceptions to applicability.

* * * * *

(c) * * *

(3) * * *

(vii) Name of the charterer of the vessel;

* * * * *

3. In § 160.203 add in alphabetical order the definition for ''Charterer'' to read as follows:

§ 160.203 Definitions.

* * * * *

Charterer means the person or organization that contracts for the majority of the carrying capacity of a ship for the transportation of cargo to a stated port for a specified period.

* * * * *

4. In § 160.207 redesignate paragraphs (c)(7), (8), (9), (10), and (11) as paragraphs (c)(8), (9), (10), (11), and (12) respectively, and add paragraph (c)(7) to read as follows:

§ 160.207 Notice of arrival: Vessels bound for ports or places in the United States.

* * * * *

(c) * * *

(7) Name of the charterer of the vessel;

* * * * *

5. Amend § 160.211 as follows:

a. Redesignate paragraphs (a)(7), (8), (9), (10), (11), (12), (13), (14), (15), and (16) as paragraphs (a)(8), (9), (10), (11), (12), (13), (14), (15), (16), and (17) respectively; and add paragraph (a)(7);

b. In paragraph (b) remove ''(a)(8) through (16)'' and all ''(a)(9) through (17)''.

The addition reads as follows:

§ 160.211 Notice of arrival: Vessels carrying certain dangerous cargo.

(a) * * *

(7) Name of the charterer of the vessel;

* * * * *

6. Amend § 160.213 to read as follows:

a. Redesignate paragraphs (a)(7), (8), (9), (10), (11), (12), (13), (14), and (15) as paragraphs (a)(8), (9), (10), (11), (12), (13), (14), (15), and (16) respectively, and add paragraph (a)(7);

b. In paragraph (b) remove ''(a)(8) through (15)'' and ''(a)(9) through (16)''.

The addition read add as follows:

§ 160.213 Notice of departure: Vessels carrying certain dangerous cargo.

(a) * * *

(7) Name of the charterer of the vessel;

* * * * *

Dated: March 23, 2001.

R.C. North,

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

[FR Doc. 01–10838 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–015]

RIN 2115–AA97

Safety Zone: Captain of the Port Chicago Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety zones for annual fireworks displays located at the Navy Pier, Chicago, Illinois. This action is necessary to provide for the safety of life and property on navigable waters during each event. This action is intended to restrict vessel traffic in a portion of the Chicago Harbor.

DATES: Comments must be received on or before May 31, 2001.

ADDRESSES: Comments may be mailed or delivered to: Commanding Officer, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60521. Marine Safety Office Chicago maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at MSO Chicago between 7:30 a.m. and 4 p.m. Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Chicago, Illinois 60521 (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number on this rulemaking (CGD09–01–015), indicate the specific section of this proposal to which each comment

applies, and give the reason(s) for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for photocopying and electronic filing. If you would like to know they reached us, please enclose a stamped, self-addressed envelope or postcard.

The Coast Guard will consider all comments received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may request a public meeting by writing to MSO Chicago at the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, the Coast Guard will hold a public meeting at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish a permanent safety zone that will be activated for fireworks displays occurring throughout the summer season annually at the same location. The proposed safety zone will include the waters off the Navy Pier Breakwall, Lake Michigan bounded by the arc of a circle with a 350-foot radius with its center in approximate position 41°53′18″ N, 087°36′08″ W (NAD 1983).

Based on recent accidents that have occurred in other Captain of the Port zones and the explosive hazard associated with these events, the Captain of the Port has determined that fireworks launches in close proximity to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement within a 350-foot radius of the fireworks launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

Establishing permanent safety zones by notice and comment rulemaking gives the public the opportunity to comment on the proposed zones, provides better notice than promulgating temporary rules annually, and decreases the amount of annual paperwork required for these events. The Coast Guard has not previously received notice of any impact caused by these events.

Discussion of Proposed Rule

The proposed size of this safety zone was determined using National Fire Protection Association and local area fire department standards, combined with the Coast Guard's knowledge of waterway conditions in these areas.

Although these new regulations will not affect the Chicago River, the channel will be affected. In the event that shipping is affected by these new regulations, commercial vessels may request permission from the Captain of the Port Chicago to transit through the safety zone.

The proposed safety zone would be in effect from 8 p.m. (c.d.t.) to 11 p.m. (c.d.t.) However, vessels may enter, remain in, or transit through this safety zone during this time frame if authorized by the Captain of the Port Chicago, or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23. The proposed zone will be activated on the Sunday before Memorial Day and Labor Day, every Wednesday and Saturday between Memorial Day and Labor Day, and the Fourth of July.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zones, and all of the zones are in areas where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for few hours on the day of the event. Vessel traffic can safely pass outside the proposed safety zone during the events. In cases where traffic congestion is greater than expected and blocks the Chicago River, traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Chicago. Before the effective period, we will issue maritime advisories widely available to users of the Port of Chicago by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Chicago (see **ADDRESSES.**)

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under Executive Order 13132 and have

determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(g) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add § 165.908 to read as follows:

§ 165.908 Safety Zones: Annual fireworks events in the Captain of the Port Chicago Zone.

(a) The following area is designated a safety zone:

(1) Location. The waters off the end of Navy Pier, Lake Michigan, where the fireworks barge will be, bounded by the arc of a circle with a 350-foot radius with its center in the middle of the barge, an approximate position of 41° 53′ 18″ N, 087° 36′ 08″ W (NAD 1983).

(2) Effective dates. This regulation becomes effective from 8 p.m. (c.d.t.) to 11 p.m. (c.d.t.) on the Sunday before Memorial and Labor Day; every Wednesday and Saturday from Memorial Day weekend to Labor Day Weekend; and the Fourth of July. If the Fourth of July fireworks are canceled due to inclement weather, the paragraph (a)(1) is effective on July 5th.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) The safety zone encompasses a portion of Lake Michigan that is near the entrance to the Chicago River. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Chicago to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: April 20, 2001.

R.E. Seebald,

Captain, U.S. Coast Guard, Captain of the Port Chicago.

[FR Doc. 01–10716 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 175

[USCG–2000–8589]

RIN 2115–AG04

Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to require that children aboard recreational vessels wear personal flotation devices (PFDs), or lifejackets. During 1995–1998, 105 children under 13 died in the water, 66 of them by drowning. This proposed rule should reduce the number of children who drown because they were not wearing lifejackets.

DATES: Comments and related material must reach the Docket Management Facility on or before August 29, 2001.

ADDRESSES: Identify your comments and related material by the docket number for this rulemaking [USCG–2000–8589]. To make sure they do not enter the docket more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand-delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Internet Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, at the address listed above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.* You may obtain a copy of this proposed rule by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it

on the Internet, at the Web Site for the Office of Boating Safety, at *http://www.uscgboating.org* or at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–267–0979 or by e-mail at *cperry@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [USCG–2000–8589], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, by hand-delivery, by fax, or electronically to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or hand-delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and want to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. You may ask for one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 25, 1997, we published in the **Federal Register** a notice of request for comments titled, ''Recreational Boating Safety—Federal Requirements for Wearing Personal Flotation Devices'' [62 FR 50280]. In that notice, under docket number CGD 97–059, we asked interested people, groups, and businesses about the need for, and alternatives to, Federal requirements or incentives for boaters to wear lifejackets. On March 20, 1998, we published a second notice with the same title and under the same docket number to extend the comment period to May 29, 1998 [63 FR 13586].

We received over 600 written comments in response to the initial notice. Most opposed any Federal requirements that all boaters wear lifejackets all the time. Yet almost 120 supported Federal or State requirements to wear lifejackets for at least some recreational vessels, boaters, or activities.

After summarizing the comments (copy of the initial notices, public comments, and summary of comments in public docket USCG–1999–6219), we consulted with NBSAC at its meetings in October 1998 and April 1999 regarding the results. NBSAC recommended that we publish another notice of request for comments, one that would focus more on the need to propose rules calling for mandatory wear by children, by operators of Personal Watercraft (PWC), and by people being towed behind recreational vessels.

In deference to NBSAC, we published in the **Federal Register** another notice of request for comments titled, ''Recreational Boating Safety—Federal Requirements for Wearing Personal Flotation Devices'' [64 FR 53971 (October 5, 1999)]. In that notice, under docket number USCG–1999–6219, we addressed only vessels less than 16 feet in length, which should include specific groups of high-risk recreational vessels, boaters, and activities.

We received almost 600 written comments in response to the second, more focused notice. The comments were mixed: Most opposed broad Federal requirements for wearing lifejackets, a few supported various Federal requirements for selected circumstances, more supported continued States' requirements for use of safety equipment, and a few objected to the inconsistency between or among the several States' requirements.

After summarizing the comments (copy of the initial notices, public comments, and summary of comments in public docket USCG–1999–6219), we again consulted with NBSAC at its meeting in May 2000 regarding the results. NBSAC then recommended that we either expand section 175.15 of title 33 of the Code of Federal Regulations or add a new section to part 175 to require children to wear lifejackets. This section would require children under 13 to wear lifejackets approved by the Coast Guard while aboard recreational vessels under way, except when the children are below decks or in enclosed cabins.

The number of deaths by drowning of children under 13 has decreased from 27 in 1995 to 11 in 1998. A review of statistics on recreational boating accidents during 1998 showed that the rate of children drowning in States that require children to wear lifejackets (1.22 such drownings for every 1000 accidents) is lower than that of States that do not (1.31 such drownings for every 1000 accidents).

By late 1995, 26 States had enacted statutes requiring children to wear lifejackets while aboard recreational vessels. The requirements, however, were not consistent nationwide, affecting children of different ages, while aboard vessels of different sizes, and under different activities. By late 1999, 36 States had enacted statutes requiring children to wear lifejackets while aboard recreational vessels. The requirements, however, still were not consistent nationwide. They varied by the age for wearing: From under age 18, when the vessel operator is under 18, to under age 6. They varied in other particulars, too: on the sizes of vessels (more than 26 feet in length or less than 65 feet, 26 feet, 19 feet, 18 feet, or 16 feet in length); whether the vessels were under way, in motion, or not specified; and whether the children were on open decks, below decks, or in enclosed cabins.

To improve boating safety and encourage greater uniformity of boating laws, we are proposing a requirement that children under 13 wear lifejackets approved by the Coast Guard while aboard vessels under way, except when the children are below decks or in enclosed cabins. We are nevertheless proposing to adopt the ages at or below which the States require children to wear lifejackets within those States. The existence of a Federal requirement for children to wear lifejackets under specific circumstances, even one that adopted States' thresholds of age, would encourage States to establish their own requirements for children and would draw the several requirements into greater uniformity nationwide.

Discussion of Proposed Rule

1. Section 175.3 would add a definition of the term ''State'' to clarify the applicability of non-Federal requirements and the Federal adoption of those requirements.

2. Section 175.15 would accomplish a minor editorial change and add a new paragraph establishing a requirement for children under 13 to wear lifejackets approved by the Coast Guard while aboard recreational vessels.

3. Subpart B would add a new section 175.25 adopting the ages at or below which the States require children to wear lifejackets while aboard recreational vessels within those States.

The proposed rule would apply only where a State had not enacted such a requirement. It would apply now, therefore, only in Colorado, Guam, Hawaii, Idaho, Indiana, Iowa, Kentucky, Maryland, Minnesota, the Northern Mariana Islands, Nevada, New Mexico, North Carolina, North Dakota, South Dakota, the Virgin Islands, West Virginia, Wisconsin, and Wyoming [See the 1999 edition of the National Association of State Boating Law Administrators, *Reference Guide to State Boating Laws*], and, for recreational vessels owned in the United States, it would apply on the high seas.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed this rule under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)].

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

1. Cost of Proposed Rule

This rule would impose no costs on the boating public. Existing rules require that the carriage of an appropriate PFD for each passenger. Costs to the Government would be non-existent as well because the Coast Guard already trains its Boarding Officers to check safety equipment when boarding recreational vessels.

2. Benefit of Proposed Rule

This rule would be appropriate because, even though statistics on boating accidents show that the actual numbers of children under 13 that drowned in recent years were relatively small (14 in 1996, 14 in 1997 and 11 in 1998), these few drownings were avoidable. The rule should reduce the number of children under 13 that drown every year because they are not wearing lifejackets.

This rule would now affect only those States, identified above, that have not enacted requirements for children to wear lifejackets. In those States, there were 7 fatal drownings and 1 moderate and 3 critical near-drowning injuries of children under 13 from 1995 through 1998 that could have been prevented if the children had worn lifejackets. (These numbers may overstate the number of lives that could have been saved if the children had worn lifejackets: Narratives in accident reports may fail to disclose circumstances in which the victims were pinned, for example, and would have drowned anyway. Yet they may just as well understate the number of lives that could have been saved: Many accidents go unreported entirely.)

A memorandum from the Office of the Secretary of Transportation, dated April 29, 1996, sets the value of a fatality averted for use in preparing economic evaluations at $2.7 million and affirms previous guidance to agencies within the Department to classify injuries as minor, moderate, serious, severe, critical, or fatal. The guidance also assigns to each degree of injury averted a certain fraction of the value of a fatality averted. Therefore, to calculate the value of each degree of injury averted, we multiplied $2.7 million, the value of a fatality averted, by the fraction assigned to each degree of injury averted.

If we consider a 100% rate of compliance with a requirement for children to wear lifejackets, we can calculate the retrospective benefits of this rule as below:

VALUE OF INJURIES AND FATALITIES FOR STATES WITHOUT EXISTING REGULATIONS

Injury severity	Fraction of value of fatality averted	Value of injuries and fatalities if averted	Number of injuries (1995–1998)	Dollar amount
Minor	0.0020	($2,700,000)(0.0020) =$5,400	0	($5,400)(0)=0
Moderate	0.0155	($2,700,000)(0.0155) =$41,850	1	($41,850)(1) =$41,850
Serious	0.0575	($2,700,000)(0.0575) =$155,250	0	($155,250)(0) =0
Severe	(0.1875)	($2,700,000)(0.1875) =$506,250	0	($506,250)(0) =0
Critical	(0.7625)	($2,700,000)(0.7625)= $2,058,750	3	($2,058,750)(3) =$6,176,250
Fatal	1.0000	($2,700,000)(1.000) =$2,700,000	7	($2,700,000)(7) =18,900,000
Total			11	$25,118,100

The total value of injuries and fatalities averted for 1995–1998 would have been $25,118,100. Therefore, the average annual value of injuries and fatalities averted would have been $6,279,525 ($25,118,100)/(4 years).

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], we have considered whether this proposed rule would have a significant economic effect on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This Federal requirement for children under 13 to wear lifejackets would apply to operators of recreational vessels on waters subject to the jurisdiction of the United States, as defined in 33 CFR 2.05–30. It would continue to apply to operators of recreational vessels owned in the United States, while operating on the high seas (as defined in 33 CFR 2.05–1). Further, since this proposed rule would adopt the ages at or below which States require children to wear lifejackets, operators of recreational vessels in States with such requirements would not be subject to different requirements within their States, unless the States changed their own: One State, one requirement. Only those operators of recreational vessels either in States without such requirements or on navigable waters of the United States outside States altogether would be subject to the Federal requirement.

Because the Regulatory Flexibility Act does not apply to individuals, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a

significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic effect on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Public Law 104–121], we want to assist small entities in understanding this proposed rule so that they can better evaluate its effect on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Carlton Perry, Project Manager, Office of Boating Safety, by telephone at 202–267–0979, or by e-mail at cperry@comdt.uscg.mil.

Collection of Information

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

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that, because the Federal requirement for children under 13 to wear lifejackets would not supersede or preempt any State's requirement for children to wear lifejackets, this rule does not have implications for federalism under that Order. The proposed Federal requirement would apply only in States without such requirements.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 [2 U.S.C. 1531–1538] governs the issuance of Federal rules that impose unfunded mandates. An unfunded mandate is a requirement that a State, a local or tribal government, or the private sector incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Reform of Civil Justice

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

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule. Nor would it create an environmental risk to health or risk to safety that might disproportionately affect children; on the contrary, it would advance the welfare of children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. The rule would require that certain children aboard recreational vessels wear lifejackets. A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 175

Marine safety.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 175 as follows:

1. The citation of authority for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

2. Amend § 175.3 by adding the following definition in alphabetical order, to read as follows:

§ 175.3 Definitions.

* * * * *

State means a State or Territory of the United States of America, whether a State of the United States, American Samoa, the Commonwealth of the Northern Marianas Islands, the District of Columbia, Guam, Puerto Rico, or the United States Virgin Islands.

* * * * *

3. Amend § 175.15 by removing from paragraph (b) the term ''PFD's'' and adding in its place the term ''PFDs'', and by adding a new paragraph (c), to read as follows:

§ 175.15 Personal flotation devices required.

* * * * *

(c) No person may use a recreational vessel unless all children aboard under 13 years old are wearing appropriate PFDs; or—

(1) The children are below decks or in an enclosed cabin; or

(2) The vessel is not under way.

4. Add a new § 175.25 to subpart B, to read as follows:

§ 175.25 Adoption of States' requirements for children to wear personal flotation devices.

(a) This section applies to every operator of a recreational vessel on waters within the geographical boundaries of any State that has established by statute a requirement under which children must wear PFDs approved by the Coast Guard while aboard recreational vessels.

(b) If the applicable State's statute establishes an age under which children must wear PFDs, that age, instead of the age provided in § 175.15(c)(2)(i) of this part, applies within the geographical boundaries of that State.

Dated: January 15, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–10840 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Postage Meters and Meter Stamps

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to change Domestic Mail Manual P030 to extend the use of postage meters to include postage-evidencing systems that print information-based indicia.

DATES: Comments must be received on or before May 31, 2001.

ADDRESSES: Written comments should be mailed or delivered to the Manager, Postage Technology Management, 1735 N. Lynn Street, Room 5011, Arlington, VA 22209–6050. Copies of all written comments will be available at this address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James Luff, 703–292–3693.

SUPPLEMENTARY INFORMATION: Mailers may now use information-based indicia (IBI) to show evidence of postage, as they would letterpress and digital meter stamps. IBI include human-readable information and a USPS-approved two-

dimensional barcode with a digital signature and other required data fields. Existing regulations on classes of mail that apply to metered mail now apply to mail bearing IBI. In particular, mailers can use IBI and receive qualifying discounts for presorted mail.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following section of the Domestic Mail Manual as set forth below:

P Postage and Payment Methods

P000 Basic Information

P030 Postage Meters and Meter Stamps

1.0 Basic Information

* * * * *

1.4 Classes of Mail

Postage may be paid by printing postage meter stamps (including letterpress, digital meter stamps, and information-based indicia) on any class of mail except Periodicals. Information-based indicia (IBI) include human-readable information and a USPS-approved two-dimensional barcode with a digital signature and other required data fields. Metered mail (including mail bearing IBI) is entitled to all privileges and subject to all conditions applying to the various classes of mail.

Appropriate amendments to 39 CFR part 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–10862 Filed 4–30–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0055; FRL–6972–1]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection: Craig Station Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a proposed revision to the long-term strategy portion of Colorado's State Implementation Plan (SIP) for Class I Visibility Protection, contained in section III of the document entitled ''Colorado's State Implementation Plan for Class I Visibility Protection: Craig Station Units 1 and 2 Requirements,'' as submitted by the Governor with a letter dated February 20, 2001. The proposed revision will incorporate into the SIP emissions reduction requirements for the Craig Station (a coal-fired steam generating plant located near the town of Craig, Colorado). EPA proposes to approve the proposed SIP revision, which is expected to remedy Craig Station's contribution to visibility impairment in the Mt. Zirkel Wilderness Area and, therefore, make reasonable progress toward the Clean Air Act National visibility goal with respect to such contribution. EPA makes this proposal based on its understanding that the State will make two minor changes to the proposed SIP revision before final adoption, as described in this proposed rule.

DATES: Comments on this proposed action must be received in writing by May 31, 2001.

ADDRESSES: Comments should be addressed to Richard Long, Director, Air and Radiation Programs, 8P–AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2405.

Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Air and Radiation Programs, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2405; and Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80222–1530.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Air and Radiation Programs, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used it means the Environmental Protection Agency.

I. Background

Section 169A of the Clean Air Act (CAA),[1] 42 U.S.C. 7491, establishes as a National goal the prevention of any future, and the remedying of any existing, anthropogenic visibility impairment in mandatory Class I Federal areas[2] (referred to herein as the ''National goal'' or ''National visibility goal''). Section 169A called for EPA to, among other things, issue regulations to assure reasonable progress toward meeting the National visibility goal, including requiring each State with a mandatory Class I Federal area to revise its State Implementation Plan (SIP) to contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the National goal. CAA section 169A(b)(2). Section 110(a)(2)(J) of the CAA, 42 U.S.C. 7410(a)(2)(J), similarly requires SIPs to meet the visibility protection requirements of the CAA.

We promulgated regulations that required affected States to, among other things, (1) coordinate development of SIPs with appropriate Federal Land Managers (FLMs); (2) develop a program to assess and remedy visibility impairment from new and existing sources; and (3) develop a long-term (10–15 years) strategy to assure reasonable progress toward the National visibility goal. See 45 FR 80084, December 2, 1980 (codified at 40 CFR 51.300–307). The regulations provide for the remedying of visibility impairment that is reasonably attributable to a single existing stationary facility or small group of existing stationary facilities. These regulations require that the SIPs provide for periodic review, and revision as appropriate, of the long-term strategy not less frequently than every three years, that the review process include consultation with the appropriate FLMs,

[1] The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

[2] Mandatory class I Federal areas include international parks, national wilderness areas, and national memorial parks greater than five thousand acres in size, and national parks greater than six thousand acres in size, as described in section 162(a) of the Act (42 U.S.C. 7472(a)). Each mandatory Class I Federal area is the responsibility of a ''Federal land manager'' (FLM), the Secretary of the department with authority over such lands. See section 302(i) of the Act, 42 U.S.C. 7602(i).

and that the State provide a report to the public and EPA that includes an assessment of the State's progress toward the National visibility goal. See 40 CFR 51.306(c).

On July 12, 1985 (50 FR 28544) and November 24, 1987 (52 FR 45132), we disapproved the SIPs of states, including Colorado, that failed to comply with the requirements of the provisions of 40 CFR 51.302 (visibility general plan requirements), 51.305 (visibility monitoring), and 51.306 (visibility long-term strategy). We also incorporated corresponding Federal plans and regulations into the SIPs of these states pursuant to section 110(c)(1) of the CAA, 42 U.S.C. 7410(c)(1).

The Governor of Colorado submitted a SIP revision for visibility protection on December 21, 1987, which met the criteria of 40 CFR 51.302, 51.305, and 51.306 for general plan requirements, monitoring strategy, and long-term strategies. We approved this SIP revision in an August 12, 1988 **Federal Register** document (53 FR 30428), and this revision replaced the Federal plans and regulations in the Colorado Visibility SIP.

The Governor of Colorado submitted subsequent SIP revisions for visibility protection with letters dated November 18, 1992, August 23, 1996, and August 19, 1998. These revisions were made to fulfill the requirements to periodically review and, as appropriate, revise the long-term strategy for visibility protection. We approved the first two long-term strategy revisions on October 11, 1994 (59 FR 51376), and January 16, 1997 (62 FR 2305), respectively. The 1998 revisions will be addressed at a later date.

After Colorado's 1992 long-term strategy review, the U.S. Forest Service (USFS) certified visibility impairment in Mt. Zirkel Wilderness Area (MZWA) and named the Hayden and Craig generating stations in the Yampa Valley of Northwest Colorado as suspected sources. The USFS is the FLM for MZWA. This certification was issued on July 14, 1993. Hayden Station was addressed in the State's 1996 long-term strategy review and revision (see 62 FR 2305, January 16, 1997).

Craig Station, which is the focus of this SIP revision, is located 40 miles upwind from MZWA. The facility consists of three units, but only Units 1 and 2 are subject to this action. Unit 1 is a 428 megawatt steam generating unit that commenced commercial operation in 1980 and Unit 2 is a 428 megawatt steam generating unit that commenced commercial operation in 1979. The existing emission control equipment on Units 1 and 2 consists of the following: wet scrubbers to control sulfur dioxide (SO_2) (currently achieve 65% SO_2 removal), electro-static precipitators to control particulate pollution, and low nitrogen oxides (NO_X) burners to control NO_X emissions. The 1999 emissions inventory for Craig Station Units 1 and 2, as reported to EPA's Acid Rain database, indicated that these units emitted 9,216 tons of SO_2 and 12,501 tons of NO_X. Particulate emissions have been more difficult to estimate since continuous emissions rate data is not available.

On October 9, 1996, Sierra Club, Inc. (''Sierra Club'') sued the owners of the Craig Station in United States District Court, alleging numerous violations of State and Federal opacity standards from 1991–1996. In the Fall of 1996, the State, Craig Station owners, and EPA initiated a joint study to develop information on SO_2 emission reduction options and associated costs for Craig Station Units 1 and 2. This joint study, referred to as the ''Craig Flue Gas Desulfurization Study (Craig FGD Study),'' was viewed as a means to move the parties to a negotiated resolution of Craig Station's contribution to visibility impairment in MZWA, and if negotiations failed, as a possible basis for a Best Available Retrofit Technology (BART) determination under State and EPA visibility regulations. The Craig FGD Study was completed on August 31, 1999.

The Craig FGD Study identified several options, at reasonable costs, for addressing Craig Station's contribution to visibility impairment at MZWA. This information and the results of other technical analyses led us, on September 22, 1999, to call for a revision to the Colorado Visibility SIP to resolve the long outstanding certification of visibility impairment for MZWA with respect to Craig Station (see 64 FR 54010, October 5, 1999). The State was given 12 months to revise the SIP accordingly.

In October 1999, the Sierra Club, the Colorado Air Pollution Control Division (APCD), EPA, USFS, and the Craig Station owners entered into negotiations to try to reach a ''global settlement'' of the various issues facing the power plant. These issues included the Sierra Club lawsuit and the USFS certification of impairment in MZWA.

On October 17, 2000, the Sierra Club and owners of Craig Station reached an agreement in principle to resolve the Sierra Club lawsuit. Sierra Club and the Craig Station owners subsequently negotiated and signed a consent decree that they filed with the United States District Court for the District of Colorado on January 10, 2001 (Civil Action No. 96–N–2368) (referred to hereafter as ''Craig Consent Decree'' or ''Consent Decree.'')

The Consent Decree resolves the Sierra Club complaint regarding opacity violations and also requires substantial reductions in air pollutants that are intended to resolve Craig Station's contribution to visibility impairment in MZWA. The Consent Decree contemplates that its requirements will be incorporated into the Colorado SIP. Although we were not involved in the direct negotiations between Sierra Club and the Craig Station owners regarding the terms of the Consent Decree, during negotiations Sierra Club and the Craig Station owners sought, and we provided, our input regarding terms of the settlement. In particular, in a December 20, 2000 letter, we commented on a final draft of the Consent Decree and gave our preliminary views of the settlement with respect to the SO_2 limits for Craig Station. We made clear that only through our public rulemaking process would we reach final judgment regarding a Visibility SIP revision based on the Consent Decree. This proposed rulemaking is the first step in that public rulemaking process. The Sierra Club and Craig Station owners also asked the State, USFS, and National Park Service to provide input on the Consent Decree during the negotiations of the final agreement.

II. Colorado's February 1, 2001, Proposed Revision

With a letter dated February 20, 2001, the Governor of Colorado submitted a proposed revision to the long-term strategy portion of Colorado's SIP for Visibility Protection, entitled ''Revision of Colorado's State Implementation Plan for Class I Visibility Protection: Craig Station Units 1 and 2 Requirements.'' The proposed revision is being made to fulfill, with respect to Craig Station's contribution to visibility impairment in MZWA, the Federal and Colorado requirements to revise the long-term strategy to include emission limitations and schedules for compliance necessary to demonstrate reasonable progress toward the National visibility goal.[3]

Among other things, the proposed SIP revision incorporates provisions of the Craig Consent Decree that require the

[3] This proposed revision is specific to requirements for Craig Station and does not constitute the State's three year review of the components of the Long-term Strategy, as required by 40 CFR 51.306(c). That review and report are not due from the State until September 2001, at which time the public will be able to review and comment on the State's full Long-term Strategy.

owners of Craig Station to install control equipment and meet stringent emission limitations for particulates (including opacity), NO_X and SO_2.

A. Analysis of State's Proposed Revision

1. Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

On January 11, 2001, the Colorado Air Pollution Control Division requested that the Colorado Air Quality Control Commission (AQCC), after providing adequate notice, hold a public hearing on April 19, 2001 to consider the proposed revision to the Long-term Strategy of the Visibility SIP. This request was granted. In a February 20, 2001 letter to EPA from Governor Bill Owens, the State requested that we ''parallel process'' the proposed revision.

Parallel processing allows us to propose rulemaking on a proposed SIP revision at the same time the State is soliciting public comment on the proposed SIP revision. If the Colorado Air Quality Control Commission (AQCC) adopts the proposed SIP revision without significant changes (except for the two minor changes we believe are necessary, as described below), and the Governor submits the final revision to us for approval, we will consider any comments received and proceed with a final rulemaking action. However, should the State substantially change the proposed SIP revision before submitting the final version to us, we will re-propose and again solicit public comment on the State amended SIP revision before we take final rulemaking action. For further information regarding parallel processing, please see 40 CFR part 51, appendix V, section 2.3.1.

We have reviewed the proposed SIP revision incorporating requirements for Craig Units 1 and 2 to determine adequacy should the State's proposal be finalized. We believe the State's proposed revision would adequately address Craig Station's contribution to visibility impairment in MZWA, thereby resolving the USFS's certification of impairment and making reasonable progress toward the National visibility goal. In addition, should the State's proposed revision be finalized and submitted to EPA, with the two minor changes described below in section II.A.2.b., Analysis of Reasonable Progress, it will adequately satisfy EPA's September 22, 1999, Visibility SIP Call.

2. Content of Proposed SIP Revision

The proposed SIP revision is contained in section III of the submittal entitled ''Revision of Colorado's State Implementation Plan for Class I Visibility Protection: Craig Station Units 1 and 2 Requirements,'' dated February 1, 2001. Only section III contains provisions that are enforceable against the Craig Station owners. Part III incorporates relevant portions of the Craig Consent Decree into the long-term strategy. The remainder of the proposed SIP revision contains provisions that are explanatory and analyses that are required by section 169A of the CAA, Federal visibility regulations (40 CFR 51.300 to 51.307), and/or the Colorado Visibility SIP.

a. Section III: Enforceable Portion of the Proposed SIP Revision: Craig Station Units 1 and 2 Requirements

The State incorporated into its proposed Visibility SIP revision provisions of the Craig Consent Decree including Definitions, Emission Controls and Limitations, Continuous Emission Monitors, Construction Schedule, Emission Limitation Compliance Deadlines, and Reporting. Such provisions must be met by the Craig Station owners and are enforceable. The Consent Decree numbering scheme was retained to avoid confusion between the SIP and the Consent Decree, but only the Consent Decree's emission controls and limitations, construction schedule, and sections necessary to ensure enforceability of these requirements were included in the proposed SIP. Some changes were made to Consent Decree language to conform to a SIP framework. Finally, changes were made to the force majeure provisions of the Consent Decree to ensure that a demonstration of reasonable progress could be made at this time. Provisions of particular interest incorporated from the Craig Consent Decree are summarized below.

SO_2 Emission Limitations—Craig Units 1 and 2 will be designed to meet at least a 93.7% SO_2 removal rate. The Craig Station owners must design, construct and operate FGD upgrades and related equipment to reliably treat 100% of the flue gas and to meet the following emissions limitations:

—No more than 0.160 lbs SO_2 per million Btu heat input on a 30 boiler operating day rolling average basis;

—No more than 0.130 lbs SO_2 per million Btu heat input on a 90 boiler operating day rolling average basis;

—At least a 90% reduction of SO_2 on a 90 boiler operating day rolling average basis, unless Craig Station owners show this limit cannot be met, in which case an alternative limit shall be established, not to be less than an 85% reduction of SO_2 on a 30 boiler operating day average or 86% on a 90 boiler operating day average [4]; and

—A unit cannot operate for more than 72 consecutive hours without any SO_2 emissions reductions; that is, it must shut down if the control equipment is not working at all for three days.

Particulate Emission Limitations—The Craig Station owners must install and operate a Fabric Filter Dust Collector (known as a baghouse or FFDC) on Craig Units 1 and 2. Particulate emission limitations for each unit are:

—No more than 0.03 lbs of particulate matter per million Btu heat input; and

—No more than 20.0% opacity, with certain limited exceptions, as averaged over each separate 6-minute period within an hour as measured by continuous opacity monitors.

NO_X Emissions Limitations—NO_X reductions are to be achieved through the requirement to install ''state-of-the-art'' low-NO_X burners utilizing two-stage combustion with supplemental over-fire air systems. The emissions limitations on each of Craig Station Units 1 and 2 are:

—No more than 0.30 lbs per million Btu heat input on a calendar year annual average basis.

Compliance with Emissions Limits—All required controls must be designed to meet enforceable emission limits. Compliance with the emission limits shall be determined by continuous emission monitors. Compliance with the percentage reduction requirement for SO_2 shall be determined by comparing SO_2 emissions from the stack (measured by continuous emissions monitors—''CEMs'') to potential SO_2 emissions from coal combusted (determined through coal sampling and analysis).

Construction Schedule—The final deadlines for constructing control equipment are as follows: Unit 1—

[4] Any changes made to the percentage reduction requirement will be made pursuant to the requirements of the Consent Decree, and if the ultimate percentage reduction requirement changes from 90%, the State has indicated that it would report the changes in its next long-term strategy review. We would provide an information notice on any such changes as well.

Completion of construction and initiation of start-up of all upgrades by 12/31/03. Unit 2—Completion of construction and initiation of start-up of all upgrades by 6/30/04.

The schedule for commencement of compliance with the emissions limitations is as follows:

SO_2

—For Unit 1, within 180 days after completion of construction of the additional SO_2 control equipment, or by June 30, 2004, whichever date is earlier, except for 90% SO_2 reduction, which must be achieved within 270 days of the above compliance date, but no later than March 31, 2005.

—For Unit 2, within 180 days after completion of construction of the additional SO_2 control equipment, or by December 31, 2004, whichever date is earlier, except for 90% SO_2 reduction, which must be achieved within 270 days of the above compliance date, but no later than September 30, 2005.

Particulates

—For Unit 1, within 180 days after completion of construction of baghouse system, or by April 30, 2004, whichever date is earlier.

—For Unit 2, within 180 days after completion of construction of baghouse system, or by October 31, 2004, whichever date is earlier.

NO_X

—June 30, 2004 for Unit 1 and December 31, 2004 for Unit 2.

These construction deadlines and emission limitation compliance deadlines are subject to the ''force majeure'' provisions of the Consent Decree, which have been included in the proposed SIP revision. A force majeure event refers to an excused delay in meeting construction deadlines or in meeting emission limitation compliance deadlines due to certain limited circumstances wholly beyond the control of the Craig Station owners.

To help ensure that reasonable progress continues to be made, the State commits in the proposed SIP revision to reopen the SIP (with public notice and hearing) after it is determined that a construction schedule or an emission limitation schedule has been, or will be, delayed by more than 12 months as a result of a force majeure determination or determinations. The State will re-evaluate the SIP at that time to determine whether revisions are necessary to continue to demonstrate reasonable progress, and to ensure that the emission limitations are met. In addition, the proposed SIP revision also contains a clarification that the force majeure provisions are not to be construed to authorize or create any preemption or waiver of the requirements of State or Federal air quality laws, or of the requirements contained in the SIP or Consent Decree.

EPA believes that the language of the proposed SIP revision should assure reasonable progress toward the National visibility goal. If deadlines extend more than twelve months, we expect the State to revise the SIP.

b. Analysis of Reasonable Progress

Congress established as a National goal ''the prevention of any future, and the remedying of any existing'' anthropogenic visibility impairment in mandatory Class I Federal areas. The statute does not mandate that the national visibility goal be achieved by a specific date but instead calls for ''reasonable progress'' toward the goal. Section 169A(b)(2) of the CAA requires EPA to issue implementing regulations requiring visibility SIPs to contain such ''emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward the National goal.''

EPA's implementing regulations provided for an initial round of visibility SIP planning which included a long-term strategy to make reasonable progress toward the National goal. See 40 CFR 51.302(c)(2)(i) and 51.306. Section 169A(g)(1) of the CAA specifies factors that must be considered in determining reasonable progress including: (1) the costs of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of the source. Protection of visibility in a mandatory Class I Federal area is the objective.

In this unique case, the Craig Station owners have agreed in the context of a judicially-enforceable Consent Decree to meet emissions limitations that are expected to reduce Craig Station's contribution to visibility impairment in MZWA to below perceptible levels. The State has analyzed the emission reductions provided for in the Consent Decree in light of the statutory factors for determining reasonable progress and the ultimate objective of protecting visibility. The State has proposed that the measures assure reasonable progress by remedying Craig Station's contribution to perceptible visibility impairment in MZWA and has proposed a Visibility SIP revision containing these measures.

Further, in a December 14, 2000 letter from Tom Thompson, USFS, Rocky Mountain Region, to Margie Perkins, APCD, the USFS concluded that ''the proposed reductions of both sulfur dioxide and nitrogen oxides will resolve all Forest Service issues relative to the Craig Station and our 1993 Certification of Impairment.'' Based in part on this letter, the State has proposed that the pertinent provisions of the Craig Consent Decree, as embodied in the proposed SIP revision, effectively resolve the USFS certification of impairment in MZWA in relation to Craig Station.

We have reviewed the State's proposed SIP revision and supporting information in light of the statutory and regulatory requirements and propose to approve it based on the understanding that the State will make two minor changes. First, in section III, Enforceable Portion of the SIP Revision: Craig Station Units 1 and 2 Requirements, the following language should be added to section II.2.(m) (definition of ''Craig Owners'') to ensure that successor owners are covered by the SIP revision: ''and successor owners of Craig Station.'' Second, also in section III, the following language should be removed from section IX.26., to clarify that reporting requirements continue indefinitely after the Consent Decree is terminated: ''and continuing until the Decree is terminated.'' We believe these changes are necessary to ensure enforceability of the SIP revision and consistency with the Hayden SIP revision. Our proposed approval is based on our anticipation that these changes will be made in the final SIP revision adopted by the AQCC.

We believe the State has reasonably proposed that the emission reduction measures at Craig Station required by the Consent Decree and contained in the proposed Visibility SIP revision will remedy Craig Station's contribution to perceptible visibility impairment at MZWA, with reasonable costs, an expeditious compliance schedule, and no significant adverse energy or non-air quality environmental impacts. The State's February 1, 2001 proposed SIP revision and accompanying information, available at the addresses listed at the beginning of this document, provides a detailed analysis of each of the ''reasonable progress'' considerations. We have reviewed these ''reasonable progress'' considerations and a summary of the State's analysis follows.

(i) Factor (1) Cost of Compliance

By signing the Consent Decree, the Craig Station owners have demonstrated their willingness to bear the cost to upgrade Craig Station Units 1 and 2. Therefore, this factor is not particularly relevant to this action. However, the

State proposes that the costs are reasonable given that the cost of the combined Craig Units 1 and 2 SO_2 removal upgrades (approximately $27.5 million total or $4.49 million/year and $659/ton of SO_2 removed—in January 1998 dollars) at the facility are within the range of retrofit costs at other facilities. It should be noted that included in these cost estimates are credits that represent a portion of the control costs that the Craig Station owners will be able to recoup by the sale of marketable allowances of SO_2 received under the allowance trading program of the Clean Air Act's Acid Rain Program (approximately $100/ton).

The State also compared costs with the results of an EPA modelling study [5] which estimated the retrofit costs for SO_2 control at 200 coal-fired electric utilities (630 boilers). This study indicated that the 50th percentile cost (in 1998 dollars) was more than the estimated cost of the Craig Units 1 and 2 upgrade.

The State believes that estimated costs for SO_2 emission reductions at Craig Station Units 1 and 2 appear to be lower or similar to estimates for other projects and therefore, that the cost of these SO_2 emission reductions is reasonable. For a more detailed discussion of the cost of compliance, please refer to the proposed SIP revision.

(ii) Factor (2) Time Necessary for Compliance

The time necessary for compliance is reasonable. Under the terms of the Craig Consent Decree, approximately three to four years will elapse between the filing of the Decree and operation of the control equipment on Units 1 and 2, respectively.[6] By comparison, if the State went through a complete regulatory process with the Craig Station to make a reasonable attribution decision and BART determination, the State estimates that the time until installation of controls could be 5½ years. We note that the Hayden Consent Decree allowed approximately 3½ years time between the filing of the Consent Decree and operation of the required control equipment. See 62 FR 2305 (January 16, 1997).

(iii) Factor (3) Energy and Non-Air Quality Environmental Impacts of Compliance

Any negative impacts are minimal, as discussed below.

(a) Energy Impacts. It will be necessary to divert additional power (estimated at 1.5 MW/unit) to in-house use to operate the upgrade equipment, resulting in a percent decrease in plant output of 0.2%. By comparison, the retrofit at Hayden Station resulted in a decrease in plant output of 1.1%. See 62 FR 2305 (January 16, 1997).

(b) Water Impacts. An increase in water consumption will be needed to support the SO_2 upgrades. However, it is uncertain at this time how large this increase will be. It is possible that the increase can be met entirely through increased internal efficiencies in water use at the facility. If not, then Craig Station will need to increase its consumptive use of existing water rights in the Yampa River. Craig Station is a ''zero discharge facility'' and does not have a river water discharge. Overall, the State believes that the upgrades to current control equipment should have only a minimal impact on water usage at Craig Station.

(c) Solid Waste Impacts. Craig Station's solid waste will increase, although no major changes to current disposal methods will be required. However, the increase in scrubber waste solids due to the increase in SO_2 removal may require the acquisition of two new transport trucks for landfill disposal of the wastes.

(d) Other Environmental Benefits. In a December 14, 2000 letter from Tom Thompson, USFS, Rocky Mountain Region (*i.e.*, the Federal land manager for Mt. Zirkel Wilderness Area), to Margie Perkins, APCD, the USFS indicated that it believes the proposed reductions in SO_2 and NO_X emissions required under the Consent Decree will ''significantly benefit'' the aquatic ecosystems in MZWA. The State concurs that the emission reductions should reduce acid accumulations in the snowpack.

Overall, the State believes that any energy and non-air quality related impacts that will result from this proposed revision are acceptable.

(iv) Factor (4) Remaining Useful Life of Source

The owners of the Craig Station assume that Craig Station Units 1 and 2 have a remaining useful life of 20 years. In its technical judgment, the State believes 20 years is an accurate estimate and therefore, the upgrade required in this proposed SIP revision is reasonable.

(v) Visibility Benefits

Any contribution to visibility impairment in MZWA caused or contributed to by the Craig Station Units 1 and 2 come from their SO_2 emissions converted to sulfate haze in the atmosphere. The enhanced FGD control systems will lower Craig Station Units 1 and 2's combined SO_2 emissions to a total of approximately 2,600 tons per year from the current level of over 9,300 tons per year. In the State's technical judgment, this will effectively address visibility problems in MZWA caused by SO_2 from Craig Units 1 and 2 and will lower the threshold of SO_2 emissions from the units to below perceptible levels in MZWA. We believe these conclusions are reasonable. It should be noted that the State recognizes that regional haze from outside Colorado and emissions from other Colorado sources could also be contributing to visibility impairment at MZWA.

(vi) Reasonable Progress and BART

The State believes that its proposed SIP revision assures reasonable progress toward meeting the National visibility goal as it relates to Craig Station and MZWA. First, the proposed SIP revisions embody emission reductions of visibility impairing pollutants at Craig Station Units 1 and 2 at a reasonable cost, within the same timeframe or earlier than similar reductions would likely occur through reasonable attribution and BART determinations. Second, the emission limitations for Craig Station Units 1 and 2 for SO_2, particulate, and NO_X reached through a negotiation process are similar to or more stringent than those imposed on some units subject to Prevention of Significant Deterioration (PSD) regulations (*e.g.*, Craig Station Unit 3 and Rawhide Energy Station). Third, although there have been no BART determinations made nationally under the mandatory Class I Federal visibility protection program since 1977, there have been several ''BART-like'' decisions made in settlement of FLM certifications of impairment that have resulted in SO_2 limitations that are similar or less stringent than those in the Craig Consent Decree.

The State believes that the Craig Consent Decree, as embodied in the proposed SIP revision, expeditiously remedies Craig Station's contribution to visibility impairment in MZWA, at a reasonable cost and without undue non-air environmental or energy impacts. Although a formal BART analysis has not been performed for Craig Station Units 1 and 2, the State also expects that the Consent Decree's 90% control

[5] ''Project Summary: Retrofit Costs for SO_2 and NO_X Control Options at 200 Coal-Fired Plants,'' EPA/600/S7–90–021, March 1991.

[6] EPA notes that should this proposed approval be finalized, the time period between SIP approval and operation of control equipment would be even shorter.

requirement on a 90-day rolling average for SO_2 would be at least as good as BART had such an analysis been performed.

Finally, as noted above, the USFS has concluded that the emissions reductions reflected in this proposed SIP revision should effectively address concerns of visibility impairment in MZWA associated with Craig Station.

In our opinion, the State's belief is reasonable that the proposed SIP revision will assure reasonable progress in remedying Craig Station's contribution to visibility impairment in MZWA. However, as described above, we believe that two minor changes to the proposed SIP revision are necessary.

c. Six Factors Considered in Developing the Long-Term Strategy

The State considered the six factors contained in 40 CFR 51.306(e) when developing this proposed revision to its long-term strategy. These six factors are as follows: (1) Eemission reductions due to ongoing air pollution control programs; (2) additional emission limitations and schedules for compliance; (3) measures to mitigate the impacts of construction activities; (4) source retirement and replacement schedules; (5) smoke management techniques for agricultural and forestry management purposes including such plans as currently exist within the State for these purposes; and (6) enforceability of emission limitations and control measures. Because this long-term strategy SIP revision is focused entirely on the Craig Station Units 1 and 2 requirements that resulted from a negotiated settlement, the State concluded that factors (1), (4), and (5) are not applicable. These factors will be considered when the State conducts its next full long-term strategy review process in September 2001. For a detailed discussion of the remaining factors as they relate to Craig Station Units 1 and 2, please refer to Colorado's proposed long-term strategy revision, which is available at the addresses listed in the beginning of this document.

3. Additional Requirements

a. FLM Consultation

As required under State and Federal regulations (Colorado Air Quality Control Commission Regulation No. 3, section XV.F.; 40 CFR 51.306(c)), the State prepared and distributed a FLM Comment Draft of its long-term strategy review/revision to the USFS and the National Park Service. These agencies are the FLMs of all of Colorado's Class I areas.

b. SIP Enforceability

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). Our criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.* (see 57 FR 13541).

The specific emissions limitations contained in this February 1, 2001 proposed revision to the SIP are addressed above in section II.A.2.a., ''Section III: Enforceable Portion of the SIP Revision: Craig Station Requirements.'' By adopting emission limitations for Craig Station into the Visibility SIP, the limitations will become enforceable by the State. C.R.S. 25–7–115. Enforceability of emission limitations will be ensured by the inclusion in this proposed SIP revision of Consent Decree sections VI., Continuous Emission Monitors (for SO_2 and opacity), and IX., Reporting, to ensure determination of compliance through reliable and valid measurements and to ensure accurate and adequate data reporting. As described above, we believe that two minor changes to the proposed SIP revision are needed to ensure enforceability. Should EPA finalize this proposed approval of the proposed SIP revision, the emission limitations will be federally enforceable.

Consistent with section 110(a)(2)(A) of the CAA, the State of Colorado has a program that will ensure that the measures contained in the SIP are adequately enforced. The Colorado APCD has the authority to implement and enforce all control measures adopted by the AQCC. C.R.S. 25–7–111. In addition, Colorado statute provides that the APCD shall enforce against any ''person'' who violates the emission control regulations of the AQCC, the requirements of the SIP, or the requirements of any permit. C.R.S. 25–7–115. Civil penalties of up to $15,000 per day per violation are provided for in the State statute for any person in violation of these requirements (C.R.S. 25–7–122), and criminal penalties are also provided for in the State statute. C.R.S. 25–7–122.1.

Thus, we believe that the control measures contained in the proposed revision to Colorado's State Implementation Plan for Class I Visibility Protection: Craig Station Units 1 and 2 Requirements, will be enforceable and that the APCD has adequate enforcement capabilities to ensure compliance with those control measures.

III. Proposed Action

We have reviewed the adequacy of the State's proposed revision to the long-term strategy portion of Colorado's SIP for Class I Visibility Protection, contained in section III of the document entitled ''Revision of Colorado's State Implementation Plan for Class I Visibility Protection: Craig Station Units 1 and 2 Requirements,'' as submitted by the Governor with a letter dated February 20, 2001. We are proposing to approve the proposed revision, which includes the incorporation of certain requirements from the Craig Consent Decree, provided that the State makes two minor changes to the proposed SIP revision, as described in the body of this document.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Request for Public Comments

We are requesting comments on all aspects of this proposal. As indicated at the outset of this document, we will consider any comments received by May 31, 2001.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed 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 proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have 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), nor will it 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 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 proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 19, 2001.

Patricia D. Hull,

Acting Regional Administrator, Region 8.

[FR Doc. 01–10806 Filed 4–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 099–0032b; FRL–6967–9]

Revisions to the Arizona State Implementation Plan, Pinal-Gila Counties Air Quality Control District and Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Pinal-Gila Counties Air Quality Control District (PGCAQCD) and Pinal County Air Quality Control District (PCAQCD) portions of the Arizona State Implementation Plan (SIP). These revisions concern the recision of all of the remaining SIP rules from the obsolete PGCAQCD and the recision of certain PCAQCD SIP Rules. We are approving the recision of local rules that no longer regulate permitting procedures and various emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by May 31, 2001.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415)744–1135.

SUPPLEMENTARY INFORMATION: This proposal addresses the recisions of defunct SIP rules from the PGCAQCD. In the Rules and Regulations section of this **Federal Register**, we are approving the recision of these rules in a direct final action without prior proposal because we believe this SIP revision is 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: March 20, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–10652 Filed 4–30–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–931; MM Docket No. 01–91; RM–10096]

Radio Broadcasting Services; Hugo, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Alan Olson, requesting the allotment of Channel 222A to Hugo, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are those of the city reference at 39–08–10 NL and 103–28–10 WL.

DATES: Comments must be filed on or before June 4, 2001, and reply comments on or before June 19, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Alan Olson, 934 E. Vermijo Ave., Colorado Springs, CO 80903.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 01–91, adopted April 4, 2001, and released April 13, 2001. The full text of

this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800. Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Hugo, Channel 222A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–10705 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–880; MM Docket No. 01–89; RM–10094]

Television Broadcasting Services; Decatur, Plano, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition for rule making filed by Word of God Fellowship, Inc. (''petitioner''), requesting the reallotment of Television Channel 29 from Decatur to Plano, Texas as the community's first local transmission service. Petitioner is asked to provide additional information in support of the requested reallotment, specifically, an analysis of the Urbanized Areas involved using the Commission's relevant cases, and a showing that the companion digital channel at Decatur should also be reallotted to Plano. Channel 29 can be reallotted from Decatur to Plano in compliance with the Commission's minimum distance separation requirements at the petitioner's requested site, at coordinates 32–52–16 NL and 96–55–22 WL31–06–18 North Latitude and 91–54–26 West Longitude.

DATES: Comments must be filed on or before June 4, 2001, and reply comments on or before June 19, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Robert L. Olender, 5335 Wisconsin Avenue, NW., Suite 300, Washington, DC 20015–2003 (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, and (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–89 adopted March 28, 2001 and released April 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of FM Allotments under Texas, is amended by removing Decatur, Channel 29, and adding Plano, Channel 29.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–10699 Filed 4–30–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 66, No. 84
Tuesday, May 1, 2001

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 25, 2001.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 and to Departmental clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business Cooperative Service

Title: 7 CFR 4284–G, Rural Business Opportunity Grants.

OMB Control Number: 0570–0024.

Summary of Collection: The Rural Business Opportunity Grant (RBOG) program was authorized by section 741 of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127. The objective of the RBOG program is to promote sustainable economic development in rural areas. This purpose is achieved through grants made by the Rural-Business Cooperative Service (RBS) to public and private non-profit organizations and cooperatives to pay costs of economic development planning and technical assistance for rural businesses.

Need and Use Of The Information: The information collected is from grant applicants and grant recipients. Grantees are required to keep complete and accurate accounting records as evidence that the grant funds were used properly. The information is necessary for RBS to process applications in a responsible manner, make prudent program decisions, and effectively monitor the grantees' activities to ensure that funds obtained from the Government are used appropriately.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 100.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly; Monthly .

Total Burden Hours: 8,044.

Animal and Plant Health Inspection Service

Title: Fruit from Hawaii.

OMB Control Number: 0579–0123.

Summary of Collection: The United States Department of Agriculture is responsible for preventing plant diseases or insect pests from spreading within the United States. The Plant Quarantine Act authorizes the Department to carry out this mission. Chapter 8 of the Plant Quarantine Act (& U.S.C. 161) provides authority for the Secretary of Agriculture and the Animal and Plant Health Inspection Service (APHIS) to Quarantine any State, Territory, or District of the United States to prevent the spread of plant diseases and insect pests (such as fruit flies) new or widely distributed throughout the United States. APHIS regulates the interstate movement of fruits and vegetables from Hawaii to prevent the spread of Mediterranean fruit fly, the melon fly, the Oriental fruit fly, and the Malaysian fruit fly pests that occur in Hawaii and can cause millions of dollars in damage to U.S. agriculture. APHIS will collect information using several forms to ensure fruits from Hawaii are free from pests and disease.

Need and Use of the Information: APHIS will collect information using forms PPQ 540, PPQ 530, PPQ 519 to ensure abui, atemoya, bananas, longan, rambutan, sapodilla, and durian from Hawaii are brought safely into the United States.

Description of Respondents: Business or other for-profit.

Number of Respondents: 300.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 327.

Animal and Plant Health Inspection Service

Title: Imported Seed and Screening.

OMB Control Number: 0579–0124.

Summary of Collection: The United States Department of Agriculture (USDA) is responsible for preventing plant diseases or insect pests from entering the United States, preventing the spread of pests not widely distributed in the United States, and eradicating those imported pest when eradication is feasible. The Plant Quarantine Act and the Federal Plant Pest Act authorizes the Department to carry out this mission. Under the authority of the Federal Seed Act of 1939, as amended, the USDA regulates the importation and interstate movement of certain agricultural and vegetable seeds. The Plant Protection & Quarantine Division of USDA's Animal & Plant Health Inspection Service (APHIS) has established a seed analysis program with Canada that allows U.S. companies that import seed for cleaning or processing to enter into compliance agreements with APHIS. This program eliminates the need for sampling shipments of Canadian-origin seed at the border and allows certain seed importers to clean seed without the direct supervision of an APHIS inspector. APHIS will collect information using forms PPQ 925 and PPQ 519.

Need and Use of the Information: APHIS will collect information to prevent the spread of insect pests and noxious weeds in the United States. If the information were not collected there would be no way of preventing noxious weeds from entering the United States.

Description of Respondents: Business or other for-profit.

Number of Respondents: 30,000.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 11,345.

Animal and Plant Health Inspection Service

Title: Plum Pox Compensation.

OMB Control Number: 0579–0159.

Summary of Collection: Plum Pox is an extremely serious viral disease of plants that can affect may stonefruit species, including plum, peach, apricot, almond, and nectarine. The United States Department of Agriculture is responsible for preventing plant pest and noxious weeds from entering the United States, preventing the spread of pests and weeds not widely distributed in the United States and eradicating those imported pests and weeds when eradication is feasible. Chapter 8 of the Plant Quarantine Act (7 U.S.C. 161) provides authority for the Secretary of Agriculture to quarantine any State, Territory, or District of the United States to prevent the spread of insect pests and plant diseases new or not widely distributed throughout the United States. Section 102 of the Organic Act (7 U.S.C. 147a) states, in part, that ''the Secretary of Agriculture, either independently or in cooperation with the States * * * is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests.'' The Animal & Plant Health Inspection Service (APHIS) will collect information using form PPQ 651, Application for Plum Pox Compensation, in order to qualify agricultural producers for disaster payments in conjunction with losses suffered as a result of Plum Pox.

Need and Use of the Information: APHIS will collect the owner's name and address, a description of the owner's property, and a certification statement that the plums removed from the owner's property were commercial plums. The owners will also need to send APHIS a copy of the public order or destruction order that describes the number of plum trees removed. The information will be used to obtain the correct address to which funds are to be sent, and to verify the location and number of plum trees for which the owner is requesting replacement funds. If the information were not collected, APHIS would be unable to reimburse eligible grove and nursery owners for the loss of their trees.

Description of Respondents: Business or other for-profit.

Number of Respondents: 12.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2.

Animal and Plant Health Inspection Service

Title: District of Columbia Plant Health Certificate.

OMB Control Number: 0579–0166.

Summary of Collection: The United States Department of Agriculture is responsible for preventing plant pests and noxious weeds from entering the United States, preventing the spread of pests and weeds not widely distributed in the United States and eradicating those imported pests and weeds when eradication is feasible. The Federal Plant Protection Act authorized the Department to carry out this mission. The Plant Protection and Quarantine (PPQ) Division of the Animal and Plant Health Inspection Service (APHIS) provides certification services for plant material moving interstate to ensure other states that the plants and plant products they are receiving from the District of Columbia are free of prohibited or otherwise regulated plant pests. APHIS will collect information using form PPQ 571, District of Columbia Plant Health Certificate.

Need and Use of the Information: APHIS will collect information to certify that the domestic plant or other plant material described by the shipper has been inspected according to appropriate procedures and that it is considered free from certain plant diseases, insects, or other pests, and is considered to conform with the requirements of the importing State. If the information is not collected, it would likely result in the interstate spread of damaging agricultural pests. Further, entities in the District of Columbia would be unable to ship their products to other States, as other States require this certification.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 4.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 40.

Nancy B. Sternberg,

Departmental Clearance Office.

[FR Doc. 01–10745 Filed 4–30–01; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Availabilty of Environmental Assessment To Amend the Hiawatha National Forest Land and Resource Management Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of Availability of Environmental Assement.

SUMMARY: On May 1, 2001, Hiawatha National Forest Supervisor, Clyde N. Thompson (Responsible Official) announced the preferred alternative and availability of the Rock River Canyon Wilderness Environmental Assessment for a 30-day comment and review period. The preferred alternative would amend the Hiawatha National Forest Land and Resource Management Plan (Forest Plan) to revise the standards and guidelines for management of the Rock River Canyon Wilderness. This notice is pursuant to National Forest System Land and Resource Management Planning regulations (36 CFR 219.35(b), 65 FR 67579, November 9, 2000). Copies of the Environmental Assessment (EA) are available upon request.

DATES: On May 1, 2001, Hiawatha National Forest Supervisor, Clyde N. Thompson announced the preferred alternative and availability of the Rock River Canyon Wilderness Environmental Assessment for public review and comment. Comments on the EA must be received no later than May 31, 2001.

ADDRESSES: Send comments or requests for documents to: Forest Supervisor, Hiawatha National Forest, 2727 North Lincoln Road, Escanaba, MI 49829 or email comments to *mailroom r9 hiawatha@fs.fed.us,* with the subject line: ''Rock River Canyon Wilderness EA.''

FOR FURTHER INFORMATION CONTACT: Janel Crooks, Project Coordinator, at 906–387–2512. TDD 906–387–3371. Or access the forest web page at *www.fs.fed.us/r9/hiawatha.*

Responsible Official: Clyde N. Thompson, Forest Supervisor, 2727 North Lincoln Rd., Escanaba, Michigan 49829.

SUPPLEMENTARY INFORMATION: The proposed Forest Plan Amendment No. 22 describes programmatic standards and guidelines that allow for existing recreation use while reducing resource impacts to the Wilderness and wilderness values. These standards and guidelines address trails, camping and other management concerns. The preferred alternative designates existing

trails, prohibits new trails, and institutes voluntary registration for overnight and day use. This is a non-significant amendment. Public involvement has been an important part of the decision making process for this proposal. Public comments were gathered in 1992 through a survey of users. In April 1993, a public scoping letter was sent to over 400 interested parties and a notice was published in the local newspaper. On December 17, 1999, a second public scoping letter was mailed to over 400 interested parties and a legal notice was published in the Escanaba Daily Press, Escanaba, MI. On May 1, 2001, legal notice was published in the Daily Press, Escanaba, MI, notifying the public of the availability of the EA for review. A 30-day comment period follows release of the EA on May 1, 2001. Comments on the EA must be received no later than May 21, 2001. A final decision is expected by November 2001. this decision will be subject to appeal pursuant to USDA Forest Service regulations 36 CFR 217.3.

Dated: April 16, 2001.

Clyde N. Thompson,

Forest Supervisor.

[FR Doc. 01–10500 Filed 4–30–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Garnet Stars & Sands Project; Idaho Panhandle National Forests, Benewah and Latah Counties, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The St. Joe Ranger District of the Idaho Panhandle National Forests is beginning an analysis and preparation of an environmental Impact Statement to address recreational digging, leasing and/or sale of the garnet resource in the Emerald, Hidden, Wood and Cat Spur Creek drainages. The responsible official is Forest Supervisor, Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur d' Alene, ID 83815.

The garnet resource consists of both sands and gemstones. The sands are used for industrial purposes, primarily as abrasives. The Project Area produces extraordinary quality and quantity of large garnets, with some of the drainages producing star garnets. These gemstones are use commercially for jewelry and are sought after by recreationists.

Much of the Emerald Creek drainage, on public and private lands, has been mined in the past. Two lease renewals, one new lease application, one prospecting permit extension, and eight new prospecting permit applications have been submitted. In addition, the Forest Service currently manages a public digging areas (by fee permit) in 281 Gulch, a tributary to Emerald Creek.

The Purpose and Need for this project is based in the fact that the garnet resource is finite and valuable and there is considerable public interest in leasing of gemstones and sands and retaining the recreational digging area. The Purpose and Need for this project is as follows:

- Respond to public interest in developing the mineral resource, while conserving the garnet resource for future generations.
- Gemstone deposits within the current Forest Service recreational digging area in 281 Gulch are becoming depleted. If the Forest Service is going to continue to provide this unique recreational digging opportunity, other areas need to be tested, identified and developed.
- Resolve twelve pending mining applications or extensions (lease applications, permit applications and permit extensions) for both garnets and sand, dating back to 1996.

DATES: The Draft Environmental Impact Statement is expected to be filed by October 1, 2001. The Final Environmental Impact Statement is expected to be filed by June 30, 2001.

ADDRESSES: Comments should be sent to: Garnet Stars & Sands, St. Joe Ranger District, PO Box 407, St. Maries, ID 83861.

FOR FURTHER INFORMATION CONTACT: Questions should be referred to Tracy Gravelle, St. Joe Ranger District, Avery Office, HC Box 1, Avery, ID 83861.

SUPPLEMENTARY INFORMATION:

Proposed Action

Public Recreational Gemstone Digging Areas

(1) The Forest Service would reserve Wood Creek and certain tributaries of the East Fork of Emerald Creek (281 Gulch, Garnet Gulch, No Name, PeeWee and Strom Creeks) and for public recreational digging of gemstone garnets. These areas would not be available for commercial lease.

These drainages would be tested with a combination of auger holes, hand or machine-dug trenches. After testing, drainages will be listed in order of priority for development. Each drainage would require different development. The following activities are likely:

Only one drainage at a time would be open.

All site may have trees cut and removed and/or used for reclamation.

An average of 200–300 feet per year would be opened and reclaimed according to design features in Chapter 2 of the EIS.

Reclamation will follow Best Management Practices and include site-specific mitigations that will be developed for this analysis.

Details by Drainage

281 Gulch: Progressive digging would continue in the two forks to the confluence of the East and West Forks. Digging would then continue on the main fork of 281 to Road 447. Overburden removal would be needed.

Garnet Gulch: The original parking area for Pee Wee and NoName creeks would be used for this drainage. The a-frame would be located at the parking area and a toilet facility installed. An estimated ½ mile trail would be constructed. Some overburden removal may be necessary.

PeeWee and No Name Creeks: These drainages have been recreational digging areas previously and are known to have high quality gemstones. At the time, there was no equipment brought in to remove overburden and it is believed that there may be more resource available. Development would include a toilet facility but the parking and other site space still exist. These two areas shared parking areas. Overburden removal is likely going to be necessary.

Strom Gulch: Parking, the a-frame and toilet may be developed on the upper road (Rd. 1487) or this site would utilize the facilities for Pee Wee and NoName Creeks. No overburden removal is expected.

Wood Creek: parking and a site for the a-frame and toilet would be developed. Some overburden removal may be necessary.

Lease Application

(2) The pending lease application (ID 29529) for gemstones on Bechtel Butte would be approved. This entails the following: 5 to 6 pits 15 feet in diameter; one backhoe trench 100 feet long by 20 feet wide and 8 feet deep on the ridge; a bobcat excavator would be used to fill in and dig smaller trenches (T42N, R1E, Sections 9, 10, 15 & 16). It is expected that these activities would begin in 2002 and continue through 2007.

Prospecting Permits

Prospecting permits also suggest that there could be further development applied for in the form of a lease application. In order to perform an efficient analysis, for some of the permits we are assuming subsequent

development as long as analysis shows that it can be done within relevant laws and regulations. When or if a lease application is filed, then another NEPA decision would be required but it is likely that much of the pre-work would be complete with this document.

(3) The ending prospecting permit applications (ID 31439, 31440, 31441, 31442, 31443, 31444) and prospecting permit extension (ID 29619) would be approved. Specifically this entails three backhoe trenches.

For the area under these permits, ID 31439–31444 and 29619, the following subsequent development is assumed:

National Forest lands along the East and West Forks of Emerald Creek would be developed for mining garnet sands. This would include the wider and more accessible portions of the East Fork from the west line of T24N, R1E, Section 18 (between Flat Creek and Strom Gulch) to near the confluence of the East and West Forks of Emerald Creek. Some portions of Road 447 would be removed for mining and replaced afterward, which would result in a temporary re-route around mining operations. Some portions of the creek channel would be temporarily relocated for mining and then rebuilt. A similar mining scenario would take place in the West Fork on approximately 25 acres (½) mile of stream). The West Fork operations would begin at the upstream end and take two summer seasons beginning in the year 2003. The East Fork operations would begin at the upstream end of the creek and would last for a total of 7–10 years starting in the year 2003. West Fork location: T43N, R1E, Section 33 and T42N, R1E, Section 4. East Fork locations: T24N, R1W, Sections 13 and 14; T42N, R1E, Sections 3, 8, 9, 17, and 18.

Other areas would be explored for possible future mining development. However, the probability of mining activity here is less certain and will not be analyzed at this time. Any development of these drainages would likely be applied for after the mining in the East and West Forks is complete.

(4) The pending prospecting permit application (ID 33036/amended application (4/2/2001)) for garnet gemstones would be approved. This entails hand-dug trenches in a tributary to Cat Spur Creek. No assumptions for further development will be made at this time. (T42N, R2E, Section 19).

(5) The pending prospecting permit application (ID 32421) for garnet sands on Bechtel Butte would be approved. This entails three hand-dug trenches 10 ft. × 12 ft. (T42N, R1E, Sections 9, 10, 15, 16).

Lease Renewal

(6) The pending lease renewal applications (ID 016415 & 25554) would be approved. This would include development and mining for garnet sands on approximately 8.0 acres in Section 9 on the East Fork of Emerald Creek; these operations would likely occur in the last third of the 7–10 year mining period for mining the East Fork. The remaining areas of the lease have already been mined and reclaimed. (T42N, R1E, Section 9).

Conditions & Reclamation

(7) The conditions and reclamation requirements under which any recreational and commercial garnet mining could be implemented would be developed.

Forest Plan Amendment and Other Agency Permits

It is possible that this proposal would require a non-significant Forest Plan amendment regarding mining development.

The proposed action allows for commercial leasing of gemstones and sands, which requires permit approval and implementation by the Bureau of Land Management. Project implementation with floodplains would require Corps of Engineers Permits (404 permits).

Issues

We expect that maintaining fish and water quality will be issues of primary importance. Also, we expect that whether or not to maintain recreational digging areas is likely to be an issue. Other issues will be developed during this scoping period. A likely alternative to the proposed action could be to allow recreational digging only and not allow commercial leasing of gemstone garnets.

Public Involvement

A scoping letter has been sent to addresses on the mailing list in addition to outreach to rockhound groups and other interested parties. While public participation is welcome at any time, comments received during the 30-day scoping comment period will be especially useful in preparation of the Draft EIS. News releases have been sent out to the local and major newspapers in northern Idaho. This project is also listed on the Idaho Panhandled National Forest web site (*www.fs.fed.us/ipnf*); pertinent documents will be displayed on this site. In addition, the comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** It is the reviewer's obligation to comment during the scoping and/or DEIS review.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1973). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Amgoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

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

Dated: April 16, 2001.

Pat Aguilar,

Acting Forest Supervisor, Idaho Panhandle National Forests.

[FR Doc. 01–10812 Filed 4–30–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Iowa Watershed Rehabilitation Pilot Project Plan, Monona and Mills Counties, IA

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Iowa Watershed Rehabilitation Pilot Project Plan, Monona and Mills Counties, Iowa.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, State Conservationist, Natural Resources Conservation Service, 210 Walnut Street, 693 Federal Building, Des Moines, IA 50309–2180.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant impacts on the environment. As a result of these findings, Leroy Brown, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is to develop procedures and demonstrate actions that may be used to implement a statewide watershed rehabilitation program in Iowa. To accomplish this, two aging watershed structures will be rehabilitated as a pilot project to demonstrate methods and develop public support for the rehabilitation program. These actions will restore these two structures so they will continue to function for 50 years.

The project actions include the reshaping of the road ditch in a road right-of-way, modifying the auxiliary spillway to lower its elevation by three feet and replacement of a principal spillway outlet on a structure in Mills County that threatens motorist safety on U.S. Highway 34 in case of a dam breach. The project actions in Monona County include renovation of structure fill and spillway, a conservation easement to convert existing 49 acres of cropland to native grass and forbs, approximately eight sediment and water control basins, 6.8 acres of waterway, pasture renovation plantings on 60 acres, and one livestock watering system.

The Plan and Environmental Assessment has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and to interested parties. A limited number of copies of the plan and environmental assessment are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be viewed by contacting Leroy Brown.

No administrative action will be taken until 30 days after the date of this publication in the **Federal Register**.

Finding of No Significant Impact for the Iowa Watershed Rehabilitation Pilot Project, Lawson Creek and Pony Creek Watersheds, Monona and Mills Counties, Iowa

Introduction

The proposed plan is for an Iowa Watershed Rehabilitation Pilot Project to address aging and impaired watershed structures in the State of Iowa. Two watersheds were selected for the pilot project. One structure in each watershed was chosen for use in the pilot project.

Lawson site 1–1 is an earthfill structure that was installed in 1970 to control severe gully erosion and reduce flooding. The structure receives runoff from 258 acres of agricultural land and originally had a permanent pool of 1.3 acres. The structure prematurely filled with sediment due to extreme actions of a previous private landowner. The structure is in danger of failing and a major gully problem will reform.

Pony Creek site 31 was installed in 1963 to control severe gully erosion and reduce flooding. The earthfill structure receives drainage from 270 acres of agricultural land and has a permanent pool of 14 acres. U.S. Highway 34 was relocated below the structure in 1974. This places about 8000 motor vehicles daily within the potential dam breach area. Hydraulic routings indicate that the breach of the structure would put water about two feet deep across the highway.

These two structures were chosen because they are representative of the types of problems that will be encountered in other watersheds when a state wide Watershed Rehabilitation Program is implemented.

Lawson Creek Watershed was a federally assisted action authorized and installed under Public Law 78–534, The Flood Control Act as part of the Little Sioux River Flood Prevention Project. Pony Creek watershed was a federally assisted action authorized and installed under Public law 83–566, The Watershed Protection and Flood Prevention Act. The proposed rehabilitation actions to remedy problems with the existing structural components at Site 1–1 in Lawson Creek Watershed and Site 31 in Pony Creek Watershed are authorized in accordance with the original federal authorities as amended by the Small Watershed Rehabilitation Amendments of 2000, and the Soil and Water Conservation, Soil Conservation and Domestic Allotment Act of 1936, as amended, Public Law 74–46, 16 U.S.C. 590 a–f (CFDA No. 10.902). An environmental assessment was undertaken by the Natural Resources Conservation Service (NRCS) in conjunction with the development of this rehabilitation plan. This assessment was undertaken in consultation with local, state and federal agencies as well as interested organizations and individuals. Data developed during assessment and copies of the rehabilitation plan are available for public review at the following location: Natural Resources Conservation Service, 210 Walnut Street, 693 Federal Building, Des Moines, Iowa 50309–2180.

An Environmental Impact Statement (EIS) was prepared for the Little Sioux Watershed Flood Prevention Project in 1976. The EIS discusses the effects of installing flood prevention and grade stabilization dams and land treatment practices.

Recommended Action

Proposed actions for Site 1–1 in Lawson Creek Watershed are:

1. Raising the existing structure height by about 15 feet.
2. Installing a new principal spillway couduit.
3. Securing a conversation easement on 49 acres above the existing pool area in perpetuity.
4. Converting the land use from cropland to native grass and forbs within the conservation easement area.
5. Installing about eight water and sediment control basins to prevent gully erosion and trap sediment.
6. Establishing 6.8 acres of grassed waterway to control erosion in drainage ways.
7. Planting improved grass mixture on 60 acres of existing pastureland to improve soil cover.
8. Installing one livestock watering system.

Proposed actions for Site 31 in Pony Creek Watershed are:

1. Modifying a constructed earth block in the highway road ditch below the structure in the right-of-way of U.S. Highway 34. The man made block would be lowered about two feet for a distance of about 50 feet.
2. Replacing the existing corrugated metal pipe principal spillway.
3. The auxiliary spillway will be modified to lower its' elevation by about three feet.

Effects of the Recommended Actions

Lawson Creek Watershed

The actions in the proposed plan for Lawson Creek Watershed will control gully erosion for 50 years at Site 1–1, reduce sheet, rill and ephemeral cropland gully erosion in the watershed above the site, reduce delivery of sediment both to the structure site and the Maple River, provide a source of water for minnow species in the structure pool, and reduce downstream peak flows.

There are three cultural resource sites recorded in the area. None are in the area of potential effect. Following its procedures, NRCS surveyed the area of potential effect and no sites were identified. Construction discoveries will be handled in accordance with NRCS General Manual, Section 420, Part 401.

The Loess Hills are a nationally significant natural area. The installation of the project measures will prevent gully damages to this portion of the Loess Hills. The planting of native vegetation as per Iowa NRCS specifications for restoration of rare and declining habitats on the 49 acre easement area will help restore native prairie vegetation to this portion of the Loess Hills.

The project will convert 49 acres of cropland to a diverse mixture of native grasses and forbs. This will add diversity and improve wildlife habitat on these 49 acres and within the watershed. Any incidental or unavoidable impacts to woody vegetation or other significant wildlife habitat types will be quantified prior to construction and any losses will be replaced through mitigation.

No threatened or endangered species are recorded in the area. No critical habitat for any species is present in the proposed project area.

There are no wetlands, prime farmland or other unique or protected land resources that will be negatively impacted to the proposed actions.

No other significant adverse environmental impacts will occur from installation of project features.

There is no existing or anticipated public controversy associated with this proposed action.

The effects of the recommended actions in Lawson Watershed are consistent with the Environmental Impact Statement prepared for the Little Sioux River Watershed Flood Prevention Project.

Pony Creek Watershed

The actions in the proposed plan for Pony Creek Watershed Site 31 will allow the structure to continue to control gully erosion, prevent any downstream sedimentation, and prevent a flood hazard to motorists on U.S. Highway 34 from a dam breach failure.

There are no significant cultural resources identified within the work area for the replacement of the existing principal spillway outlet. No new earthfill will be required.

The deepening of the block in the road ditch will affect previously disturbed soil material except for the south slope where a small area of undisturbed hillside will be disturbed. This small undisturbed area has been archaeologically surveyed and contains no cultural resources. The modification of the auxiliary spillway is in an area previously disturbed and will not affect deposits that could contain cultural resources.

If a construction discovery is made, the NRCS will take action as prescribed in the NRCS General Manual, Section 420, Part 401.

There will be no impacts to any threatened or endangered species.

No wildlife or fisheries habitats will be adversely impacted.

There will be no impacts to the Loess Hills, a nationally significant natural area.

There are no wetlands, prime farmland, agricultural land, or other natural or unique land resources that will be impacted by the actions in the proposed plan.

There will be a minor, short term adverse impact to recreational use of the Mills County Conservation Board park in which the structure is located while the new outlet pipe is being installed. The pool will be drawn down by about six feet while the new pipe is installed. This will expose some unsightly shoreline conditions and may have a minor impact on use of the pool by shoreline anglers. The project will be done quickly and all efforts will be made to limit the duration and severity of such disruptions in recreational use. No new earthfill will be required.

No other significant adverse environmental impacts will occur from installation of project features.

There is no existing or anticipated public controversy associated with this proposed action.

Alternative Actions

Other alternative actions were considered in the planning process but were rejected. The recommended alternatives for both watersheds that are included in the proposed plan, are both the most practical and lowest cost means of accomplishing the rehabilitation of the structures so that they continue to provide the original benefits for which they were constructed. These actions meet the sponsors objectives and goals, provide environmental benefits, cause no significant adverse environmental impacts, and cause no public controversy.

Consultation and Public Participation

Lawson Creek Watershed

The Monona County Soil and Water Conservation District (SWCD) has discussed the plan for Lawson Creek Watershed Site 1–1 at their regular public meetings.

The one landowner involved with Site 1–1 rehabilitation plan, conservation easement and land treatment measures has been involved with the development of this plan.

Twenty Indian tribes and three local historical societies were notified of this intended action and consulted about their knowledge of historical properties in the project area.

Only one response was received from one of the Indian tribes stating they were unaware of any cultural resources associated with the project area.

Inter-agency consultation and public participation to date have shown no unresolved conflicts with implementing this selected plan action in the Lawson Creek Watershed.

Pony Creek Watershed

The Mills County Soil and Water Conservation District (SWCD) has reviewed the plan for Pony Creek Watershed Site 31 at a public meeting.

The Mills County Conservation Board and the Iowa Department of Transportation have been involved with the development of this plan.

Twenty Indian tribes and three local historical societies were notified of this intended action and consulted about their knowledge of historical properties in the project area. Only one response was received from one of the Indian tribes stating they were unaware of any cultural resources associated with the project area. A cultural resource field investigation did not indicate the presence of cultural resources.

Inter-agency consultation and public participation to date have shown no unresolved conflicts with implementing

this selected plan action in the Pony Creek Watershed.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Iowa Watershed Rehabilitation Pilot Project is not required.

Dated: April 2, 2001.

Leroy Brown,

State Conservationist.

[FR Doc. 01–10813 Filed 4–30–01; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Sunshine Act Meeting

AGENCY: Rural Telephone Bank, USDA.

ACTION: Staff briefing for the Board of Directors.

TIME AND DATE: 2 p.m., Thursday, May 10, 2001.

PLACE: Conference Room 5030, South Building, Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED:

1. Current telecommunications industry issues.
2. Contract for business advisor to the Privatization Committee.
3. Transferability of Class C stock to a stockholder's subsidiary company.
4. Office of the Inspector General's audit report on FY 2000 financial statements.
5. FY 2000 annual report.
6. Administrative issues.

ACTION: Board of Directors meeting.

TIME AND DATE: 9 a.m., Friday, May 11, 2001.

PLACE: Conference Room 107–A, Jamie L. Whitten Building, Department of Agriculture, 12th and Jefferson Drive, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to order.
2. Action on Minutes of the February 6, 2001, board meeting.
3. Report on loans approved in the second quarter of FY 2001.
4. Report on financial activity for the second quarter of FY 2001.
5. Privatization Committee report.
6. Clarification on stock policy regarding the transferability of Class C stock to a stockholder's subsidiary company.
7. Action on the Bank's annual report for FY 2000.
8. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Roberta D. Purcell, Assistant Governor, Rural Telephone Bank, (202) 720–9554.

Dated: April 26, 2001.

Blaine D. Stockton,

Acting Governor, Rural Telephone Bank.

[FR Doc. 01–10958 Filed 4–27–01; 12:29 pm]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Tri-State Generation and Transmission Association, Inc.; Notice of Intent To Hold A Public Workshop and Prepare an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of intent to hold a public workshop and prepare an environmental assessment.

SUMMARY: The Rural Utilities Service (RUS) intends to hold a public scoping workshop and prepare an environmental assessment (EA) in connection with possible impacts related to the construction and operation of a combustion turbine generation facility. The project is being proposed by Tri-State Generation and Transmission Association, Inc. (Tri-State), of Westminster, Colorado. RUS will conduct a public scoping workshop at the Lordsburg High School, 41 W. 4th Street, Lordsburg, New Mexico. The meeting/workshop will be held on May 16, 2001, from 4 p.m. until 8 p.m.

FOR FUTHER INFORMATION CONTACT: Dennis E. Rankin, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone: (202) 720–1953 or e-mail: drank@inrus.usda.gov.; or Karl Myers, Senior Environmental Planner, Tri-State, P.O. Box 33695, Denver, Colorado 80233, telephone: (303) 452–6111 or e-mail: kmyerstristategt.org.

SUPPLEMENTARY INFORMATION: Tri-State is proposing to construct a 150 MW peaking facility consisting of four GE LM6000 combustion turbine generators with associated auxiliary and support facilities including transmission connections and a high-pressure natural gas pipeline connection available for commercial dispatch in January 2003. The preferred site is located approximately 12 miles southeast of Lordsburg, New Mexico. The preferred transmission alternative is to connect these generators via two new/rebuilt 115 kV lines between the generating site and the Hidalgo 115 kV Substation.

RUS may provide financial assistance for the project. The Bureau of Land Management has received a right-of-way application for the 115 kV transmission line. The EA will address the impacts associated with granting the right-of-way.

Alternatives to be considered by RUS include no action, load management and energy conservation, purchase power, alternative generators and alternative sites.

Comments regarding the proposed project may be submitted in writing at the public meeting/workshop or in writing no later than June 16, 2001, to RUS at the address provided above.

An environmental assessment (EA) will be prepared for the proposed project. Based on a review of the Environmental Assessment and other relevant information, RUS will determine if the preparation of an environmental impact statement is necessary. Should RUS determine that the preparation of an environmental impact statement is not necessary, it will prepare a Finding of No Significant Impact.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal, State and local environmental laws and regulations and completion of the environmental review procedures as prescribed by RUS's Environmental Policies and Procedures.

Dated: April 25, 2001.

Mark S. Plank,

Acting Director, Engineering and Environmental Staff.

[FR Doc. 01–10777 Filed 4–30–01; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

AGENCY: U.S. Census Bureau.

Title: Census 2000 Count Question Resolution Program.

Form Number(s): None.

Agency Approval Number: None.

Type of Request: New collection.
Burden: 15,600 hours.
Number of Respondents: 3,000.
Avg Hours Per Response: 5.2 hours.
Needs and Uses: After the release of Census 2000 redistricting data, some governmental entities may seek to challenge these official Census 2000 counts. The Census Bureau is implementing the Census 2000 Count Question Resolution program (CQR) to address boundary, geocoding, and coverage (processing errors that result in a failure to include or the incorrect inclusion of population data that was identified and collected during the 2000 Census) errors. The census officially ended on December 31, 2000, and no additional census data can or will be collected after that date. The CQR Program is not a mechanism or process to challenge the March 6, 2001, decision of the Secretary of Commerce to release unadjusted numbers from Census 2000 for redistricting purposes nor to revise the numbers that were released for redistricting. Neither is the program a mechanism or process to challenge or revise the numbers sent to the President on December 28, 2000, used to apportion the United States House of Representatives.

Local or tribal governmental entities submitting a challenge using the CQR Program must submit supporting documentation, such as address lists and/or maps. Supporting evidence in the form of address lists shall be taken from a source dated no later than April 1, 2000. Challenges alleging geocoding or coverage (processing) errors in housing unit counts or group quarters population counts, must specify the block(s) for which the counts are being challenged. All governmental unit boundary challenges must be based on the boundaries that were in effect on January 1, 2000. The Census Bureau will compare the maps and supporting documentation with the information used to depict the boundaries for Census 2000. The Census Bureau will respond to all challenges and/or questions and will notify all affected governmental entities of any corrections to their official counts.

The Census Bureau published a notice in the **Federal Register** on January 22, 2001 (Vol. 66, No. 14, pp. 6574–6578) announcing our plans to conduct the CQR Program and instructing local and Tribal governments on how, when, and where to submit challenges.

CQR will begin June 30, 2001 and will conclude September 30, 2003.

Affected Public: State, local, or Tribal government.
Frequency: One time.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 U.S.C., Section 141.
OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 6, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–10765 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Applicant Background Questionnaire

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Geraldine Burt, U.S. Census Bureau, Field Division, FOB–3, Room 1784, Washington, DC 20233–5700, 301–457–1939.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Applicant Background Questionnaire is completed on a voluntary basis by applicants for Regional Office Schedule A positions with the Census Bureau at the time of application and testing. The Census Bureau conducts a wide variety of statistical surveys and hires interviewers and other Schedule A employees to work on these surveys on an ongoing basis. The questions on the Applicant Background Questionnaire are of a sensitive nature relating to race and national origin as well as medical disabilities. This information is useful in determining whether we have a representative sample of the community from which we are hiring. This allows the Census Bureau to adjust recruiting efforts quickly and to employ local applicants for indigenous hiring. It also allows us to assess our compliance with equal employment opportunity regulations. Background information provided by applicants will not be used in applicant screening or selection and will not be available to the selecting official.

II. Method of Collection

Individuals complete the BC–1431 only once. Based on past experience, the BC–1431 on average takes about 2.5 minutes to complete. The paper form is completed by the applicant at the time of testing.

III. Data

OMB Number: 0607–0494.
Form Number: BC–1431.
Type of Review: Regular Submission.
Affected Public: Census Bureau Job Applicants.
Estimated Number of Respondents: 25,000.
Estimated Time Per Response: 2.5 minutes.
Estimated Total Annual Burden Hours: 1,042.
Estimated Total Annual Cost: There is no cost to respondents except for their time.
Respondent's Obligation: Voluntary.

Legal Authority: Pub. L. 92–261, Equal Employment Opportunity Act of 1972 Pub. L. 94–311, Publication of Economic and Social Statistics for Americans of Spanish Origin or Descent 41 CFR part 60–3, Information on Impact (Section 4) 5 U.S.C. 7201, Antidiscrimination Policy, Minority Recruitment Program.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 26, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–10773 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Generic Clearance for Customer Satisfaction Surveys

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Joanne Dickinson, U.S. Bureau of the Census, Room 3015–3, Washington, DC 20233–0800, and 301–457–4081.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is requesting an extension of the generic clearance to conduct customer satisfaction research surveys which may be in the form of mailed or electronic questionnaires and/or focus groups or personal interviews.

The Census Bureau has ranked a customer focused environment as one of its most important strategic planning objectives. The Bureau routinely needs to collect and analyze customer feedback about its products and services to better align them to its customers' needs and preferences. Several products and distribution channels have been designed/redesigned based on feedback from its various customer satisfaction research efforts.

Each research design is reviewed for content, utility, and user-friendliness by a variety of appropriate staff (including research design and subject-matter specialists). The concept and design are tested by internal staff and a select sample of respondents to confirm its appropriateness, user-friendliness, and to estimate burden (including hours and cost) of the proposed collection of information. Collection techniques are discussed and included in the research concept design discussions to define the most time-, cost-efficient and accurate collection media.

The clearance operates in the following manner: a block of hours is reserved at the beginning of each year, and the particular activities that will be conducted under the clearance are not specified in advance. The Census Bureau provides information to OMB about the specific activities on a flow basis throughout the year. OMB is notified of each activity in a letter that gives specific details about the activity, rather than by means of individual clearance packages. At the end of each year, a report is submitted to OMB that summarizes the number of hours used as well as the nature and results of the activities completed under the clearance.

Some modifications of the clearance from previous years are planned. The number of hours is expanded from 3,750 per year to 4,000 to allow for larger-scale research efforts with increased analytical power. In addition, incentives as a survey procedure may also be the subject of research under the clearance.

II. Method of Collection

This research may be in the form of mailed or electronic questionnaires and/or focus groups or personal interviews.

III. Data

OMB Number: 0607–0760.

Form Number: Various.

Type of Review: Regular.

Affected Public: Individuals or households, State or local governments, farms, businesses or other for-profit organizations, federal agencies or employees, non-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 48,000.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 4,000 hours.

Estimated Total Annual Cost: There is no cost to respondents, except for their time to answer the questions posed.

Respondent's Obligation: Voluntary.

Legal Authority: Executive Order 12862.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 26, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–10774 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Plant Capacity Utilization

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Ron Taylor, Bureau of the Census, Room 2135 FOB–4, Washington, DC 20233, on (301) 457–4683.

SUPPLEMENTARY INFORMATION

I. Abstract

The Census Bureau plans to extend the current OMB clearance for the Survey of Plant Capacity Utilization. The survey is conducted annually collecting data for fourth quarter operations. The survey collects, from manufacturing plants, the value of actual production and the value of production that could have been achieved if operating at ''full production'' and ''emergency production'' levels. The survey also collects data on work patterns by shift. These data include hours in operation, production workers, and plant hours worked. The resulting estimates are used in measuring inflationary pressures, capital flows, production indexes and analyzing and forecasting economic and industrial trends. The survey results are primarily used by the Federal Reserve Board, Federal Emergency Management Agency, and the Department of Defense.

II. Method of Collection

The Census Bureau will use mail out/mail back survey forms to collect the data. Companies will be asked to respond within 30 days of the initial mailing. This due date will be imprinted at the top of the form. Letters encouraging participation will be mailed to companies that have not responded by the designated time.

III. Data

OMB Number: 0607–0175.
Form Number: MQ–C1.
Type of Review: Regular.
Affected Public: Manufacturing plants.
Estimated Number of Respondents: 17,000.
Estimated Time Per Response: 3 hours.
Estimated Total Annual Burden Hours: 51,000.
Estimated Total Annual Cost: $806,820 (51,000 * $15.82).
Respondents Obligation: Mandatory.
Legal Authority: Title 13 US Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 26, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–10775 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

2002 Economic Census Ownership Or Control Flier

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Department Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington DC 20230 (or via the Internet at mcclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) should be directed to Bruce M. Goldhirsch, Bureau of the Census, Room 2529, Building 3, Washington, DC 20233–6100, and 301–457–2626 or email at Bruce.M.Goldhirsch@census.gov.

SUPPLEMENTARY INFORMATION

I. Abstract

The Census Bureau is the preeminent collector of timely, relevant and quality data about the people and economy of the United States. Economic data are the Census Bureau's primary program commitment during non-decennial census years. The economic census, conducted under authority of title 13 U.S.C., is the primary source of facts about the structure and function of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business and the general public.

The data collection for ownership and control questions is a supplement to the 2002 Economic Census. In prior censuses these questions were included as part of the economic census questionnaires and used to determine if single-establishment firms were either owned or controlled by another company or if they operate at more than one location. Since the ownership or control questions only apply to single-establishment companies, we have removed these questions from economic census questionnaires. We will include these questions on a separate flier that only will be inserted in economic census questionnaire mail out packages for single-establishment firms.

II. Method of Collection

The economic census will select establishments for its mail canvas from the Census Bureau's Business register. For those single-establishments firms selected in the economic census, an ownership or control flier will be inserted in the mail out package. We estimate that for the 2002 Economic Census there will be approximately 2,442,300 establishments of single-establishment firms.

III. Data

OMB Number: Not Available.
Form Number: The 12 fliers used to collect ownership or control information are tailored to specific business practices and are too numerous to list separately in this notice.
Type of Review: Regular Review.
Affected Public: State or local governments, businesses or other for

profit organizations, and non-profit institutions.

Estimated Number of Respondents: 2,442,300.

Estimated Time Per Response: 1.2 minutes.

Estimated Total Annual Burden Hours: 48,846.

Estimated Total Annual Cost: $748,320.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S.C., Sections 131 and 224.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information: (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also become a matter of public record.

Dated: April 26, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–10776 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 47–2000]

Foreign-Trade Zone 104—Chatham County, Georgia; Application for Expansion Amendment of Application

Notice is hereby given that the application of the Savannah Airport Commission, grantee of FTZ 104, requesting authority to expand its zone in Chatham County, Georgia (Doc. 47–2000, 65 FR 50178, 8/17/00), has been amended to remove 1,057 acres from the FTZ expansion request. Proposed Site 6 at Mulberry Grove will be reduced from 2,239 acres to 1,182 acres.

In addition, this notice will serve to clarify the size of Proposed Site 5 at the Savannah International Trade and Convention Center. As stated in the original notice, the proposed site would consist of 94 acres. However, the applicant is requesting FTZ status for only a 24-acre parcel within the 94-acre site. The application otherwise remains unchanged.

The comment period is reopened until May 31, 2001. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

A copy of the application and the amendment and accompanying exhibits are available for public inspection at the following locations:

U.S. Department of Commerce, Export Assistance Center, 6001 Chatham Center Drive, Suite 100, Savannah, GA 31405.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 25, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–10861 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 17–2001]

Foreign-Trade Zone 138—Columbus, OH; Application for Subzone E.I. DuPont de Nemours and Company, Inc. (Chemical Products) Circleville, OH

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Rickenbacker Port Authority, grantee of FTZ 138, requesting special-purpose subzone status for the manufacturing and warehousing facilities of E.I. DuPont de Nemours and Company, Inc. (DuPont), located in Circleville, Ohio. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 23, 2001.

DuPont has two sites with 320 employees in Pickaway County, Ohio. Site 1 (750 acres) is located at U.S. Route 23 and DuPont Road, Circleville, Ohio. Site 2 (193,000 square feet) is located at 2300 Owens Road, Circleville, Ohio. The DuPont facility is used for the manufacturing, testing, packaging and warehousing of Kapton® polyimide films (HTS 3920.99.22, duty rate 4.2%), which are used in miniaturized electronic components, microprocessor chip carriers and high speed locomotive motors. Components and materials sourced from abroad (representing about 73% of all parts consumed in manufacturing) include: 4-4′-oxydianiline (ODA); 3,4,3′,4′ biphenyl tetracarboxylic dianhydride (BPDA); pyromellitic dianhydride (PMDA); benemine, 4,4′-(1,3-phenylenebis (oxy)) bis (RODA); and 4,4′-oxydiphthalic anhydride (ODPA) (HTS 2922.29.80, 2917.39.30, 2917.39.70, 2922.29.29, and 2917.39.30, duty rate ranges from 6.5% to 10.6%).

FTZ procedures would exempt DuPont from Customs duty payments on the foreign components used in export production. Some 35 percent of the plant's shipments are exported. On its domestic sales, DuPont would be able to choose the duty rates during Customs entry procedures that apply to finished polyimide film (4.2%) for the foreign inputs noted above. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 2, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 16, 2001).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, Two Nationwide Plaza, Suite 1400, Columbus, OH 43215.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 23, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–10859 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 18–2001]

Foreign-Trade Zone 33—Pittsburgh, Pennsylvania; Application for Subzone, Sony Technology Center-Pittsburgh (Television Manufacturing Facilities) Mount Pleasant, Pennsylvania

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Regional Industrial Development Corporation of Southwestern Pennsylvania, grantee of FTZ 33, requesting special-purpose subzone status for the manufacturing and warehousing facilities of the Sony Technology Center-Pittsburgh (STC–P), located in Mount Pleasant, Pennsylvania. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 23, 2001.

The STC–P facility is comprised of three sites with 3,300 employees in Westmoreland County, Pennsylvania: Site 1 (633.64 acres, currently with 3,550,000 square feet, with a possible expansion of 458,330 square feet)—located at 1001 Technology Drive, Mount Pleasant, Pennsylvania; Site 2 (9.8 acres, 192,500 square feet)—located at the South Greensburg Commons at Huff and Parr Streets, Greensburg, Pennsylvania; and Site 3 (31.2 acres, 273,600 square feet)—located at the former Montgomery Wards Distribution Center on Route 119 in New Stanton, Pennsylvania.

STC–P indicates that it intends to manufacture, test, package, and warehouse under zone procedures unfinished and finished television sets (HTSUS 8528, duty free-5%), components of television sets (HTSUS 8540, 5.4%; HTSUS 7011, 5.2%), television tubes (HTSUS 8540, 3.3%–15%), specialty chemicals for the electronics industry (HTSUS 2916, 6.5%, HTSUS 3403, 6.5%) and thermal transfer ribbons (HTSUS 3921, 4.20%, HTS 9612, 8.2%). Foreign-sourced materials will account for, on average, 68% of the finished products value. STC–P indicates that the foreign sourced inputs would be as follows: Feldspar, salts of oxometallic or peroxometallic acids, hydrogen, silicates, other organo-inorganic compounds, glass frit, artificial graphite, polymers of vinyl chloride, polymers of vinyl acetate, polyacetals, silicones, self-adhesive sheets, rubber, packaging materials, glass parts of television tubes, pipe seal ribbon, screws, bolts, articles of aluminum, tungsten, electromagnets, heater evaporation coil, switches, relays, fuses, lenses, signaling glassware, base metal mountings, loudspeakers, unrecorded and recorded media, transmission apparatus, parts of televisions, electrical capacitors, electrical resistors, printed circuits, thin steel for aperture grilles (HTSUS 7209.18.2510 and 7211.23.6075), electrical filament, cathode ray tubes, diodes, transistors, electronic integrated circuits and microassemblies, insulated wire, EMI shields, natural graphite, microcrystalline wax, unsaturated and saturated acyclic monocarboxylic acids, glass parts for television, casein, lubricating preparations, polishes and creams, prepared glues, polymers of ethylene and vinyl acetate, amino-resins, ribbons for impressions. The application also indicates that the company may in the future import under FTZ procedures other materials used in the production of televisions, thermal transfer ribbons and specialty chemicals.

FTZ procedures would exempt STC–P from Customs duty payments on the foreign components used in export production. Some 17 percent of the plant's shipments are exported. On its domestic sales, STC–P would be able to choose the duty rates during Customs entry procedures that apply to finished products (duty free to 15%) for the foreign inputs noted above. However, the subzone plan indicates that certain manufacturing inputs, including cathode ray tubes, components of cathode ray tubes, stainless steel ribbon and pipe seal ribbon, will be admitted to the proposed subzone in privileged foreign status.

The majority of zone savings would involve choosing the duty rate on unfinished televisions (HTSUS 8528.12.0800—duty-free) rather than the rate for the primary foreign-sourced components: loudspeakers, transmission apparatus, electrical capacitors, electrical resistors, printed circuits, diodes, transistors and similar semiconductor devices, integrated circuits, insulated electric conductors, electrical insulators, insulating fittings and EMI shields (HTSUS 8518.29.8000, 8518.30.2000, 8525.30.9005, 8532.24.0020, 8533.10.0060, 8534.00, 8541, 8542, 8544.20.0000, 8546.90.0000, 8548.90.000 duty rate ranges from duty-free to 5.3%). Application of the unfinished television classification requires that cathode ray tubes be evaluated separately. The application indicates that STC–P will admit foreign materials for the cathode ray tubes made at the plant in privileged foreign status. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 2, 2001. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 2, 2001.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 2002 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 23, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–10860 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–DS–P

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 (the Act), may request, in accordance with section 351.213 (2000) 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 May 2001, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May for the following periods:

	Period
Antidumping Duty Proceeding	
Argentina: Light-walled Rectangular Carbon Steel Pipe and Tubing, A–357–802	5/1/00–4/30/01
Belgium: Stainless Steel Plate in Coils, A–423–808	5/1/00–4/30/01
Brazil:	
Iron Construction Castings, A–351–503	5/1/00–4/30/01
Frozen Concentrated Orange Juice, A–351–605	5/1/00–4/30/01
Canada: Stainless Steel Plate in Coils, A–122–830	5/1/00–4/30/01
France: Antifriction Bearings, Ball and Spherical Plain, A–427–801	5/1/00–4/30/01
Germany: Antifriction Bearings, Ball, A–428–801	5/1/00–4/30/01
India: Welded Carbon Steel Pipes and Tubes, A–533–502	5/1/00–4/30/01
Indonesia: Extruded Rubber Thread, A–560–803	5/1/00–4/30/01
Italy:	
Antifriction Bearings, Ball, A–475–801	5/1/00–4/30/01
Stainless Steel Plate in Coils, A–475–822	5/1/00–4/30/01
Japan:	
Antifriction Bearings, Ball, A–588–804	5/1/00–4/30/01
Gray Portland Cement and Clinker, A–588–815	5/1/00–4/30/01
Polyvinyl Alcohol, A–588–836	5/1/00–4/30/01
Republic of Korea:	
Malleable Cast Iron Pipe Fittings, Other than Grooved, A–580–507	5/1/00–4/30/01
Polyester Staple Fiber, A–580–812	11/8/99–4/30/01
Stainless Steel Plate in Coils, A–580–831	5/1/00–4/30/01
Singapore: Antifriction Bearings, Ball, A–559–801	5/1/00–4/30/01
South Africa: Stainless Steel Plate in Coils, A–791–805	5/1/00–4/30/01
Taiwan:	
Certain Circular Welded Carbon Steel Pipe & Tubes, A–583–008	5/1/00–4/30/01
Polyester Staple Fiber, A–583–833	3/30/00–4/30/01
Polyvinyl Alcohol, A–583–824	5/1/00–4/30/01
Stainless Steel Plate in Coils, A–583–830	5/1/00–4/30/01
The People's Republic of China:	
Iron Construction Castings, A–570–502	5/1/00–4/30/01
Polyvinyl Alcohol, A–570–842	5/1/00–4/30/01
Pure Magnesium, A–570–832	5/1/00–4/30/01
The United Kingdom: Antifriction Bearings, Ball, A–412–801	5/1/00–4/30/01
Turkey: Welded Carbon Steel Pipe and Tube, A–489–501	5/1/00–4/30/01
Countervailing Duty Proceedings	
Belgium: Stainless Steel Plate in Coils, C–423–809	1/1/00–12/31/00
Brazil: Iron Construction Castings, C–351–504	1/1/00–12/31/00
Italy: Stainless Steel Plate in Coils, C–475–823	1/1/00–12/31/00
South Africa: Stainless Steel Plate in Coils, C–791–806	1/1/00–12/31/00

Suspension Agreements

None.

In accordance with section 351.213(b) 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.

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 Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 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 May 2001. If the Department does not receive, by the last day of May 2001, 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: April 24, 2001.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 01–10845 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Stolz at (202) 482–4474, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

Time Limits

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Background

On January 26, 2000, the Department published a notice of initiation of administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China, covering the period December 1, 1998 through November 30, 1999 (65 FR 4228). On January 9, 2001, we published the preliminary results of review (66 FR 1638). In our notice of preliminary results, we stated our intention to issue the final results of this review no later than May 9, 2001.

Extension of Time Limit for Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore the Department is extending the time limit for completion of the final results until no later than July 8, 2001. *See* Decision Memorandum from Howard B. Smith to Thomas F. Futtner, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the main Commerce building.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: April 23, 2001.

Thomas F. Futtner,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 01–10764 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Boston College; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This is a decision pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 01–008. *Applicant:* Boston College, Chestnut Hill, MA 02467. *Instrument:* Electron Microscope, Model JEM–2010F. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 66 FR 16445, March 26, 2001. *Order Date:* December 1, 2000.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Gerald Z. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–10857 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 01–010. *Applicant:* University of Colorado, Department of MCD Biology, 347 UCB, Boulder, CO 80309–0347.

Instrument: Electron Microscope, Model Tecnai F20.

Manufacturer: FEI Company, The Netherlands. *Intended Use:* The instrument is intended to be used for the study of the structure of biological materials in three dimensions. Sometimes these will be components of cells such as organelles or filaments; sometimes large molecules within cells. In addition, the structure of molecules will be studied at very high resolution by extracting and preparing them so that many copies of the molecule can be imaged at once and these images averaged. The goal of these investigations is to achieve a detailed understanding of the 3-dimensional structure of some cellular component, which in turn can be used to increase the understanding of the component.

Application accepted by Commissioner of Customs: April 13, 2001.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–10858 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042601B]

Survey of Intent and Capacity to Process Fish and Shellfish

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to George Darcy, Assistant Regional Administrator, Sustainable Fisheries Division, 1 Blackburn Circle, Gloucester, MA, 01930, (978) 281–9331, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

I.. Abstract

The Fishery Management Plans for Atlantic Surf Clams and Ocean Quahogs, and Atlantic Mackerel, Squid, and Butterfish include requirements that the National Marine Fisheries Service and/or the Mid-Atlantic Fishery Management Council survey domestic processors and joint venture operators annually to establish industry capacity to utilize the managed species.

A survey, described in the squid, mackerel and butterfish regulations at 50 CFR 648.21(b), is used to establish the intent and capacity of the U.S. industry to utilize allowable harvest in a given year. If the U.S. industry is unable to fully utilize the allowed harvest of Atlantic mackerel, the excess may be used in establishing levels of catch for joint ventures and/or direct foreign harvest.

A survey, required under the surf clam and ocean quahog regulations at 50 CFR 648.7(a)(3)(ii), is used to obtain data for use in monitoring present processing activities and estimating future production at the processing plant level.

Both annual surveys seek information concerning the annual capacity to process these species; the historical amount of product processed; and the quantity of product to be processed in the future.

II. Method of Collection

Telephone surveys are used for the surf clam/ocean quahog fishery, and paper forms are used for the Atlantic mackerel, squid, and butterfish fisheries.

III. Data

OMB Number: 0648–0235.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 54.

Estimated Time Per Response: 5 minutes per report for the surf clam/ocean quahog fishery, 15 minutes per report for other fisheries.

Estimated Total Annual Burden Hours: 10.

Estimated Total Annual Cost to Public: $19.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 25, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–10787 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042601C]

Surf Clam/Ocean Quahog Transfer Log

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to George Darcy, Assistant Regional Administrator, Sustainable Fisheries Division, 1 Blackburn Circle, Gloucester, MA, 01930, (978) 281–9331, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

I. Abstract

Persons holding Individual Transferable Quotas (ITQ) in the surf clam/ocean quahog fishery are annually issued an allowable quota for harvest. Individual allocations may be transferred to other fishermen, but the ITQ holder must register such a transfer with NOAA in advance. The information is used by NOAA for enforcing the quotas.

II. Method of Collection

A paper form is used for each transfer.

III. Data

OMB Number: 0648–0238.

Form Number: None.

Type of Review: Regular submission.

Affected public: Business or other for-profit organizations, individuals or households.

Estimated Number of Respondents: 206.

Estimated Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 52.

Estimated Total Annual Cost to Public: $216.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 25, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–10788 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042601D]

NOAA Satellite Ground Station Customer Questionnaire

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Wayne Winston, E/SP3, Room 3320, 5200 Auth Road, Suitland MD 20746–4304 (phone 301–457–5681)

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA operates meteorological satellite imagery transmission systems whose data are available worldwide. Any user can establish a ground station for receiving the data without prior consent from NOAA. Surveying of customers allows NOAA to learn about who uses the data, how, with what equipment, the location of the equipment, and similar subjects. This information is used to help determine the possible impact of signal or data changes, to identify users for future contacts, and to annually report to the World Meteorological Organization on the geographic location and capabilities of known receiving stations.

II. Method of Collection

People contacting NOAA in a way that indicates that they may operate a satellite receiving station for acquiring NOAA data are mailed a questionnaire. An electronic version is available to persons accessing the related NOAA Web site.

III. Data

OMB Number: 0648–0227.

Form Number: None.

Type of Review: Regular submission.

Affected public: Not-for-profit institutions, individuals or households, business or other for-profit organizations, farms, and state, local, or tribal government.

Estimated Number of Respondents: 300.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 50.

Estimated Total Annual Cost to Public: $50.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 25, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–10789 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–HR–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042401E]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Red Crab Advisory Panel and Scientific and Statistical Committee, (SSC) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between May 15, 2001, and May 18, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Newburyport, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, May 15, 2001, 10 a.m.—Red Crab Advisory Panel Meeting.

Location: Rossi's Restaurant, 50 Water Street, Mill #2, Newburyport, MA 01950; telephone: (978) 499–0240.

The Red Crab Advisors will elect a chair and review Advisory Panel operating procedures. The Advisors will review proposed management measure alternatives and provide input. The Advisors will provide information on the social, economic and operational aspects of the red crab fishery.

Friday, May 18, 2001, 10 a.m.—Scientific and Statistical Committee Meeting.

Location: New England Management Council Office, 50 Water Street, Mill #2, Newburyport, MA 01950; telephone: (978) 465–0492.

The SSC committee will develop plans to provide the Council advice on the priorities identified by the Council. These include:

(1) Review of fishing mortality and biomass reference points for selected groundfish species and skates.

(2) Review of changes in the scallop reference points that might result from a rotational area management strategy and the scientific basis of proposed scallop rotational area management measures as developed by the Council and Scallop PDT.

(3) Evaluation of the available information on the stock structure of monkfish and its implications for management. Review of the monkfish assessment update (to be done by the Monkfish Monitoring Committee), and review of fishing mortality and biomass reference points.

(4) Review of the update of whiting status that will be completed by the Whiting Plan Development Team; and

(5) Other issues that it might advise the Council on such as the potential value of marine protected areas (MPAs) and closed areas (quantify benefits from existing closed areas) and multispecies management issues.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: April 25, 2001.

Richard W. Surdi,

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

[FR Doc. 01–10785 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042401F]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of committee meetings.

SUMMARY: Two committees of the North Pacific Fishery Management Council (Council) will meet in Anchorage, AK.

DATES: The meetings will be held on May 15-16 and May 24-25, 2001.

ADDRESSES: The meetings will be held at the Anchorage Hilton Hotel, 500 W. Third Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff; 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council's Gulf of Alaska Groundfish Rationalization Committee will meet beginning at 10 a.m. on Tuesday, May 15, in the Chart room at the Anchorage Hilton Hotel, and continue through Wednesday, May 16. The Committee will continue working toward rationalization programs for the Gulf of Alaska groundfish fisheries.

The Council's Community Development Quota (CDQ) Policy Committee will meet in the Iliamna Room at the Anchorage Hilton Hotel, beginning at 8:30 a.m. on Thursday May 24, and conclude Friday afternoon, May 25, 2001. The Committee will continue to address issues related to the Community Development Quota oversight responsibilities of the State of Alaska and NMFS in order to provide policy recommendations to the Council.

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 these meetings. 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

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: April 25, 2001.

Richard W. Surdi,

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

[FR Doc. 01–10786 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Technology Opportunities Program (TOP) Grant Recipient Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A).

DATES: Written comments must be submitted on or before July 2, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet mclayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Clifton Beck, NTIA, Room H–4888, U.S. Department of Commerce, 14th and Constitution Avenue, NW,

Washington, DC 20230 (or via the Internet cbeck@ntia.doc.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of the Technology Opportunities Program (TOP), formerly the Telecommunications and Information Infrastructure Assistance Program (TIIAP), is to promote the widespread and efficient use of advanced telecommunications services in the public and non-profit sectors to serve America's communities.

The program has the following objectives:

- To promote the widespread availability and use of digital network technologies.
- To increase the awareness in public and non-profit sectors of digital information technologies and their benefits.
- To stimulate public and non-profit sector organizations to examine potential benefits of, and plan for, investments in digital network technologies.
- To provide a wide variety of model digital network technology projects for public and non-profit sector organizations to follow.
- To educate the public and non-profit sectors about best practices in implementing a wide variety of digital network projects.
- To help reduce disparities in access to, and use of, digital network technologies.

II. Method of Collection

Survey mailed to recipients.

III. Data

OMB Number: 0660–0013.
Form Number: None.
Type of Review: Regular submission.
Affected Public: State and local Governments and non-profit institutions.
Estimated Number of Respondents: 210.
Estimated Time Per Response: 1 hour.
Estimated Total Annual Respondent Burden Hours: 210.
Estimated Total Annual Cost to the Public: 0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to the notice will be summarized and/or included in the request for OMB approval of the information collection; they also will become a matter of public record.

Dated: April 24, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–10766 Filed 4–30–01; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of full and partially closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend. Individuals who will need accommodations for a disability in order to attend the meeting (i.e. interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202–357–6938 or at *Munira.Mwalimu@ed.gov* no later than April 30, 2001. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: May 10–12, 2001.

TIME: May 10—Executive Committee, 5:00–6 p.m., (open), 6:00–7 p.m. (closed). May 11—Full Board 8:30–10 a.m. (open); Assessment Development Committee 10:15 a.m.–12:15 p.m., (open); Committee on Standards, Design and Methodology, 10:15 a.m.–12:15 p.m. (open); Reporting and Dissemination Committee, 10:15 a.m.–12:15 p.m. (open); Full Board, 12:15–1:15 p.m., (closed); 1:15–5 p.m., (open). May 12—Nominations Committee, 7:30–8:30 a.m.; Full Board, 8:30 a.m.–12 p.m. (open).

LOCATION: Loews Annapolis Hotel, 126 West Street, Annapolis, Maryland.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Operations Officer, National Assessment Governing Board, 800 North Capitol Street, NW., Suite 825, Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under Public Law 105–78, the National Assessment Governing Board is also granted exclusive authority over developing the Voluntary National Tests pursuant to contract number RJ97153001.

The Executive Committee will meet on May 10 in open session from 5 p.m. to 6 p.m., and in closed session from 6 p.m. to 7 p.m.

In open session, the Executive Committee will receive updates on the contract for test question banking storage and security and on NAEP reauthorization, appropriations, and related legislation. The Executive Committee will also discuss the NAEP schedule.

From 6:00–7 p.m. the Committee will meet in closed session to discuss future government cost estimates on contracts for the National Assessment of Educational Progress (NAEP) project; to discuss awards for secondary grants analyses for the NAEP project; and to receive independent government cost estimates on contract initiatives for NAEP.

The meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of 552b(c) of Title 5 U.S.C.

On May 11, the full Board will convene in open session from 8:30 a.m.–

10 a.m. The Board will approve the agenda; hear a report from the Executive Director of the National Assessment Governing Board; receive a briefing from Secretary of Education Roderick Paige on the ''No Child Left Behind'' Initiative; and receive an update on the NAEP Program. From 10:15 a.m. to 12:15 p.m., the Board's standing committees will meet in open session.

The Assessment Development Committee will meet from 10:15 a.m.–12:15 p.m. to receive an update on various NAEP assessment development activities, including projects in mathematics, reading, and foreign language. The Committee will also receive a briefing on the content of the NAEP Long Term Trend Study.

The Committee on Standards, Design, and Methodology will meet from 10:15 a.m.–12:15 p.m. to receive an update on the 1992–1998 achievement levels publications and on the status of the Trial Urban Assessment. In addition, the Committee will review and discuss sampling plans for the 2002 NAEP and the methodology for enhanced reporting.

The Reporting and Dissemination Committee will meet from 10:15 a.m.–12:15 p.m. to discuss the sampling and reporting plan for NAEP 2002 assessments; new models for reporting achievement levels; the plan for release of the NAEP 2002 Mathematics Report; and the schedule for release of future NAEP reports. In addition, the Committee will discuss reporting data for subgroups; and the plan for private school reporting in NAEP 2002 assessments. The Reporting and Dissemination Committee will then receive an update on racial categories in NAEP reporting and discuss the background questions in reading and writing for NAEP 2002.

On May 11, the full Board will meet in closed session from 12:15–1:15 p.m. to receive a briefing on the NAEP 2000 Mathematics Report Card. This meeting must be closed because the report has not gone through complete National Center for Education Statistics (NCES) adjudication process and has not been released by the Secretary of Education. Premature disclosure of the information presented for review would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of Section 552b(c) of Title 5 U.S.C.

The full Board will meet in open session on May 11 from 1:15–2 p.m. to receive a briefing on the Baltimore Sun's ''Reading by Nine'' Project. From 2:00–2:45 p.m., the Board will receive an update from Congressional staff on ''NAEP/NAGB: View from the Hill.'' From 3:00–4:15 p.m., the full Board will have a panel discussion on NAEP and NAGB, Past Reflections and Future Directions. Subsequently, at 4:15–5 p.m., the Board will receive a briefing on the Third International Mathematics and Science Study (TIMSS) 1999 Benchmarking Study after which the May 11 meeting will conclude.

On May 12, the Nominations Committee will convene from 7:30 a.m.–8:30 a.m. to discuss the Committee's organization and work schedule.

From 8:30–9:30 a.m., the Board will receive an update and discuss the NAEP 2004 Mathematics Framework project. The Board will then hear and take action on the Committee reports from 9:30 a.m. to 12 p.m. whereupon the meeting will adjourn.

Summaries of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m. Eastern Standard Time.

Dated: April 25, 2001.

Sharif Shakrani,

Deputy Executive Director, National Assessment Governing Board.

[FR Doc. 01–10863 Filed 4–30–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

[Docket Nos. EA–237 and EA–238]

Applications to Export Electric Energy; Allegheny Energy Supply Company, LLC

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Allegheny Energy Supply Company, LLC (Allegheny) has applied for authority to transmit electric energy from the United States to Mexico and to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before May 31, 2001.

ADDRESS: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Rosalind Carter (Program Office) 202–586–7983 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On, April 9, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received separate applications from Allegheny to transmit electric energy from the United States to Mexico and to Canada. Allegheny is a limited liability company formed under Delaware law. Allegheny's sole member is Allegheny Energy, Inc., an electric utility holding company registered under the Public Utility Holding Company Act of 1935. As part of the Allegheny Energy, Inc. holding company system, Allegheny is affiliated with three franchised electric utilities: Monongahela Power Company; The Potomac Edison Company; and West Penn Power Company.

Allegheny owns and operates electric power generation facilities and their associated transmission facilities. However, Allegheny does not have a franchised electric power service area. Allegheny operates as a marketer and broker of electric power at wholesale and arranges services in related areas such as transmission services. Allegheny will generate or purchase the power to be exported from electric utilities and federal power marketing agencies as defined in Section 3(22) and (19) (16 U.S.C. 796 (22) and (19) of the FPA. Allegheny proposes to transmit to Mexico and to Canada electric energy purchased from electric utilities and other suppliers within the U.S. Allegheny requests the export authorization be issued for five years.

In FE Docket EA–237, Allegheny proposes to arrange for the delivery of electric energy to Mexico over the international transmission facilities owned by San Diego Gas & Electric Company, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electricidad, the national electric utility of Mexico.

In FE Docket EA–238, Allegheny proposes to arrange for the delivery of electric energy to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Eastern Maine Electric Cooperative, International Transmission Company

(formally Detroit Edison Company), Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by Allegheny, as more fully described in the applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the Allegheny application to export electric energy to Mexico should be clearly marked with Docket EA–237. Comments on the Allegheny application to export electric energy to Canada should be clearly marked with Docket EA–238. Additional copies are to be filed directly with Daniel L. Gordon, President, Allegheny Energy Global Markets, LLC, 2 World Financial Center, 36th Floor, New York, NY 10080 and Patricia J. Clark, Esq., Allegheny Energy Supply Company, LLC, 4350 Northern Pike, Monroeville, PA 15146.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA) and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory'', then ''Electricity'', then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on April 25, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–10772 Filed 4–30–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–235]

Application to Export Electric Energy; Sempra Energy Resources

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Sempra Energy Resources (SER) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before May 31, 2001.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 28, 2001, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from SER to transmit electric energy from the United States to Mexico. In a related proceeding currently before DOE (FE Docket PP–235), SER has applied for a Presidential permit to construct, operate, maintain, and connect a new electric transmission facility between San Diego Gas and Electric Company's (SDG&E's) Imperial Valley Substation in Imperial County, California, and the Termoeléctrica de Mexicali (TDM) powerplant SER proposes to construct in the vicinity of Mexicali, Baja California, Mexico. The electric energy SER proposes to export to Mexico would be for the purpose of providing ''black start'' capability to the TDM powerplant and for providing ancillary equipment power when the facility's electrical generating equipment is not in operation. Exports from the United States to the TDM plant for ''black start'' purposes are expected to occur routinely, such as during weekend plant shutdowns, with a maximum of 12 MW to be exported.

The electric energy SER proposes to export to Mexico would be obtained from its own generation sources or from power purchase agreements and delivered to SDG&E's Imperial Valley Substation using the existing domestic transmission system. The exported electricity would be transmitted to Mexico over the facilities proposed in FE Docket PP–235.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the SER application to export electric energy to Mexico should be clearly marked with Docket EA–235. Additional copies are to be filed directly with Alberto Abreu, Director, Permitting and Licensing, Sempra Energy Resources, 101 Ash Street, P.O. Box 1831, San Diego, CA 92112–4150.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at *http://www.fe.doe.gov.* Upon reaching the Fossil Energy Home page, select ''Electricity'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, DC, on April 25, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–10769 Filed 4–30–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Chicago Operations Office; Notice of Financial Assistance Solicitation Availability

AGENCY: Chicago Operations Office, DOE.

ACTION: Notice of financial assistance solicitation availability.

SUMMARY: The Department of Energy is announcing its intent to invite applications from small businesses and institutions of higher education and development for the Cooperative Automotive Research for Advanced Technologies (CARAT) Program. This annual solicitation seeks innovative research and development in the following seven (7) topic areas: TOPIC 1—Alternative (Non-Lithium) Insertion Electrode Battery Technology; TOPIC 2—Non-Carbon Anodes for Lithium-ion Batteries; TOPIC 3—Fuel Cells for Auxiliary and Portable Power; TOPIC 4—Homogeneous-Charge Compression-Ignition (HCCI) Enabling Technology; TOPIC 5—Cost-Effective, High-Efficiency Porous Media Heat Transfer; TOPIC 6—Cost-Effective, High-Efficiency Materials for Thermoelectric Devices; and TOPIC 7—Cost-Effective, High-Efficiency Integrated Systems Approach to Auxiliary Electric Motors.

DATES: The complete solicitation document will be available on or about April 27, 2001. The deadline for the submission of applications will be identified in the solicitation.

ADDRESSES: Copies of the solicitation, when issued, can be obtained from the DOE Chicago Operations Office, Acquisition and Assistance Home Page at *http://www.ch.doe.gov/business/ACQ.htm* under the heading ''current solicitations'', Solicitation No. DE–SC02–01EE50657.

FOR FURTHER INFORMATION CONTACT: Earlette Robinson, 630/252–2667.

SUPPLEMENTARY INFORMATION: Preapplications will be due approximately two-weeks after on the release of the solicitation. Please note that users will not be alerted when the solicitation is issued on the Internet.

Issued in Argonne, Illinois on April 20, 2001.

John D. Greenwood,

Assistant Manager for Acquisition and Assistance.

[FR Doc. 01–10770 Filed 4–30–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC00–580–001, FERC Form 580]

Information Collection Submitted for Review and Request for Comments

April 25, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of submission of review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the information collection listed in this notice to the Office of Management and Budget (OMB) for review under the provisions of section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below. The Commission received comments from two entities in response to an earlier **Federal Register** notice of June 21, 2000 (65 FR 38529) and has replied to these comments in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received on or before May 31, 2001.

ADDRESSES: Address comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street NW., Washington, DC 20503. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail to *mike.miller@ferc.fed.us*

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC Form No. 580, ''Interrogatory on Fuel and Energy Purchase Practices, Docket No. IN79–6''.

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0137.

The Commission is now requesting that OMB approve a three year extension of these mandatory information collection requirements.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of the Federal Power Act (FPA). The FPA was amended by the Public Utility Regulatory Policies Act (Pub. L. 95–617) to require the Commission to review ''not less frequently than every two (2) years * * * of practices * * * to ensure efficient use of resources (including economical purchase and use of fuel and electric energy) * * *''. The information is used to:

(1) Review as mandated by statute, fuel purchase and cost recovery practices to insure efficient use of resources, including economical purchase and use of fuel and electric energy, under fuel adjustment clauses on file with the Commission; (2) evaluate fuel costs in individual rate filings; (3) to supplement periodic utility audits; and (4) to monitor changes and trends in the electric wholesale market. The information has also been used by the Energy Information Administration under a Congressional mandate to study various aspects of coal, oil, and gas transportation rates. Electric market participants and the public are using the information to assess the marketplace during its transition to a fully competitive regime.

5. *Respondent Description:* The respondent universe currently comprises approximately 119 respondents.

6. *Estimated Burden:* 3,808 total burden hours, 119 respondents, 59.5 responses annually (119 responses every two years), 64 hours per response (average).

7. *Estimated Cost Burden to Respondent:* 3,808 hours ÷ 2,080 hours per year × $117,041 = $214,275.

Statutory Authority: Sections 205(f) of the Federal Power Act, as amended by Section 208 of the Public Utility Regulatory Policies Act. (49 Stat. 851; 16 U.S.C. 824d).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–10735 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–12–001]

Alliance Pipeline L.P.; Notice of Filing

April 25, 2001.

Alliance Pipeline L.P. filed revised standards of conduct on April 11, 2001 in accordance with the Commission's March 15, 2001 Order. 94 FERC ¶ 61,277 (2001).

Alliance Pipeline states that it served copies of the filing on all parties in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding 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 or 385.214). All such motions to intervene or protest should be filed on or before May 10, 2001. 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. Copies of these filings are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–10734 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1312–000]

Bethlehem Steel Corporation; Notice of Issuance of Order

April 25, 2001.

Bethlehem Steel Corporation (Bethlehem) submitted for filing a rate schedule under which Bethlehem will engage in wholesale electric power and energy transactions at market-based rates. Bethlehem also requested waiver of various Commission regulations. In particular, Bethlehem requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Bethlehem.

On April 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Bethlehem should file a motion to intervene or protest 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).

Absent a request to be heard in opposition within this period, Bethlehem is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Bethlehem's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 3, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–10744 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM96–1–015, RP01–384–000, and RP01–385–000 (Not Consolidated)]

Standards for Business Practices of Interstate Natural Gas Pipeline; Chandeleur Pipe Line Company, USG Pipeline Company; Notice of Compliance Filing

April 26, 2001.

Take notice that the above-referenced pipelines made filings in compliance with Docket No. RM96–1–015, Order No. 587–M.[1] The tariff sheets implement Version 1.4 of the Gas Industry Standards Board (GISB) Standards accepted by the Commission in Order No. 587–M and are proposed to become effective May 1, 2001.

On November 30, 2000 at Docket No. RM96–1–015, the Commission issued Order No. 587–M to amend section 284.12(b) of its regulations to incorporate Version 1.4 of the GISB standards. The business practices and standards contained in Order 587–M make additions and revisions to Version 1.3 of the standards, which had previously been incorporated by reference. Among other things, Order No. 587–M adopted the business practices and electronic communications standards created by GISB on August 31 and November 15, 1999. Order No. 587–M requires pipelines to adopt Version 1.4 of the GISB Standards and to implement these provisions by May 1, 2001.

Any person desiring to become a party a proceeding must file a separate motion to intervene or protest in each docket.

Any person desiring to be heard or to protest said filings should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

[1] Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587–M, 65 FR 77285 (Dec. 11, 2000), FERC Stats. & Regs. Regulations Preambles [Jul. 1996–Dec. 2000] ¶ 31,114 (Nov. 30, 2000).

Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/ online/ rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/ doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–10778 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1279–000]

Connecticut Energy Cooperative, Inc.; Notice of Issuance of Order

April 25, 2001.

Connecticut Energy Cooperative, Inc. (CECI) submitted for filing a rate schedule under which CECI will engage in wholesale electric power and energy transactions at market-based rates. CECI also requested waiver of various Commission regulations. In particular, CECI requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by CECI.

On April 3, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariff and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by CECI should file a motion to intervene or protest 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).

Absent a request to be heard in opposition within this period, CECI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of CECI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 3, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at*http:/ /www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http:/ /www.ferc.fed.us/efi/doorbell.htm*.

David P. Boergers,

Secretary.

[FR Doc. 01–10743 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–027]

Dominion Transmission, Inc.; Notice of Negotiated Rate

April 25, 2001.

Take notice that on April 20, 2001, Dominion Transmission, Inc. (DTI) tendered for filing with the Commission the following tariff sheets for disclosure of a recently negotiated transaction with Penn Virginia Oil & Gas Corporation.

Original Sheet No. 1415
Sheet Nos. 1416–1499

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/ rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/ doorbell.htm*.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–10741 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–026]

Dominion Transmission, Inc.; Notice of Negotiated Rate

April 25, 2001.

Take notice that on April 20, 2001, Dominion Transmission, Inc. (DTI) tendered for filing with the Commission the following tariff sheets for disclosure of a recently negotiated transaction with Key Oil Company:

Original Sheet No. 1414
Sheet Nos. 1415–1499

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/ rims.htm (call 202–208–2222 for assistance). Comments, protests, and

interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–10742 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1166–000]

Enron Sandhill Limited Partnership; Notice of Issuance of Order

April 25, 2001.

Enron Sandhill Limited Partnership (Enron Sandhill) submitted for filing a rate schedule under which Enron Sandhill will engage in wholesale electric power and energy transactions at market-based rates. Enron Sandhill also requested waiver of various Commission regulations. In particular, Enron Sandhill requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Enron Sandhill.

On March 29, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Enron Sandhill should file a motion to intervene or protest 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).

Absent a request to be heard in opposition within this period, Enron Sandhill is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Enron Sandhill's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 3, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at*http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–10740 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–045]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

April 26, 2001.

Take notice that on April 23, 2001, Gulf South Pipeline Company, LP (Gulf South) filed with the Commission a contract for disclosure of a recently negotiated rate transaction with Mobile Gas Service Corporation to be substituted for the contract field on April 19, 2001. Gulf South states that certain pages were inadvertently omitted from the contract; therefore, Gulf South requests withdrawal of the April 19, 2001 filing.

Gulf South states that copies of the filing are being served upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–10779 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–5–003]

Mid Louisiana Gas Company; Notice of Compliance Filing

April 26, 2001.

Take notice that on April 23, 2001, Mid Louisiana Gas Company (MidLa) filed under protest the following revised tariff sheet in order to comply with an informal request the Commission's Staff. The Staff has requested that MidLa revise such tariff sheet in order to eliminate certain provisions that are duplicative of other provisions in MidLa's tariff. As mandated by Order No. 587–L, the revised tariff sheet is to be effective as of November 1, 2000.

First Fourth Revised Sheet No. 135C

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web athttp://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR

385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–10780 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–382–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 25, 2001.

Take notice that on April 19, 2001, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective May 19, 2001:

55 Revised Sheet No. 50
56 Revised Sheet No. 51
23 Revised Sheet No. 52
Fifth Revised Sheet No. 56
Sixth Revised Sheet No. 263
Seventh Revised Sheet No. 263A
Second Revised Sheet No. 263B
Second Revised Sheet No. 263C
Third Revised Sheet No. 263D
Third Revised Sheet No. 263E

Northern states that it is filing revised tariff sheets to amend the provisions dealing with the Carlton Commodity Surcharge as further discussed in the filing.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–10738 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1011–000 and ER01–1011–001]

Redbud Energy LP; Notice of Issuance of Order

April 25, 2001.

Redbud Energy LP (Redbud) submitted for filing a rate schedule under which Redbud will engage in wholesale electric power and energy transactions at market-based rates. Redbud also requested waiver of various Commission regulations. In particular, Redbud requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Redbud.

On March 29, 2001, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Redbud should file a motion to intervene or protest 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).

Absent a request to be heard in opposition within this period, Redbud is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Redbud's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 3, 2001.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–10736 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. MG98–8–002 and MG98–13–001]

Tuscarora Gas Transmission Company; Notice of Filing

April 25, 2001.

Tuscarora Gas Transmission Company filed revised standards of conduct on April 18, 2001 in accordance with the Commission's March 19, 2001 Order. 94 FERC ¶ 61,325 (2001).

Tuscarora Gas Transmission Company states that it served copies of the filing on all parties in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 10, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This

filing may also be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Secretary.

[FR Doc. 01–10739 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–383–000]

Viking Gas Transmission Company; Notice of Tariff Filing

April 25, 2001.

Take notice that on April 20, 2001, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Ninth Revised Sheet No. 82 to be effective on June 1, 2001.

Viking states that the purpose of this filing is to change Viking's tariff to expand the period during which requests for service may be made. Viking's tariff currently does not allow requests for service to be made more than ninety days prior to the proposed commencement date of service. Viking's proposed change would allow requests for service to be made up to eleven months prior to the proposed commencement date of service.

Viking states that copies of this filing have been served on all of Viking's jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–10737 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Membership of Performance Review Board

April 26, 2001.

The Federal Energy Regulatory Commission hereby provides notice of the membership of its Performance Review Board (PRB). This action is undertaken in accordance with Title 5, U.S.C., Section 4314(c)(4). The Commission's PRB will be comprised of the following members:

Thomas R. Herlihy
Daniel L. Larcamp
Cynthia A. Marlette

David P. Boergers,

Secretary.

[FR Doc. 01–10781 Filed 4–30–01; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6971–9]

Proposed Settlement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree which was lodged with the United States District Court for the Northern District of California by the United States Environmental Protection Agency (''EPA'') on April 5, 2001 to address a lawsuit filed by the Bayview Hunters Point Community Advocates, Communities for a Better Environment, Latino Issues Forum, Sierra Club, Transportation Solutions Defense and Education Fund, Urban Habitat Program, a Project of the Tides Center, and Our Children's Earth Foundation. This lawsuit, which was filed pursuant to section 304(a) of the Act, 42 U.S.C. 7604(a), addresses EPA's alleged failure to meet a mandatory deadline under section 110(k) of the Act, 42 U.S.C. 7410(k), to take final action to approve or disapprove the 1999 San Francisco Bay Area Ozone Attainment Plan. *Bayview Hunters Point Community Advocates et. al.* v. *EPA,* Civil No. C–01–0050 THE (N.D. Cal.).

DATES: Written comments on the proposed consent decree must be received by May 31, 2001.

ADDRESSES: Written comments should be sent to Jan Taradash, Office of Regional Counsel, U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the proposed consent decree are available from Jan Taber, (415) 744–1341.

SUPPLEMENTARY INFORMATION: The Clean Air Act requires EPA to take action to approve or disapprove a State implementation plan revision within 12 months of a determination by the Administrator that such revision is complete. See section 110(k)(1)–(4), 42 U.S.C. 7410(k)(1)–(4). On August 13, 1999, the California Air Resources Board submitted to EPA the 1999 San Francisco Bay Area Ozone Attainment Plan (''1999 Plan'') as a proposed revision to the California State Implementation Plan. EPA found the 1999 Plan to be complete pursuant to section 110(k)(1)(B), 42 U.S.C. 7410(k)(1)(B), on October 28, 1999. On March 30, 2001, EPA published a proposed rule on the plan. 66 FR 17379. The proposed consent decree provides that the Administrator or her delegatee shall sign no later than August 28, 2001, a notice for publication in the **Federal Register** taking final action pursuant to section 110(k) of the Act, 42 U.S.C. 7410(k), and shall submit the notice by September 4, 2001, to the Office of the Federal Register for publication.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed consent decree from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will then be executed by the parties.

Dated: April 17, 2001.

Anna L. Wolgast,

Acting General Counsel.

[FR Doc. 01–10808 Filed 4–30–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6971–8]

Draft Public Involvement Policy—Extension of Public Comment Period and Announcement of Public Dialogue

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of public comment period and announcement of public dialogue.

SUMMARY: The Environmental Protection Agency published its draft Public Involvement Policy on December 28, 2000 and requested public comments through April 27, 2001 (65 FR 82335, Dec. 28, 2000). EPA now extends this public comment period through July 31, 2001. This extension will allow the agency to convene an on-line public dialogue on the draft Public Involvement Policy. This dialogue, which will be an interactive discussion on the Internet, will provide additional opportunities for the public to provide feedback on issues relating to the draft policy. The dialogue will be held during two weeks in the summer of 2001 and will be announced on the EPA web page at *http://www.epa.gov/stakeholders.* To request direct e-mail notification of the dialogue, send a message to: *stakeholders@epa.gov.* The draft policy is posted on the web at *http://www.epa.gov/stakeholders/policy.htm.* EPA's Office of Policy, Economics and Innovation will maintain all public comments on the draft Public Involvement Policy in a docket that is available to the public. In addition, EPA may post all comments on the Internet, unless commenters request otherwise.

DATES: Comments will be accepted until July 31, 2001. The on-line dialogue will be held in June or July, 2001.

ADDRESSES: Submit comments to Patricia A. Bonner, United States Environmental Protection Agency, Office of Policy, Economics and Innovation (MC 1807), 1200 Pennsylvania Ave, NW., Washington, DC 20460, by facsimile to 202–260–4903, or by electronic mail to: *stakeholders@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Patricia Bonner at 202–260–0599 or *bonner.patricia@epa.gov.*

Jay Benforado,

Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation.

[FR Doc. 01–10807 Filed 4–30–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[EB Docket No. 01–99; DA 01–1044]

Designation of Consolidated Hearing To Adjudicate Damages Claims in the End User Common Line Charge Proceeding

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On April 24, 2001, the Enforcement Bureau of the Federal Communications Commission (''Commission'') released a Hearing Designation Order (''HDO'') initiating a consolidated hearing to adjudicate the damages claims of several complainant independent payphone providers (''Complainants'') against certain local exchange carriers (''Defendants''). To avail themselves of the opportunity to participate in this hearing, the parties are required to file a written Notice of Appearance with the Office of the Commission Secretary, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the HDO, within 20 days of the mailing of the HDO to the parties.

DATES: The HDO was mailed to the parties on April 24, 2001. The parties are required to file their Notice of Appearance by May 14, 2001.

ADDRESSES: Submit the Notice of Appearance to the Office of the Commission Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW–204B, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Tejal Mehta, 202–418–7397.

SUPPLEMENTARY INFORMATION: The Commission has previously ruled that the Defendants violated section 201(b) of the Communications Act of 1934, as amended, and part 69 of the Commission's rules by improperly assessing End User Common Line charges upon the Complainants. *See C.F. Communications Corp., et al.* v. *Century Telephone of Wisconsin, Inc., et. al.,* Memorandum Opinion and Order on Remand, 15 FCC Rcd 8759 (2000). The HDO resolves certain outstanding issues and refers others, including whether Complainants are entitled to an award of damages, to an Administrative Law Judge.

Federal Communications Commission.

David H. Solomon,

Chief, Enforcement Bureau.

[FR Doc. 01–10951 Filed 5–1–01; 8:45 am]

BILLING CODE 6712–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Government in the Sunshine; Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Monday, May 7, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 27, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–11033 Filed 4–27–01; 3:07 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–33–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Vital Statistics Training Application—Reinstatement—(OMB No. 0920–0217)

National Center for Health Statistics (NCHS). In the United States, legal authority for the registration of vital events, i.e., births, deaths, marriages, divorces, fetal deaths, and induced terminations of pregnancy, resides individually with the States (as well as cities in the case of New York City and Washington, DC) and Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. These governmental entities are the full legal proprietors of vital records and the information contained therein. As a result of this State authority, the collection of registration-based vital statistics at the national level, referred to as the U.S. National Vital Statistics System (NVSS), depends on a cooperative relationship between the States and the Federal government. This data collection, authorized by 42 U.S.C. 242k, has been carried out by NCHS since it was created in 1960.

To help in achieving the comparability needed for combining data from all States into national statistics, NCHS carries out a training program for State and local vital statistics staff to assist in developing expertise in all aspects of vital registration and vital statistics. The training offered under this program includes courses for registration staff, statisticians, and coding specialists, all designed to bring about a high degree of uniformity and quality in the data provided by the States. This training program is authorized by 42 U.S.C. 242b, Section 304(a). In order to offer the types of training that would be most useful to vital registration staff members, NCHS requests information from State and local vital registration officials about their projected needs for training. NCHS also asks individual candidates for training to submit an application form containing name, address, occupation, work experience, education, and previous training. These data enable NCHS to determine those individuals whose needs can best be met through the available training resources. The annualized burden for this collection is 44 hours.

Respondents	Number of respondents	Responses/respondents	Avg. burden/response (in hrs)
State, local, and Territory Registration Officials	57	1	.33
Training Applicants	100	1	.25

Dated: April 23, 2001.

Nancy Cheal,

Acting Associate Director for Policy Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–10732 Filed 4–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 day–34–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Linking Epidemiologic Research to Disease Prevention: A Pilot Program to Test Approaches for Communicating Increased Risk of Cervical Cancer to Female Workers in the Dry-Cleaning Industry—NEW—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

The National Institute for Occupational Safety and Health (NIOSH) has conducted worker notification formally since 1988. This program informs workers in NIOSH-conducted epidemiological studies about the study results and hence, of their risks. The intervention research to be conducted under this application will extend the risk communication beyond the mortality study cohort (an aging and mostly retired cohort) to similarly exposed women, younger and still employed.

Several studies, including one conducted at NIOSH, have documented elevated mortality from cancer among dry cleaning workers. Some of the cancers involved—most notably cervical cancer—can be successfully treated if detected early. Thus, along with better hazard control, better secondary disease prevention is urgently needed to help women workers already exposed. Exiting NIOSH procedures for notifying workers about the agency's research findings seem unlikely to reach the larger at-risk population of women dry cleaners who were not actually study subjects.

The ultimate purpose of this research is to increase understanding of how to encourage medical screening among workers at risk. The project has two main objectives: (1) To assess descriptively the feasibility and potential public health benefits of a broader than usual approach to NIOSH worker notification about occupational health risks, based on results of NIOSH epidemiologic research; and (2) to determine whether a follow-up reminder about the importance of medical screening makes a significant difference in the notified workers' long-term health behavior.

The primary study population will consist of a minimum 300 current female dry cleaning workers in New York City (ages 18–65), selected from the membership list (a respondent

universe of 375) from the dry cleaners' local labor union. A separate population of 100 former dry cleaning workers randomly selected from a cohort list of approximately 226 surviving women dry cleaners in a NIOSH cohort mortality study will provide descriptive data only and will not be included in the data analysis of the primary group of currently employed dry cleaners. All study participants will be mailed a packet of risk information from NIOSH, along with a letter of endorsement of the study from the local union in New York, encouraging participation in the study. The risk information packet will include the NIOSH mortality study results as well as other information about cancer and cancer screening, with a special emphasis on cervical cancer screening.

Brief (15-minute) telephone interviews will follow the mailed notifications to workers and will be used to evaluate (1) the effects of an intervention (mailed written notification materials) on post-intervention cervical cancer screening behaviors; and (2) the effects of a reminder message mailed six months after the initial notification.

The effect of the first intervention will be measured by comparing the pre-and post-intervention screening behaviors for the year prior to the intervention. The effect of the second intervention will be evaluated experimentally (using a control group), measuring the screening behaviors from the time of the reminder letter to the Time-2 interview 6 months later, compared to the screening behaviors at the Time-1 interview. These intervention evaluations will address barriers to cervical screening and also will allow insight into the following questions:

1. Does the outreach message have a long-term impact concerning the use of cancer screening services (message retention and actual screening behavior)?

2. Does receiving a screening reminder affect message retention and actual screening behavior?

The annualized burden for this collection is 253.3 hours.

Respondents	Number of respondents	Number of responses	Avg. burden per response (in hrs.)
Year 1	400	1	20/60
Year 2	360	1	20/60

Dated: April 23, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention, (CDC).

[FR Doc. 01– 10733 Filed 4–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01045]

Diabetes Programs; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY)2001 funds for grant programs entitled Diabetes Programs. This announcement is related to the focus area of Diabetes.

The purpose of the program is to reduce the disease and economic burden of diabetes, and improve the quality of life for all persons who have or are at risk for diabetes, through prevention programs.

B. Eligible Applicants

Assistance will only be provided to the organizations listed below. No other applications are solicited. The Conference Report H. R. 4577, Consolidated Appropriation Act 2001, specified these funds for the organizations listed below.

1.1 Fresno Community Hospital and Medical Center to support a minority focused diabetes outreach program. ($214,767)

1.2 Diabetes -Endocrinology Center of Western New York in Buffalo for community education and outreach efforts to improve early detection, prevention, and control of diabetes. ($198,893)

1.3 Louisiana State Health Sciences Center in Shreveport for a comprehensive diabetic education and treatment program. ($257,720)

1.4 Center for Diabetes and Prevention Control at Texas Tech University Health Sciences Center to provide a national model of diabetes outreach, education, prevention, and care. ($1,720,691)

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $2,392,341 is available in FY 2001 to fund four awards. It is expected that the award will begin on or about July 1, 2001, and will be made for a 12-month budget period within a one year project period. Funding estimates may change.

D. Where To Obtain Additional Information

Business management technical assistance may be obtained from: Barry Copeland, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01045, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2751, Email Address: bjc8@cdc.gov.

Program technical assistance may be obtained from: Dara Murphy, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), 4770 Buford Highway, NE, MS K–10Atlanta, Georgia 30341, Telephone: (770) 488–5193, E-Mail Address: dlm1@cdc.gov.

Dated: April 25, 2001.

John L. Williams,

Director, Procurement and Grant Office, Center for Disease Control and Prevention (CDC).

[FR Doc. 01–10761 Filed 4–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01079]

Cooperative Agreement for the Development of State-Level Surveillance Systems, Enhancement of Epidemiologic Practice, and the Development of Epidemiologic Training Programs for State Health Agencies; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement for the development of state-level surveillance systems, enhancement of epidemiologic practice, and the development of epidemiologic training programs for state health agencies.

B. Eligible Applicants

Assistance will be provided only to the Council of State and Territorial Epidemiologists (CSTE). No other applications are solicited. Because of the professional appointments and technical expertise with tribal, state, territorial and local health agencies, through its membership, CSTE is uniquely capable of applying epidemiologic principles to disease, environmental, and injury problems at the national, state, and local levels, and when states are directly affected. No other organization has the scientific and technical expertise to carry out this project.

C. Availability of Funds

Approximately $3,000,000 is available in FY 2001 to fund this award. Funds will be allocated to individually described and budgeted projects or activities which will comprise the overall cooperative agreement. Individual projects are expected to range from $100,000 to $625,000. It is expected that the award will be made on or about September 30, 2001, and will be made for a 12 month budget period within a project period of up to five years.

D. Where To Obtain Additional Information

Business management technical assistance may be obtained from: Mattie Jackson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2696, Email address: mij3@cdc.gov.

Program technical assistance may be obtained from: Maryan D. Reynolds, Public Health Advisor 1600 Clifton Road, Mailstop D–18, Atlanta, GA 30333, Telephone number: 404–639–4240, Email address: mdk0@cdc.gov.

Dated: April 25, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–10760 Filed 4–30–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: Comment Request

Proposed Projects

Title: Head Start Impact Study.

OMB No.: New Collection.

Description: The Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) of the Department of Health and Human Services (DHHS) is requesting comments on plans to conduct the Head Start Impact Study. This study is being conducted under contract with Westat, Inc. (with the Urban Institute, American Institutes for Research, and Decision Information Resources as their subcontractors) (#282–00–0022) to collect information for determining, on a national basis, how Head Start affects the school readiness of children participating in the program as compared to children not enrolled in Head Start and to determine under which conditions Head Start works best and for which children.

The Head Start Impact Study involves ten waves of data collection. The first two waves will occur during the field test in fall 2001 and spring 2002. The field test will involve approximately 600 first time enrolled three- and four-year old preschool children across eight grantee/delegate agencies representing different community contexts. The children participating will be randomly assigned to either a Head Start group (that receives Head Start program services) or a comparison group (that does not receive Head Start services but may enroll in other available services selected by their parents or be cared for at home). Waves three through ten will involve data collection for the full-scale study. The Head Start Impact Study is a longitudinal study that will involve approximately 5,000–6,000 first time enrolled three- and four-year old preschool children across an estimated 75 nationally representative grantee/delegate agencies (in communities where there are more eligible children and families than can be served by the program). Data collection for the full-scale study will begin in fall 2002 and extend through spring 2006 with child assessments, conducted in the fall and spring of the Head Start years and in the spring of the kindergarten and first grade years and parent interviews conducted in the fall and spring of each year. Interviews/surveys with program staff/care providers, and quality of care assessments will be conducted in the spring of each year.

This schedule of data collection is necessitated by the mandate in Head Start's 1998 reauthorization (Coates Human Services Amendments of 1998, PL 05–285) that DHHS conduct research to determine, on a national level, the impact of Head Start on the children it serves.

Respondents: Individuals or households, Head Start Agencies, school districts, and other child care providers.

Annual Burden Estimates: Estimated Response Burden for Respondents to the Head Start Impact Study—fall 2001, spring 2002, fall 2002, spring 2003, fall 2003, spring 2004, fall 2004, spring 2005, fall 2005, and spring 2006.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Year 1 (fall 2001):				
Parent Interviews	600	1	1.00	600
Child Assessments	600	1	0.66	400
Year 1 (spring 2002):				
Parent Interviews	540	1	1.00	540
Child Assessments	540	1	0.66	360

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Teacher Ratings	108	5	0.25	27
Family Services Coordinators	50	1	0.75	38
Education Coordinators	50	1	0.75	38
Center Directors/Principals	50	1	1.00	50
Classroom Teachers/Care Providers	108	1	0.50	54
Total—year 1				2,107
Year 2 (fall 2002):				
Parent Interviews	5,111	1	1.00	5,111
Child Assessments	5,111	1	0.66	3,407
Year 2 (spring 2003):				
Parent Interviews	4,599	1	1.00	4,599
Child Assessments	4,599	1	0.66	3,066
Teacher Ratings	920	5	0.25	230
Family Services Coordinators	500	1	0.75	375
Education Coordinators	500	1	0.75	375
Center Directors/Principals	500	1	1.00	500
Classroom Teachers/Care Providers	920	1	0.50	460
Total—year 2				18,123
Year 3 (fall 2003):				
Parent Interviews	4,139	1	1.00	4,139
Child Assessments	2,287	1	0.66	1,525
Year 3 (spring 2004):				
Parent Interviews	3,910	1	1.00	3,910
Child Assessments	3,910	1	0.66	2,607
Teacher Ratings	782	5	0.25	196
Family Services Coordinators	450	1	0.75	338
Education Coordinators	450	1	0.75	338
Center Directors/Principals	450	1	1.00	450
Classroom Teachers/Care Providers	782	1	0.50	391
Total—year 3				13,894
Year 4 (fall 2004):				
Parent Interviews	3,519	1	1.00	3,519
Year 4 (spring 2005):				
Parent Interviews	3,519	1	1.00	3,519
Child Assessments	3,519	1	0.66	2,346
Teacher Ratings	704	5	0.25	176
Family Services Coordinators	405	1	0.75	304
Education Coordinators	405	1	0.75	304
Center Directors/Principals	405	1	1.00	405
Classroom Teachers/Care Providers	704	1	0.50	352
Total—year 4				10,925
Year 5 (fall 2005):				
Parent Interviews	1,667	1	1.00	1,667
Year 5 (spring 2006):				
Parent Interviews	1,667	1	1.00	1,667
Child Assessments	1,667	1	0.66	1,111
Teacher Ratings	333	5	0.25	83
Family Services Coordinators	300	1	0.75	225
Education Coordinators	300	1	0.75	225
Center Directors/Principals	300	1	1.00	300
Classroom Teachers/Care Providers	333	1	0.50	167
Total—year 5				5,445
Estimated Total Annual Burden Hours				10,098

Note: The 10,098 Total Annual Burden Hours is based on an average of 2001–02, 2002–03, 2003–04, 2004–05, and 2005–06 estimated burden hours.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF

Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 26, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–10793 Filed 4–30–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF/CB–2001–01]

Announcement of the Availability of Financial Assistance and Request for Applications To Support Adoption Opportunities Demonstration Projects, Child Abuse and Neglect Discretionary Activities, Abandoned Infants Assistance Awards and Projects To Build the Analytical Capacity of State Child Welfare Programs

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Notice.

Statutory Authority Covering Discretionary Grant Programs in This Announcement With the Catalog of Federal Domestic Assistance (CFDA) Numbers

Adoption Opportunities: Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended, (42 USC 5111) CFDA: 93.652.

Promoting Safe and Stable Families: Section 430 of title IV–B, Subpart 2, of the Social Security Act, as amended, (42 USC 629) CFDA: 93.556.

Child Abuse and Neglect: Section 104 of the Child Abuse Prevention and Treatment Act, as amended (42 USC 5101 et seq.) CFDA: 93.670.

Abandoned Infants: Section 101 of the Abandoned Infants Assistance Act, as amended (42 USC 670 note) CFDA: 93.551

SUMMARY: The Children's Bureau (CB) within the Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) announces the availability of fiscal year (FY) 2001 funds for competing new Adoption Opportunities Program, Child Abuse and Neglect Discretionary Activities, Abandoned Infants Assistance and projects to build the analytical capacity of state child welfare programs. Funds from the Adoption Opportunities Program are designed to provide support for demonstration projects that facilitate the elimination of barriers to adoption and provide permanent loving homes for children who would benefit from adoption, particularly children with special needs. Discretionary funds from the Promoting Safe and Stable Families Program support research, training and technical assistance and evaluation efforts to preserve families. Funds from the Child Abuse Prevention and Treatment Act support knowledge-building research and service demonstration projects designed to assist and enhance national, State and community efforts to prevent, assess, identify and treat child abuse and neglect. Funds from section 101 of the Abandoned Infants Assistance Act, as amended (42 USC 670 note) are to establish a program of comprehensive service demonstration projects to prevent the abandonment in hospitals of infants and young children, particularly those exposed to a dangerous drug and those with the human immunodeficiency virus or who have been perinatally exposed to the virus.

DATES: The closing time and date for receipt of applications is 4:30 p.m. (Eastern Time Zone) on June 15, 2001.

Note: The program announcement, including all necessary forms can be downloaded and printed from the Children's Bureau web site at *www.acf.dhhs.gov/programs/cb.* Hard copies of the program announcement may be requested in hard copy by writing or calling the Operations Center (see phone number and address below) or sending an email to *cb@lcgnet.com.*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, Virginia 22209 or 1–800–351–2293.

SUPPLEMENTARY INFORMATION:

Priority Areas

2001A. Adoption Opportunities

2001A.1 Adoptive Placements for Children in Foster Care

Eligible Applicants: Eligibility is limited to State social service agencies. Due to funding limitations and to generate and financially support the broadest range of issues and approaches, priority will be given to applicants who have not been funded under this priority in previous years. However, applicants previously funded under this priority area will not be precluded from receiving grants.

Project Duration: The projects will be awarded for a project period of 36 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: The maximum Federal share of the project is $300,000 per budget period.

Matching or Cost Sharing Requirement: The grantee must provide at least 10 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $300,000 per budget period must include a match of at least $33,333 per budget period. The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that three projects will be funded.

2001A.2 Field-Initiated Demonstration Projects Advancing the State of the Art in the Adoption Field

Eligible Applicants: States, local government entities, public and private nonprofit licensed child welfare and adoption agencies, and community-based nonprofit adoption organizations which currently work with children in the public child welfare system, and universities with experience in adoptions. Applicants without direct access or responsibility for the targeted children must apply in partnership with States, local government entities, or

public or private nonprofit licensed child welfare and adoption agencies.

Project Duration: The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: The maximum Federal share of the project is $250,000 per budget period.

Matching or Cost Sharing Requirement: The grantee must provide at least 10 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $250,000 per budget period must include a match of at least $27,778 per budget period. The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that four projects will be funded.

2001A.3 Quality Improvement Centers on Adoption

Eligible Applicants: Public or private nonprofit agencies, organizations, and institutions of higher learning, alone or in partnerships with child welfare agencies. The Children's Bureau especially encourages partnerships between public agencies and private nonprofit agencies, universities and foundations with adoption experience.

Project Duration: The projects will be awarded for a period of 60 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: The maximum Federal share of the project is $175,000 per Quality Improvement Center (QIC) for the first 12 months. Years two through five will be funded at a level of $500,000 per budget period per QIC. The proposed budget allocated by the QIC for administrative, management, and evaluation purposes in years two through five may not exceed $125,000 per year.

Matching or Cost Sharing Requirement: The grantee must provide at least 10 percent of the total administrative approved cost of the project. The total approved administrative cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $175,000 for the 12-month planning phase must include a match of at least $19,444. In years two through five, awardees will be required to provide a 10 percent match on the total cost allocated by the QIC for administration, management and evaluation. A project requesting an annual total of $125,000 for these purposes will be required to provide a match of at least $13,889 per year. QIC awardees are not required to provide a 10 percent match on the approximately $350,000 that will be awarded to local sites.

The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that four projects will be funded.

2001A.4 Evaluations of Existing Adoption Programs

Eligible Applicants: States, local government entities, public and private nonprofit licensed child welfare and adoption agencies, and community-based nonprofit adoption organizations which currently work with children in the public child welfare system, and universities with experience in adoptions and child welfare issues. Collaborative efforts and interdisciplinary applications are encouraged; however, a primary applicant must be identified.

Project Duration: The projects will be awarded for a project period of 36 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Projects involving evaluations through secondary analysis of existing data may propose a shorter duration.

Federal Share of Project Costs: The maximum Federal share of the project is $100,000 per budget period.

Matching or Cost Sharing Requirement: The grantee must provide at least 10 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $100,000 per budget period must include a match of at least $11,111 per budget period. The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects to be Funded: It is anticipated that up to four projects will be funded.

2001B. Child Abuse and Neglect

2001B.1 National Resources Center on Child Maltreatment

Eligible Applicants: Any national, State, local, Tribal, public or private nonprofit agency or organization, including accredited colleges and universities, with demonstrated expertise in the field of child welfare and the prevention, intervention, and treatment of child abuse and neglect.

Project Duration: The project will be awarded for a project period of 24 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond the 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the bestr interest of the government.

Federal Share of Project Costs: The grant amount will not exceed $700,000 per year for two years. The dollar amount requested must be fully justified and documented.

Matching Requirement: None.

Anticipated Number of Projects to be Funded: It is anticipated that one project will be funded.

2001B.2 Investigator-Initiated research Projects Advancing the State of the Art in the Child Abuse and Neglect Field

Eligible Applicants: State, local government, public and private nonprofit, community-based nonprofit organizations and universities with experience in the areas of child welfare child maltreatment. Collaborative efforts and interdisplinary applications are

encouraged, however, a primary applicant must be identified.

Project Duration: The projects will be awarded for a project of 36 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Projects involving secondary analysis of existing data may propose a shorter duration.

Federal Share of Project Costs: The maximum Federal share of the project is up to $250,000 per budget period.

Matching or Cost Sharing Requirement: There is no matching requirement.

Anticipated Number of Projects To Be Funded: It is anticipated that up to four projects will be funded at the maximum funding level or more than four if applications for lesser amounts are funded.

2001B.3 Field-Initiated Demonstration Projects Advancing the State of the Art in the Child Abuse and Neglect Field

Eligible Applicants: States, local government entities, public and private nonprofit, community-based nonprofit organizations and universities with experience in the areas of child welfare and child maltreatment. Collaborative efforts and interdisciplinary applications are encouraged; however, a primary applicant must be identified.

Project Duration: The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: The maximum Federal share of the project is $250,000 per budget period.

Matching or Cost Sharing Requirement: There is no matching requirement.

Anticipated Number of Projects To Be Funded: It is anticipated that four projects will be funded.

2001B.4 Quality Improvement Centers for Child Protective Services

Eligible Applicants: Public or private nonprofit agencies, organizations, and institutions of higher learning, alone or in partnerships with child welfare agencies. The Children's Bureau especially encourages partnerships between public agencies and private nonprofit agencies, universities and foundations with experience in child maltreatment issues.

Project Duration: The projects will be awarded for a period of 60 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: The maximum Federal share of the project is $175,000 per QIC for the first 12 months. Years two through five will be funded at a level of $500,000 per budget period per QIC. The proposed budget allocated by the QIC for administrative, management, and evaluation purposes in years two through five may not exceed $125,000 per year.

Matching or Cost Sharing Requirement: The grantee must provide at least 10 percent of the total approved administrative cost of the project. The total approved administrative cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $175,000 for the 12-month planning phase must include a match of at least $19,444. In years two through five, awardees will be required to provide a 10 percent match on the total cost allocated by the QIC for administration, management, and evaluation. A project requesting an annual total of $125,000 for these purposes will be required to provide a match of at least $13,889 per year. QIC awardees are not required to provide a 10 percent match on the approximately $350,000 that will be awarded to local sites.

The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that four projects will be funded.

2001B.5 Evaluations of Existing Child Abuse and Neglect Programs

Eligible Applicants: Public (State, Tribal, or local) or private nonprofit agencies, organizations, or institutions of higher learning are eligible to apply. Collaborative efforts and interdisciplinary applications are encouraged; however, a primary applicant must be identified.

Project Duration: The projects will be awarded for a project period of 36 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Projects involving secondary analysis of existing data may propose a shorter duration.

Federal Share of Project Costs: The maximum Federal share of the project is $100,000 per budget period.

Matching or Cost Sharing Requirement: There is no matching requirement.

Anticipated Number of Projects To Be Funded: It is anticipated that up to four projects will be funded.

2001C: Abandoned Infants

2001C.1 Support for Previous Comprehensive Service Demonstration Projects

Eligible Applicants: Comprehensive service demonstration projects initially funded in FY 1977. Current grantees applying under this priority are advised that this is a competitive funding process and that applications approved for funding will be given a new grant number. Existing award activities cannot overlap with the new grant's project period, and funds from the currently existing grants cannot be expended for the new grant activities.

Project Duration: The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Grant amounts will vary and range up to $450,000 per budget period per grantee for each of the 4 years.

Matching Requirement: The grantees must provide at least 10 percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash

contributions. Therefore, a project requesting a total of $450,000 in Federal funds for the first budget period must include a match of at least $50,000 (10 percent of total approved project costs). If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: it is anticipated that four projects will be funded.

2001C.2 Support for New Comprehensive Service Demonstration Projects

Eligible Applicants: Any State, local public or nonprofit agency or organization including accredited colleges and universities. Applicants who can apply under this priority area include: (1) Applicants in jurisdictions in which there currently does not exist a program funded under the Abandoned Infants Assistance Program (check the National Abandoned Infants Assistance Resource Center's web site *http://www.socrates.berkeley.edu/~aiarc* for a list of current programs); (2) applicants who have previously received funding under the Abandoned Infants Assistance Program but are not currently grantees; and (3) applicants that are currently funded by the Abandoned Infants Assistance Program but are establishing a program in a separate locality serving a different target population, e.g., an agency establishing a program in a different city of establishing a second program in a city with a population over 1,000,000.

Project Duration: The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Grant amount will vary and range up to $450,000 per budget period for each of the 4 years.

Matching Requirement: The grantees must provide at least 10 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting a total of $450,000 in Federal funds for the first budget period must include a match of at least $50,000 (10 percent of total approved project costs). If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that four projects will be funded.

2001C.3 Family Support Services for Grandparents and Other Relatives Providing Care for Children of Women Who Are Substance Abusing and HIV Positive

Eligible Applicants: Public agencies and private, nonprofit organizations and institutions of higher education are eligible to apply.

Project Duration: The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Grant amounts will not exceed $100,000 per budget period for each of the 4 years. The dollar amount request must be fully justified and documented.

Matching Requirement: Grantees must provide at least 10 percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds per year must include a match of at least $11,111 (10 percent of approved project costs per budget period). If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that up to three projects will be funded.

2001C.4 Recreational Services for Children Affected by HIV/AIDS

Eligible Applicants: Public agencies and private, nonprofit organizations and institutions of higher education are eligible to apply.

Project Duration: The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Grant amounts will vary from $50,000 to $100,000 per budget period for each of the 4 years. The dollar amount requested must be fully justified and documented.

Matching Requirement: Grantees must provide at least 10 percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting a total of $100,000 in Federal funds for the first budget period must include a match of at least $11,111 (10 percent of total approved project costs). If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that three projects will be funded.

2001D. Building Analytical Capacity for Child Welfare Programs in the States

2001D.1 Demonstration Sites: Building Analytical Capacity for Child Welfare Programs in the States

Eligible Applicants: Eligibility is limited to States that have not yet developed capacities for data analysis and interpretation to improve decision-making and accountability. Funds will be awarded for building an infrastructure for research and evaluation designed to increase efficiency and effectiveness of State child welfare programs.

Project Duration: The projects will be awarded for a project period of 36 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: The maximum Federal share of the project is $250,000 per budget period.

Matching or Cost Sharing Requirement: The grantee must provide at least 10 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting $250,000 per budget period must include a match of at least $27,778 per budget period. The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

Anticipated Number of Projects To Be Funded: It is anticipated that four projects will be funded.

2001D.2 Mentor Sites: Building Analytical Capacity for Child Welfare Programs in the States

Eligible Applicants: Eligibility is limited to the States that have already developed capacities, in-house or contractually, for data analysis and interpretation and can serve as mentors for other States that seek to improve data analysis through advanced research and evaluation. Funds will be awarded to the mentor sites for consulting and technical assistance to promote increased efficiency and effectiveness of child welfare programs in States that have not yet developed capacities for advanced data analysis and interpretation.

Project Duration: The projects will be awarded for a project period of 36 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of each grantee, and a determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: The maximum Federal share of the project is $150,000 per budget period.

Matching or Cost Sharing Requirement: There is not matching requirement.

Anticipated Number of Projects To Be Funded: It is anticipated that four projects will be funded.

Evaluation Criteria

Reviewers will consider the following factors when scoring applications. However, in order to adequately prepare their applications, applicants must refer to the full program announcement for the specific evaluation criteria for each priority area. The points awarded for each criterion vary, depending on the specific priority area.

Criterion 1: Objectives and Need for Assistance. Applications will be judged on the extent to which they clearly specify the purposes and/or strategies of the proposed project and their relationship to legislative authority and child welfare outcomes, as appropriate; the quality of their statement regarding the need for the project; and evidence that the applicant understands current issues and recent developments in the field that may have relevance to the implementation of the project. Applicants must refer to the specific evaluation criteria for each priority area contained in the full Program Announcement in order to adequately prepare their applications. The points awarded for this criterion vary, depending on the specific priority area.

Criterion 2: Approach. Applicants will be judged on the clarity, feasibility, and thoroughness of their description of the approach that they intend to use in implementing proposed projects. The approach sections will be expected to include, as appropriate, information on barriers to implementation and proposed solutions to those barriers; necessary collaborations with other organizations and agencies and their respective roles; evaluation plans; reporting requirements; and staffing plans. Applicants must refer to the specific evaluation criteria for each priority area contained in the full Program Announcement in order to adequately prepare their applications. The points awarded for this criterion vary, depending on the specific priority area.

Criterion 3: Organizational Profiles. Applicants will be judged on the experience and demonstrated competence of staff who are proposed to implement the project and, as appropriate, the experience of the organization in implementing related projects. Applicants must refer to the specific evaluation criteria for each priority area contained in the full Program Announcement in order to adequately prepare their applications. The points awarded for this criterion vary, depending on the specific priority area.

Criterion 4: Budget and budget justification. Applicants will be judged on the adequacy, reasonableness, and completeness of their budget requests to support their proposed projects, including their management plans to control and account for expenditure of project funds. Applicants must refer to the specific evaluation criteria for each priority area contained in the full Program Announcement in order to adequately prepare their applications. The points awarded for this criterion vary, depending on the specific priority area.

Required Notification of the Single Point of Contact

Most portions of this program are covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, and Wyoming have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these jurisdictions need take no action regarding Executive Order 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Applicants to the Adoption Opportunities program are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may

trigger the accommodate or explain rule. A list of the Single Points of Contact for each State and Territory can be found on line at *http://www.whitehouse.gov/omb/grants/spoc.html*.

Dated: April 25, 2001.

Gail E. Collins,

Acting Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–10792 Filed 4–30–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF/HS–2001–10]

Fiscal Year 2001 Discretionary Announcement for Head Start—Higher Education Hispanic/Latino Service Partnerships: Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF).

ACTION: Notice.

Statutory Authority: The Head Start Act, as amended 42 U.S.C. 9801 *et seq.*

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) announces the availability of approximately $500,000 annually for each of four (4) years to support Head Start-Higher Education Hispanic/Latino Service Partnerships (HS–HEHLSPs). The goal of this HS–HEHLSPs initiative is to improve the quality and long term effectiveness of Head Start and Early Head Start programs by developing models of academic training through partnerships between institutions of higher education and Head Start and Early Head Start agencies. The priority for this funding is: Partnerships to increase the number of center-based teachers with AA, BA or advanced degrees in early childhood education or related fields earned by Head Start teachers, in order to assist Head Start grantees to meet the 2003 Congressional mandate and to provide teachers with knowledge areas vital in building quality Head Start programs.

DATES: The closing date and time for receipt of application is 4:30 p.m. (Eastern Time Zone), June 15, 2001.

Note: Applications should be submitted to: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209.

However, prior to preparing and submitting an application, in order to satisfactorily compete under this announcement, it will be necessary for potential applicants to read the full announcement which is available through the addresses listed below.

ADDRESSES: Applications, including all necessary forms can be downloaded from the Head Start Web site at *www.acf.dhhs.gov/programs/hsb.* The Web site also contains a listing of all Head Start and Early Head Start programs. Hard copies of the application may be obtained by writing or calling the Operations Center or sending an e-mail to *hrs@lcgnet.com.*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, Virginia 22209 or 1–800–351–2293.

SUPPLEMENTARY INFORMATION:

Eligible Applicants: Institutions of higher education with experience and capability in educating and preparing professionals to work effectively with Hispanic young children and families are eligible to apply. Institutions that are currently funded under the Head Start—Higher Education Hispanic Service partnerships are not eligible to apply under this announcement.

Project Duration: The announcement is soliciting applications for project periods up to four years. Awards, on a competitive basis, will be for a one-year budget period, although projects may be for four years. Applications for continuation funds under these awards beyond the first year budget period, but within the established project period, will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

Federal Share of Project Costs: The maximum share is $150,000 for the first year of the four-year period. The Federal share is inclusive of indirect costs.

Matching Requirements: There are no matching requirements.

Anticipated Number of Projects to be Funded: It is anticipated that approximately four projects will be funded.

Anticipated Number of Projects to be Funded: It is anticipated that approximately four projects will be funded.

Review Criteria

Criterion 1. Objectives and Need for Assistance: (10 Points)

The extent to which the application identifies relevant physical, economic, social, financial, institutional or other problems requiring a grant; demonstrates the need for assistance; and states the principal and subordinate objectives of the project consistent with the purposes of the program announcement.

The Head Start Bureau is particularly interested in the following aspects of the applications:

1. State the specific training objectives for the program. Indicate how these objectives are based on an assessment of staff training and program improvement needs of participant Head Start and Early Head Start agencies; how they related to Head Start goals, outcomes and policy priorities, and how they will enhance the quality of Head Start services to Hispanic/Latino children and their families.

2. Describe the process used to assess the needs for the proposed program design. Specifically identify the population to be served in terms of numbers and types of staff to be trained and the proposed areas of training, course, and/or degrees to be awarded.

3. Describe the development of the HS–HEHLSPs agreement and other consultation related to the development of the proposed initiative. Describe any efforts to frame the proposed initiative within broader state or community efforts to enhance professional and career development for staff in all forms of early childhood and child care programs.

Criterion 2. Results or Benefits Expected: (20 points)

The extent to which the application identifies the results and benefits to be derived; describes the anticipated contribution to policy, practice, theory and/or research; specific benefits should be described for both the HS–HEHLSPs and Head Start/Migrant Head Start/Early Head Start partners.

The Head Start Bureau is particularly interested in the following aspects of the applications:

1. Based on the stated program objectives, identify the results and benefits to be derived. Identify the specific results or benefits that could be expected for the Head Start grantee(s) and the institution. Describe how the trainees benefit from the project.

2. Identify both qualitative and quantitative data the applicant will collect to measure progress towards the stated results or benefits. Identify how the program will determine the extent to which it has achieved its stated objectives.

3. Provide a projection of the estimated number of trainees, by category, who will earn degrees over the four year duration of the project based on an analysis of the current levels of

credits/courses earned by participants and a proposed sequence of courses.

Criterion 3. Approach (40 points)

A. The extent to which the application outlines a sound and realistic plan of action pertaining to the scope of the project which details how the proposed work will be accomplished, including a timeline; lists of each organization, consultants, including the evaluator, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution; and assures the adequacy of time devoted to the project by key staff;

B. The extent to which the project approach, if successfully carried out, is likely to achieve the proposed project objectives; and

C. The applicant must fully describe the approach and/or methodology and delineate the relationship of each task to the accomplishment of the proposed objectives. There should be evidence that the planned approach reflects sufficient input from and partnership with Head Start/Migrant Head Start/Early Head Start and the HS–HEHLPs.

The Head Start Bureau is particularly interested in the following aspects of the applications:

1. Describe the planning the applicant will conduct during the start-up period to prepare for implementation of the program. Provide assurance that no more than six months will be devoted to planning activities.

2. Indicate how Head Start staff will be recruited and selected to participate in the program, including staff from other child care organizations that are collaborating with Head Start grantees and delegate agencies and meet Head Start performance standards within a given community.

3. Describe how the training and coursework will be contextually and culturally relevant to the Head Start, Migrant Head Start and the Early Head Start environment and how it will contribute to enhancing the effectiveness of teachers, staff, program quality and outcomes for Head Start children and families.

4. Describe efforts by the institution and Head Start partners to make training and coursework accessible to Head Start participants and to support their successful completion of courses, training, and degrees. Include a discussion of issues such as the timing, scheduling, and location of classes or training; support to enhance the literacy and study skills of participants; and approaches to integrate HS–HEHLSPs training in the working environment of the Head Start program.

5. Describe efforts to complement the federal funds requested in this proposal with other resources to maximize the benefits to Head Start and HS–HEHLSPs participants. Include any efforts or plans to assist Head Start staff in accessing sources of financial assistance or to make use of other funding for training and career development of early childhood program staff. In addition, describe any proposed contributions of funds from local Head Start programs to the partnership. Provide assurance that trainees will not be required to bear any costs of participating in training.

6. Describe how previous CDA training and certification of Head Start staff, as well as previous coursework, credits or AA degrees from 2-year institutions, will be linked to academic credits and course sequences leading to BA degrees.

7. Describe the organizational structure that will support the project objectives. Indicate how joint planning and assessment with the Head Start, Migrant Head Start and Early Head Start grantees will be implemented with timelines and clear lines of responsibility. Indicate how staff positions are assigned and describe their major functions and responsibilities.

8. Describe the activities that will continue after the completion of this project that will ensure that the institution will continue to participate in providing educational opportunities for Head Start, Migrant Head Start and Early Head Start staff.

9. Include support letters that document consultation and support from the proposed grantee or delegate agency partners, the Head Start Collaboration Office, and any existing state level early childhood career development initiative.

Criterion 4. Staff and Position Data (20 points)

Key staff should be qualified and knowledgeable of Head Start, Migrant Head Start and Early Head Start. The extent of the demonstrated capacity of the applicant organization, key leaders, managers and project personnel to:

1. provide high quality, relevant, and responsive training to Head Start staff;

2. assure participating project staff are competent to plan and deliver appropriate course material to Head Start trainees that is culturally relevant;

3. manage the implementation of the training grant in an effective and timely manner; and

4. manage successful partnership that involve sharing resources, staffing, and facilities.

Criterion 5. Budget and Budget Justification: (10 points)

The extent to which the project's costs are reasonable and appropriate in view of the activities to be carried out and the anticipated outcomes. Provide a line item detail for the costs of attendance of project staff to attend ACF-sponsored conferences in Washington, DC. It is the expectation that applicants should limit budget projections to those costs necessary to build institutional capacity for and execute training and career development partnerships with participating Head Start grantees.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-four jurisdictions need take no action regarding Executive Order 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 6a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the

submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the accommodation or explain rule.

When comments are submitted directly to ACF, they should be addressed to: William Wilson, Head Start Bureau, 330 C Street, SW., Washington, DC 20447, Attn: Head Start-Higher Education Hispanic/Latino Service Partnerships. A list of the Single Points of Contact (SPOCs) for each State and Territory can be found on the following web site: http://www.whitehouse.gov/omb/grants/spoc.html.

Dated: April 25, 2001.

Gail E. Collins,

Acting Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–10720 Filed 4–30–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0174]

Agency Information Collection Activities; Proposed Collection; Comment Request; Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on FDA's recall regulations (guidelines) and provides guidances to manufacturers on recall responsibilities.

DATES: Submit written or electronic comments on the collection of information by July 2, 2001.

ADDRESSES: Submit electronic comments on the collection of information via the Internet at http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

FDA Recall Regulations—Part 7 (Subpart C) (21 CFR Part 7 (Subpart C))—(OMB Control Number 0910–0249)—Extension

Section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371) and 21 CFR part 7, subpart C sets forth the recall regulations (guidelines) and provides guidance to manufacturers on recall responsibilities. The guidelines apply to all FDA regulated products (i.e., food, including animal feed; drugs, including animal drugs; medical devices, including in vitro diagnostic products; cosmetics; and biological products intended for human use). These responsibilities include development of a recall strategy that requires time by the firm to determine the actions or procedures required to manage the recall (§ 7.42); providing FDA with complete details of the recall including reason(s) for the removal or correction, risk evaluation, quantity produced, distribution information, firm's recall strategy, copy of any recall communication(s), and a contact official (§ 7.46); notifying direct accounts of the recall, providing guidance regarding further distribution, giving instructions as to what to do with the product, providing recipients with a ready means of reporting to the recalling firm (§ 7.49); submitting periodic status reports so that FDA may assess the progress of the recall. Status report information may be determined by, among other things, evaluating return reply cards, effectiveness checks and product returns (§ 7.53); and providing the opportunity for a firm to request in writing that FDA terminate the recall (§ 7.55).

A search of the FDA database was performed to determine the number of recalls that took place during fiscal year 2000. The resulting number of recalls from this database search (1,933) is used in estimating the current annual reporting burden for this report. FDA estimates the total annual industry burden to collect and provide the above information to 84,665 burden hours.

The following is a summary of the estimated annual burden hours for manufacturers, processors, and distributors to comply with the voluntary reporting requirements of FDA's recall regulations.

Recognizing that there may be a vast difference in the information collection and reporting time involved in different recalls of FDA's regulated products, FDA estimates on average the burden of collection for recall information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
7.42	1,933	1	1,933	1.8	3,479
7.46 and 7.49	1,933	1	1,933	4.0	7,732
7.53	1,933	1	1,933	36.0	69,588
7.55(b)	1,933	1	1,933	2.0	3,866
Total					84,665

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: April 24, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–10707 Filed 4–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1489]

Agency Information Collection Activities; Announcement of OMB Approval; Sterility Requirements for Aqueous-Based Drug Products for Oral Inhalation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled''Sterility Requirements for Aqueous-Based Drug Products for Oral Inhalation'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 18, 2000 (65 FR 56314), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0353. The approval expires on March 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: April 24, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–10708 Filed 4–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0511]

Agency Information Collection Activities; Announcement of OMB Approval; Hazard Analysis and Critical Control Point (HACCP); Procedures for the Safe and Sanitary Processing and Importing of Juice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Hazard Analysis and Critical Control Point (HACCP); Procedures for the Safe and Sanitary Processing and Importing of Juice'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 19, 2001 (66 FR 6138 at 6194), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0466. The approval expires on March 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: April 24, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–10709 Filed 4–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1502]

Agency Information Collection Activities; Announcement of OMB Approval; Adverse Experience Reporting for Licensed Biological Products and General Records

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Adverse Experience Reporting for Licensed Biological Products and General Records'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 26, 2000 (65 FR 81528), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0308. The approval expires on April 31, 2003. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: April 24, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–10710 Filed 4–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1503]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Orphan Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by May 31, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Orphan Drug Products—21 CFR Part 316 (OMB Number 0910–0167)—Extension

Sections 525 through 528 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360aa through 360dd) give FDA statutory authority to: (1) Provide recommendations on investigations required for approval of marketing applications for orphan drugs, (2) designate eligible drugs as orphan drugs, (3) set forth conditions under which a sponsor of an approved orphan drug obtains exclusive approval, and (4) encourage sponsors to make orphan drugs available for treatment on an ''open protocol'' basis before the drug has been approved for general marketing. The implementing regulations for these statutory requirements have been codified under part 316 (21 CFR part 316) and specifies the content and format of a request for written recommendations concerning the nonclinical laboratory studies and clinical investigations necessary for approval of marketing applications. Section 316.12 provides that, before providing such recommendations, FDA may require results of studies to be submitted for review. Section 316.14 contains provisions permitting FDA to refuse to provide written recommendations under certain circumstances. Within 90 days of any refusal, a sponsor may submit additional information specified by FDA. Section 316.20 specifies the content and format of an orphan drug application which includes requirements that an applicant document that the disease is rare (affects fewer than 200,000 persons in the United States annually) or that the sponsor of the drug has no reasonable expectation of recovering costs of research and development of the drug. Section 316.26 allows an applicant to amend the application under certain circumstances. Section 316.30 requires submission of annual reports, including progress reports on studies, a description of the investigational plan, and a discussion of changes that may affect orphan status. The information requested will provide the basis for an FDA determination that the drug is for a rare disease or condition and satisfies the requirements for obtaining orphan drug status. Secondly, the information will describe the medical and regulatory history of the drug. The respondents to this collection of information are biotechnology firms, drug companies, and academic clinical researchers.

In the **Federal Register** of September 19, 2000 (65 FR 56586), the agency requested comments on the proposed collections of information. No significant comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
316.10, 316.12, and 316.14	0	0	0	0	0
316.20, 316.21, and 316.26	90	1.78	160.20	125	20,025
316.22	5	1	5	2	10
316.27	5	1	5	4	20
316.30	450	1	450	2	900
316.36	.2	3	.6	15	9
Total Burden Hours					20,964

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The information requested from respondents represents, for the most part, an accounting of information already in possession of the applicant. It is estimated, based on the frequency of requests over the past 10 years, that 90 persons or organizations per year will request orphan drug designation and that no requests for recommendations on design of preclinical or clinical studies will be received. Based upon FDA experience over the last decade, FDA estimates that the effort required to prepare applications to receive consideration for sections 525 and 526 of the act (§§ 316.10, 316.12, 316.20, and 316.21) is generally similar and is estimated to

require an average of 95 hours of professional staff time and 30 hours of support staff time per application. Estimates of annual activity and burden for foreign sponsor nomination of a resident, agent, change in ownership or designation, and inadequate supplies of drug in exclusivity, are based on total experience by FDA with such requests since 1983.

Dated: April 24, 2001.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 01–10711 Filed 4–30–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1450]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Request: Extension of a currently approved collection; *Title of Information Collection*: Medicare Uniform Institutional Provider Bill and Supporting Regulations in 42 CFR 424.5; *Form Number*: HCFA–1450 (OMB approval #: 0938–0247); *Use*: This standardized form is used in the Medicare/Medicaid program to apply for reimbursement of covered services by all providers that accept Medicare/Medicaid assigned claims; *Frequency*: On occasion; Affected Public: Business or other for-profit, Not-for-profit institutions; *Number of Respondents*: 46,708; *Total Annual Responses*: 147,343,290; *Total Annual Hours Requested*: 1,854,070.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Wendy Taylor, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 19, 2001.

John P. Burke, III,

HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 01–10814 Filed 4–30–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1182–PN]

RIN 0938–AK75

Medicare Program; Revision of Payment Rates for End-Stage Renal Disease (ESRD) Patients Enrolled in Medicare+Choice Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice proposes a new payment methodology, effective January 2002, for beneficiaries with End-Stage Renal Disease (ESRD) who are enrolled in Medicare+Choice (M+C) plans. The proposed methodology would implement section 605 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA). Section 605 requires the Secretary to increase ESRD M+C payment rates, using appropriate adjustments, to reflect the demonstration rates (including the risk adjustment methodology associated with those rates) of the social health maintenance organization ESRD capitation demonstrations. Briefly, the approach that we propose follows:

- Base State-level per capita rates on 100 percent of estimated State per capita ESRD fee-for-service expenditures in a base year.
- Adjust State per capita rates by age and sex factors, in order to pay more accurately, given differences in costs among ESRD patients.

The effect of the new ESRD M+C payment methodology would be to increase Medicare's Fiscal Year (FY) 2002 ESRD payments by an estimated $25 million (for 9 months of costs, given the effective date of January 2002). Total ESRD M+C payment increases for FY 2003 through FY 2005 are estimated to be $40 million annually.

The payment methodology proposed in this notice would govern M+C payments for enrollees with ESRD in 2002. M+C organizations are required to submit Adjusted Community Rate (ACR) proposals setting forth their M+C plan benefits, premiums, and cost-sharing for 2002 by July 1, 2001. M+C organizations need information on the payments they will receive for ESRD enrollees to prepare their ACR submissions. Section 605(c) of BIPA provided that this notice had to be published no later than 6 months after the enactment of BIPA or June 20, 2001. Yet section 605(c) also requires that the ''final'' ESRD methodology be published no later than July 1, 2001. In light of these deadlines, and the need of M+C organizations for final information on ESRD payment rates to prepare the ACR proposals, we find that affording the public a full 60-day comment period would be ''impracticable'' and ''contrary to the public interest,'' and that there is ''good cause'' for shortening the 60-day comment period we normally provide to 30 days.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 31, 2001.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address ONLY: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1182–PN, P.O. Box 8013, Baltimore, MD 21244–8013.

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–8013.

Comments mailed to the above addresses may be delayed and received too late for us to consider them.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1182-PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room C5–12–08 of the Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. Please call (410) 786–7197 to view these comments.

For information on ordering copies of the **Federal Register** containing this document and electronic access, see the beginning of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Anne Hornsby, (410) 786–1181.

SUPPLEMENTARY INFORMATION:

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. The Website address is: *http://www.access.gpo.gov/nara/index.html.*

I. Background

Section 605 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) amends section 1853(a)(1)(B) of the Social Security Act (the Act) by adding the following sentence at the end: ''In establishing such rates, the Secretary shall provide for appropriate adjustments to increase each rate to reflect the demonstration rate (including the risk adjustment methodology associated with such rate) of the social health maintenance organization end-stage renal disease capitation demonstrations (established by section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1993), and shall compute such rates by taking into account such factors as renal treatment modality, age, and the underlying cause of the end-stage renal disease.'' The amendment will apply to payments for months beginning with January 2002.

Currently, M+C ESRD capitation payments are based on State-level rates that are not risk-adjusted. ESRD M+C base payment rates are set at 95 percent of State average fee-for-service costs in a base year (1997), which is consistent with other M+C rates. ESRD rates include the costs of beneficiaries with Medicare as Secondary Payer and the costs of beneficiaries who have functioning grafts 3 years or less from date of transplant. Note that for the purpose of M+C payment, ''ESRD beneficiaries'' includes beneficiaries with ESRD, whether entitled to Medicare because of ESRD, disability, or age.

A. ESRD Managed Care Demonstration Project

Beneficiaries with ESRD are the only group prohibited from enrolling in Medicare risk HMOs and M+C organizations, although a beneficiary who develops ESRD after enrolling with an organization that offers an M+C plan may remain enrolled with the organization under an M+C plan. In 1996, the Congress required the Secretary to conduct an ESRD Managed Care Demonstration Project to assess whether it is feasible to allow year-round open enrollment in managed care for Medicare ESRD patients of all ages. As of December 2000, there were two such Demonstration sites, one in California with approximately 1,200 enrollees and a second in Florida with approximately 600 enrollees.

The ESRD Demonstration introduced 100 percent risk-adjustment into ESRD capitation payments. We calculated separate monthly capitation rates by treatment modality (dialysis, transplant, or functioning graft), and then adjusted the dialysis and functioning graft rates for age (0–19, 20–64, or 65+ years old) and original cause of renal failure (diabetes or other cause).

Further, the Demonstration tested whether offering additional benefits not covered by Medicare enhanced effective treatment of this population. The statute mandated that we pay ESRD Demonstration sites 100 percent of estimated per capita fee-for-service expenditures in that State, rather than the 95 percent paid to managed care plans outside the Demonstration. To justify the extra 5 percent, ESRD Demonstration sites agreed to provide additional benefits, for example, nutritional supplements.

Finally, the Demonstration did not allow ESRD patients with Medicare as Secondary Payer to enroll in the sites. Therefore, we excluded fee-for-service beneficiaries with Medicare as Secondary Payer from calculation of the base payment rates. Excluding Medicare as Secondary Payer beneficiaries increased the Demonstration rates about 20 percent over rates paid outside the Demonstration.

B. ESRD Demonstration Experience With the Capitated Payment System

Preliminary assessments reveal that the administrative demands of implementing the methodology employed in the ESRD Demonstration were substantial and complex. HCFA and the Demonstration sites experienced difficulty with ensuring accurate and timely collection of data on treatment modality; data problems also occurred with the original cause adjuster. In large part, this was because to determine payment status, we had to rely on nonbilling documents. For example, the documentation of a transplant involves a detailed medical form that must travel from transplant center to organ transplant network to us. Often we did not receive these forms timely. Working with the Demonstration sites, we have had to create complex processes for retroactive adjustments and reconciliations because of delays in receipt of the appropriate documentation.

This assessment is based on our preliminary analysis of issues that have arisen during the ESRD Demonstration. The final evaluation of the ESRD Demonstration is forthcoming. Meanwhile, we are pursuing further improvements to the payment system for ESRD beneficiaries enrolled in managed care. Given our ongoing discussion with the Demonstration sites about system problems affecting payment, however, we are prospectively changing the ESRD Demonstration payment methodology. Demonstration payments will no longer be risk-adjusted. We will pay the unadjusted base capitation rate until this interim approach is superseded by implementation of the risk-adjusted ESRD M+C payment methodology proposed in this notice.

II. Provisions of the Proposed Notice

A. Calculation of State-Level Per Capita ESRD Rates at 100 Percent of State Fee-for-Service Costs

As noted above, BIPA requires that ESRD Managed Care Demonstration rates be increased ''to reflect'' the Demonstration rate, ''including'' the risk adjustment methodology used under the Demonstration. We discuss our approach to reflecting the Demonstration risk adjustment methodology in section II.B below. To increase the base rate to ''reflect'' the ESRD Demonstration rate, we propose to calculate ESRD M+C payment rates based on 100 percent of our current best estimate of actual 1997 State per capita ESRD fee-for-service costs, which is consistent with the approach provided for in the statutory provisions establishing the ESRD Demonstration. To bring the per capita ESRD rates forward to CY 2002, we will apply the M+C methodology under the Balanced Budget Act of 1997 (BBA), whereby the annual State capitation rate is the largest of the blended capitation rate, the minimum amount rate, and the minimum percentage increase rate. Our reasons for selecting this approach follow.

Increasing the original 1997 ESRD M+C payment rates to an amount representing 100 percent of our current estimates of actual 1997 State per capita ESRD fee-for-service costs results in an increase in the original 1997 rates of approximately 1 percent. To determine monthly per capita rates that are 100 percent of State fee-for-service costs in 1997, we returned to the 1997 rates, since that was selected as the base year for payments under the BBA payment methodology. To illustrate why paying 100 percent of a rate based on our current estimate of 1997 costs only increases the original 1997 rates by 1 percent, we have conducted preliminary analysis of the 1997 rates using average per capita costs for the nation. (To calculate the new ESRD rates, we will use fee-for-service costs on a State-by-State basis.)

Our analysis of the 1997 rates reveals that the national per capita rate promulgated in 1997 (based on September 1996 calculations) is about 4.1 percent higher than our current best estimate of the actual 1997 fee-for-service costs on which the rates are to be based.

- The basis for the 1997 monthly per capita ESRD rates was the monthly U.S. Per Capita Costs (USPCC) for ESRD of $3,861.
- In contrast, our best estimate in 2001 of actual monthly ESRD per capita cost for 1997 is $3,710. The difference is approximately 4.1 percent.

Under the M+C methodology set forth in the BBA, the original 1997 rates were the basis for all future rates, with no provision for correcting over or under estimates. This means that on average, in 1997 we paid managed care organizations an amount representing about 99 percent of the actual Medicare Average Annual Per Capita Cost (AAPCC) for 1997, rather than the assumed 95 percent of the AAPCC. To pay M+C organizations 100 percent of estimated State per capita ESRD fee-for-service costs for 1997, therefore, we will increase the 1997 rates by approximately 1 percent.[1] As noted above, this approach is fully consistent with the legislation providing for the ESRD Demonstration, which provided for payment at 100 percent of the AAPCC, and did not link this to a particular rate book or at any point to M+C payment rates.

Post-1997 ESRD Demonstration payment rates were updated using the BBA methodology, which resulted in the minimum 2 percent increase each year. To further ''reflect the Demonstration rate,'' we propose to do the same under the new ESRD methodology, notwithstanding the fact that actual fee-for-service costs did not increase at this rate, but actually decreased (see footnote 1). ESRD M+C payment rates outside the Demonstration also were increased 2 percent under the BBA methodology.

In summary, we propose to increase the 1997 payment rate produced by the pre-BIPA M+C payment methodology by approximately 1 percent to get to 100 percent of actual fee-for-service costs for 1997, thus fulfilling the BIPA mandate that new ESRD rates be increased to ''reflect'' the Demonstration rates, which are based on a 100 percent standard.

B. Risk Adjust the Base Payment Rates By Age and Sex

As noted above, section 605 of BIPA requires that the increase in ESRD rates to reflect Demonstration rates include the risk adjustment methodology associated with such rates. The methodology in place at the time BIPA was enacted was set forth above in section I.A. While the Demonstration methodology included several components, the bulk of the effect of risk adjustment is attributable to adjustment for age. For the reasons that follow, after taking into account the possibility of other categories of risk adjustment used in the ESRD Demonstration, we are proposing to adjust M+C ESRD rates only for age and sex. We believe that this ''reflects'' the most significant effects of the ESRD Demonstration methodology. To increase the power of the age adjustment compared to the ESRD Demonstration age adjustment, we will change from a 3-category age classification to the 10-category classification currently used in the M+C payment methodology.

We decided not to create separate rates for treatment modality or adjust for original cause of kidney failure for several reasons. First, when we implement the comprehensive risk adjustment model (adding ambulatory and outpatient diagnoses to the existing hospital-diagnosis system), we expect to incorporate ESRD M+C enrollees into the single risk-adjusted payment system. This will allow us to capture co-morbidity information in addition to demographic information and basic disease markers for ESRD beneficiaries.

In addition, research indicates that increased age is the single best correlate of ESRD mortality. The ESRD population enrolled in managed care is on average older than the ESRD fee-for-service population (see table below). (This is due to the current restrictions on ESRD enrollment in M+C organizations.) Our research comparing the 1998 Medicare HMO ESRD population with the fee-for-service population reveals the following contrasts (Eggers 2000).

Age	Percent of ESRD HMO population (percent)	Percent of ESRD fee-for-service population (percent)
Age 75+	28	15
65–74	41	22
45–64	24	39
0–44	7	24

We reviewed other evidence before selecting an interim risk adjustment methodology based on age and sex, including the following:

- Eggers *et al.* (2001) found that when taking age into account, M+C organizations were transplanting at the

[1] Note 4: the 4 percent differential in 1997 (between the national per capital rate promulgated in 1997 and our best estimate in 2001 of 1997 costs) is projected to grow to almost 25 percent by 2002. This is because the underlying growth trends for ESRD fee-for-service costs from 1997 to 2002 are negative, while the M+C payment rates have increased at a minimum of 2 percent per year, as provided in the BBA. Current estimates of the actual ESRD fee-for-service cost trends from 1997 to 2002 project a decrease of approximately 7 percent. In contrast, the guaranteed 2 percent increase per year (3 percent in 2001 under BIPA) equates to an increase of approximately 11.5 percent. The result is a differential of almost 25 percent by 2002.

same rates as fee-for-service organizations in 1998.

• A detailed study of capitation models for ESRD (The Lewin Group and URREA 2000) shows that age is a much more important factor predicting 1996 fee-for-service spending for within-year transplant patients, functioning graft patients, and pediatric dialysis patients than it is for adult hemodialysis patients. The study notes, however, that ESRD patients enrolled in Medicare HMOs with Medicare as primary payer are not included in the sample of patients analyzed, so we do not know whether the study findings are accurate for the M+C ESRD population, which is on average older than the fee-for-service ESRD population.

Taking into consideration the current enrollment restrictions in the M+C program and the resulting age distribution of ESRD M+C enrollees, we have concluded that adjusting for age and sex and using a more detailed age categorization obviates the need to include treatment modality and original cause as factors in this interim methodology.

HCFA's Office of the Actuary developed the following age/sex factors for ESRD beneficiaries enrolled in M+C plans. These factors will be used in making payments for ESRD beneficiaries starting in January 1, 2002. For a given ESRD enrollee, the appropriate age/sex factor will be multiplied by the standardized statewide payment rates in the M+C ratebook. Prior to January 2002, there are no adjustments for age and sex for M+C ESRD beneficiaries.

AGE/SEX DEMOGRAPHIC FACTORS FOR M+C ESRD ENROLLEES

Age	Part A		Part B	
	Male	Female	Male	Female
0–34	.55	.70	.70	.75
35–44	.65	.70	.80	.80
45–54	.70	.85	.85	.90
55–59	.80	.95	.90	1.00
60–64	.90	1.10	.90	1.10
65–69	1.15	1.35	1.10	1.20
70–74	1.25	1.45	1.15	1.25
75–79	1.30	1.55	1.20	1.25
80–84	1.40	1.60	1.20	1.25
85+	1.45	1.60	1.20	1.25

Given current enrollment restrictions, we estimate that, under the proposed methodology, the age- and sex-adjusted average ESRD payment per beneficiary will result in a significant increase in payments to M+C organizations for their ESRD enrollees.

When ESRD M+C enrollees are incorporated into the comprehensive risk adjustment system (adding ambulatory and outpatient diagnoses to the existing hospital-diagnosis system), payments for ESRD patients will be adjusted using the same adjusters used for other enrollees, thus incorporating information on basic disease markers and co-morbidities into calculations of ESRD payments.

Preliminary findings from the ESRD Demonstration, which allowed ESRD beneficiaries of all ages to enroll, indicate that the age distributions at the Demonstration sites were very similar to the ESRD age distribution in fee-for-service Medicare. A change in the law to allow ESRD beneficiaries of all ages to enroll in M+C plans would result in moderation of the average payment increases expected from the proposed methodology, because we would expect a shift in the age distribution of the M+C ESRD population toward younger enrollees.

Although the ESRD Managed Care Demonstration did not enroll beneficiaries with Medicare as Secondary Payer, we are unable to exclude from the M+C program any beneficiaries with Medicare as Secondary Payer who develop ESRD. Therefore, these ESRD beneficiaries with Medicare as Secondary Payer will be included in the program and payment rates. Due to data limitations, we do not expect to make separate payment adjustments.

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Regulatory Impact Statement

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980 Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually).

We have determined that this proposed notice is not a major rule with economically significant effects. There are approximately 18,000 ESRD beneficiaries enrolled in M+C plans. The additional cash expenditures for these ESRD M+C beneficiaries under this BIPA provision are estimated to be: $25 million in 2002; $40 million in 2003; $40 million in 2004; $40 million in 2005; and $45 million in 2006. These estimates assume continuation of the current restrictions on enrollment in the M+C program for ESRD beneficiaries. These estimates include the impact of adjusting for age and sex and the impact

of raising the ESRD base rates by 1 percent. Since the proposed notice results in increases in total expenditures of less than $100 million per year, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

The RFA requires agencies to analyze the economic impact on small entities, and if an agency finds that a regulation imposes a significant burden on a substantial number of small entities, it must explore options for reducing the burden. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7.5 million or less annually. For purposes of the RFA, most managed care organizations are not considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in anyone year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This proposed notice would have no consequential effect on State, local, or tribal governments, and the private sector cost of this rule falls below these thresholds as well.

We have reviewed this proposed notice under the threshold criteria of E.O. 13132, Federalism. We have determined that the proposed notice would not significantly affect the rights, roles, and responsibilities of the States.

We have examined the economic impact of this notice on M+C organizations and find that the overall impact is positive. However, because the number of ESRD patients enrolled in M+C organizations represents a very small fraction of M+C organizations' annual receipts and because a small number of M+C organizations qualify as small entities under the RFA, the Secretary is initially certifying that this notice will not have a significant impact on a substantial number of small entities. To our knowledge, no small rural hospitals will be affected by this notice, so the Secretary is also initially certifying that this notice will not have a significant impact on a substantial number of small rural hospitals.

In accordance with the provisions of E.O. 12866, this proposed notice was reviewed by OMB.

Works Cited

Eggers, Paul W., Diane L. Frankenfield, Joel W. Greer, William McClellan, William F. Owen, Jr., and Michael V. Rocco, ''Comparison of Mortality and Intermediate Outcomes between Dialysis Patients Enrolled in HMO and Fee for Service,'' February 2001. Under review at the American Journal of Kidney Disease.

Eggers, Paul. ''Outcome of ESRD Patients in HMOs.'' RPA/REF 2000 Annual Meeting. Washington DC March 25–27, 2000.

The Lewin Group and University Renal Research and Education Association (URREA). ''Capitation Models for ESRD: Methodology and Results.'' Prepared for Renal Physicians Association, American Society of Nephrology, American Society of Transplant Physicians, American Society for Pediatric Nephrology, and Amgen. January 7, 2000.

Section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: March 19, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Dated: April 12, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–10865 Filed 4–26–01; 3:48 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Postponement of Meeting of the Advisory Committee on Organ Transplantation

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; postponement.

SUMMARY: A notice announcing the first meeting of the Advisory Committee on Organ Transplantation (ACOT), Department of Health and Human Services (HHS), was published in the **Federal Register** dated April 12, 2001 (66 FR, page 18962). This meeting, scheduled for May 1–2, 2001, has been postponed.

SUPPLEMENTARY INFORMATION: This notice is to inform the public that the first meeting of the Advisory Committee on Organ Transplantation (ACOT), Department of Health and Human Services (HHS), which was scheduled for May 1–2, 2001, has been postponed. The Secretary of HHS will publish a notice in the **Federal Register** once the date for the rescheduled ACOT meeting is determined. Individuals with questions should contact the ACOT Executive Director, Ms. Lynn Rothberg Wegman, M.P.A., by telephone at (301)–443–7577, by e-mail at *Lwegman@hrsa.gov*, or in writing at the Division of Transplantation, Office of Special Programs, Health Resources and Services Administration, Room 7C–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Dated: April 27, 2001.

Elizabeth M. Duke,

Acting Administrator, Health Resources and Services Administration.

[FR Doc. 01–11004 Filed 4–27–01; 3:10 pm]

BILLING CODE 4180–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal and Revision to be Submitted to the Office of Management and Budget (OMB) for Approval under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed information collection; request for comments.

SUMMARY: The collection of information described below will be submitted to OMB for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Information Collection Clearance Officer of the U.S. Fish and Wildlife Service at the address and/or phone numbers listed below.

DATES: Consideration will be given to all comments received on or before July 2, 2001.

ADDRESSES: Comments and suggestions on specific requirements should be sent to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax

Drive, Suite 222, Arlington, VA 22203, (703) 358–2278 or Rebecca_Mullin@FWS.gov Email.

FOR FURTHER INFORMATION CONTACT: Ren Lohoefener, Chief, Division of Consultation, Recovery, Habitat, and State Grants, 703/358–2171

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (Service) proposes to submit the following information collection requirements to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the 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. The information collections in this program will not be part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

Experimental populations established under section 10(j) of the Endangered Species Act of 1973 (ESA), as amended, require information collection and reporting to the Service. Section 9 of the ESA describes prohibited acts involving threatened or endangered species (16 U.S.C. section 1538 (a)(1)(B)). There are three major categories of information collected under the already issued experimental population rules. To date these categories have encompassed information relating to: (1) The general taking or removal of individuals of an experimental population, and (2) the authorized taking of individuals related to reports of depredation on livestock or pets caused by individuals that are part of an experimental population and (3) the collection of specimens or the recovery of dead animals that are part of an experimental population. These three categories have adequately described the types of information needed to evaluate the efficacy of the program and are expected to continue to accurately describe activities under the program.

Because individuals of designated experimental populations for species listed as threatened or endangered under the ESA are categorically protected, documentation of human-related mortalities, recovery of dead specimens and other types of take related to the status of experimental populations is important to the Service in order to monitor the success of reintroduction efforts, and recovery efforts in general. In order to minimize potential conflict with humans which could undermine recovery efforts, livestock depredations connected with experimental populations of listed species require prompt attention for purposes of determining the location, timing, and nature of the predatory behavior involved, accurate determination of the species responsible for a livestock kill, and the timely application of necessary control measures. The Service, in cooperation with the United States Department of Agriculture/Animal Plant Health Inspection Service Division of Wildlife Services or other cooperating State or Federal agencies, relies on prompt public reporting of depredation in order to resolve livestock related problems, and, therefore, a time sensitive requirement for reporting problems (generally within 24 hours) to the appropriate Service office is necessary. Information collection is achieved primarily by means of telephone calls by members of the public to Service offices specified in the individual rules (some may choose to use facsimile or electronic mail). Information required is limited to the identity of the caller, species involved, time and place of an incident, the type of incident, and circumstances related to the incident described. The vast majority of the information supplied to the Service as a result of experimental population regulations, is provided by cooperating State and Federal agencies under cooperative agreement. However, some of the information collected by the Service under the experimental population rules is provided by the public.

The collected information can be separated into three categories; general take or removal, depredation related take, and specimen collection. General take or removal information refers to human-related mortality including unintentional taking incidental to otherwise lawful activities (e.g. highway mortalities), take in defense of human life, take related to defense of property (if authorized), or take in the form of authorized harassment. Most contacts related to this type of information collection are in regard to sightings of experimental animals, or the inadvertent discovery of an injured or dead individual. Depredation related take refers to the reporting of take for management purposes, where livestock depredation has been documented or may include authorized harassment or lethal take of experimental animals in the act of attacking livestock. The information collection required by the rules for this type of take include the necessary follow-up reports after the Service has authorized harassment or lethal take of experimental animals in relation to confirmed instances of livestock depredation or in defense of human life. Specimen collection is for the purpose of documenting incidental or authorized scientific collection. Most of the information collection requirement for this take pertains primarily to the reporting of sightings of experimental population animals or the inadvertent discovery of an injured or dead individual. Information collection is required for necessary follow-up reports when the Service has authorized take of experimental animals for specimen collection.

The standard information collection includes the name, address, and phone number of the reporting party, location and time of the reported incident, species of experimental population involved. Reporting parties include, but are not limited to, individuals or households, farms, businesses, and other non-profit organizations. The reporting of specimen collections, recovery, or even the reporting of dead individuals from experimental populations is important to the Service's efforts in monitoring these individuals and for other scientific purposes. Federal agencies may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The control numbers for this collection are 1018–0095 and 1018–0096.

Because the number of reports generated annually by the general public (rather than cooperating agencies or separately permitted individuals) under these rules is extremely small (far less than one report per year, per rule) and to assure thorough documentation of results, the Service is estimating the number of expected reports to assume a maximum number per year based on allowance for increased population size and public awareness of experimental populations.

The following existing experimental populations described under Title 50 of the Code of Federal Regulations contain information collection requirements:

50 CFR Section	Species (scientific name)	Type of reporting
17.84(c)	Red Wolf (Canis rufus):	Take in defense of human life, incidental take, take related to livestock depredation.
17.84(g)	Black footed ferret (Mustela nigripes):	Incidental take, specimen collection/reporting.
17.84(h)	Whooping crane (Grus americana):	Specimen collection/reporting.
17.84(i)	Gray wolf (Canis lupus):	Take in defense of human life, incidental take, take related to livestock depredation.
17.84(j)	California condors (Gymnogyps californianus):	Specimen collection/reporting, incidental take.
17.84(k)	Mexican gray wolf (Canus lupus baileyi)	Take in defense of human life, incidental take, take related to livestock depredation.
17.84(l)	Grizzly bear (Ursus horribilis)	Take in defense of human life, incidental take, take related to livestock depredation.

Future experimental populations that are established will require the same types of reports as listed above. This proposed information collection notice would also apply to future experimental populations that encompass the same information requirements outlined above to streamline the process.

Title: Endangered and Threatened Wildlife, 50 CFR 17.84, Experimental populations.

Description of respondents: Private individuals and households, businesses, not-for-profit organizations, and farms.

Bureau form number: N/A.

Frequency of collection: On occasion. Species]

BURDEN ESTIMATES FOR REPORTING REQUIREMENTS FOR EXPERIMENTAL POPULATINS

Type of report	Number of respondents	Average time required per report (in minutes)	Total annual burden (in hours)
General take or removal [a]	20	15	5
Depredation related take [b]	22	15	5.5
Specimen collection [c]	20	15	5

(a) General take or removal includes human related mortality including unintentional taking incidental to otherwise lawful activities (e.g. highway mortalities), take in defense of human life, take related to defense of property (if authorized) or take in the form of authorized harassment.

(b) Depredation-related take is take for management purposes where livestock depredation has been documented and may include authorized harassment or authorized lethal take of experimental animals in the act of attacking livestock.

(c) Specimen collection, recovery, or reporting of dead individuals from experimental populations for documentation purposes or authorized scientific collection purposes.

Dated: April 26, 2001.

Rebecca A. Mullin,

Fish and Wildlife Service, Information Collection Office.

[FR Doc. 01–10810 Filed 4–30–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Northern Spotted Owl, Boise Cascade Corporation, Klickitat County, WA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the Boise Cascade Corporation (Boise) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number TE 028219–0. The proposed permit would authorize the incidental take, in the form of habitat modification (i.e., harm), of the northern spotted owl (*Strix occidentalis caurina*), a species that is federally listed as threatened. The proposed duration of the permit and habitat conservation plan (HCP) is 5 years, or as long as the owl site is active. We also announce the opening of a 30-day comment period to receive comments from the public on Boise's incidental take permit application and the accompanying proposed HCP. The HCP fully describes the proposed project and the measures Boise will undertake to minimize and mitigate for project impacts to the owl. These measures and associated impacts are also described in the background and summary information that follow. We also request comments from the public on our preliminary determination that Boise's HCP would qualify as a ''Low Effect'' HCP, eligible for a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1). The basis for this determination is discussed in an Environmental Action Statement, which is also available for public review. All comments received will become part of the public record and will be available for review pursuant to section 10(c) of the Act.

DATES: Written comments must be received by 5 p.m. on May 31, 2001.

ADDRESSES: Comments should be addressed to the State Supervisor, Fish and Wildlife Service, Western Washington Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503, fax number (306) 753-9518 (for further information and instruction on the reviewing and commenting process, see Public Review and Comment section below).

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Zisa, Fish and Wildlife Service, Western Washington Office, telephone (360) 534–9330.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal regulation prohibit the taking of a species listed as endangered or threatened. The term ''take'' is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. ''Harm'' is defined to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns,

including breeding, feeding, and sheltering (50 CFR 17.3). However, under limited circumstances the Service may issue permits to take listed species, provided such take is incidental to, and not the purpose of, an otherwise lawful activity. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32. Regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

Background

The proposed permit area occurs within Boise's 34,000-hectare (ha) (84,000-acre (ac)) Simcoe District ownership in the eastern Cascade Mountains of Washington. The actual area covered by the proposed permit and HCP is 250 ha (620 ac) of Boise ownership within owl site #459, centered in section 27, township 6 north, range 15 east. The proposed permit area occurs in the ponderosa pine zone, an ecotype that historically provided little habitat for spotted owls. In the last century, fire suppression and other aspects of forest management have allowed large areas to transition to grand fir and douglas fir habitat types that provide more habitat for the species. However, even in light of these historically recent conditions, the proposed permit area occurs at the extreme southern and eastern edge of current spotted owl distribution within Washington. Immediately to the south and east, central Klickitat County is not forested. To the west, the main population of owls is on Federal lands in the Cascade Mountains, approximately 50 kilometers (km) (30 miles (mi)) from owl site #459. The area in-between is dominated by non-Federal land and contains only a few scattered owl sites'the nearest of these being about 16 km (10 mi) away. A fairly large owl population cluster (approximately 25 to 35 sites) occurs to the north, largely in the Klickitat River basin within the Yakama Indian Reservation, and site #459 is at the extreme edge of that cluster.

As is common throughout the eastern portion of the owl's range, the human-induced fir habitat types within the proposed permit area are being degraded by severe and chronic insect infestations. In addition to direct degradation and mortality of fir trees, such infestations result in massive accumulation of standing and downed wood fuels that increase the likelihood of fires that will remove not only the damaged stands, but also healthier neighboring stands. Spruce budworm infestations have heavily impacted large acreages within and nearby the proposed permit area in the last decade. Recent surveys by Service and Washington Department of Natural Resources personnel indicate that the majority of douglas fir and grand fir which dominate stands within the proposed permit area are being defoliated and are either in advanced stages of decline or already dead. The ponderosa pine component of these stands is not impacted directly by the spruce budworm.

Less than 60 ha (150 ac) of the 2,635-ha (6,511-ac) likely home range radius of owls at site #459 are classified as suitable habitat, including 35 ha (86 ac) within the proposed permit area. This amount of habitat is far below the acreage typically thought necessary to maintain long-term viability of owl sites in this portion of the species' range.

The proposed permit area also includes a portion of Bowman Creek, a fish-bearing stream that is a tributary of the Little Klickitat River. Bull trout (*Salvelinus confluentus*) and other listed or proposed salmonids are not known to occur on Bowman Creek or its down stream confluence, the Little Klickitat River (Carl Dugger, Washington Department of Fish and Wildlife, Goldendale, Washington, pers. comm.). A 15-meter (50-foot) waterfall on the Little Klickitat River below the confluence with Bowman Creek may serve as a barrier to fish passage into the proposed permit area. No other federally threatened or endangered plants or animals are known to exist in the permit area.

The requested section 10 permit would authorize the incidental take of spotted owls associated with one currently occupied owl site. Boise proposes harvest of severely and chronically insect-damaged forest within this owl site. While this harvest will not result in removal of known suitable habitat while the site remains occupied, operations within adjacent non-suitable habitat or within forest classified as non-suitable but perhaps occasionally used by owls, could result in some harm or harassment of the owls at this site. Issuance of the permit would provide Boise with certainty that such unintended and specifically unpredictable consequences do not result in violations of the Act.

Under the proposed action, Boise would limit harvest, through seasonal restrictions and harvest deferrals and prescriptions. Harvest would be limited not only within suitable owl habitat, but also within other forest areas adjacent to the habitat, and harvest deferrals would be retained for a longer period of time than would otherwise be necessary. Boise also would increase monitoring of owls associated with the proposed permit area—including implementation of a radio-telemetry project to monitor the response of the owls to the proposed management activities, and financial contribution to an ongoing owl population study in the region. All associated information would be included in mandatory reports to the Service. Seasonal restrictions also would be imposed on these management actions so that reproductive and fledgling activities of the owls are not disturbed.

We have made a preliminary determination that the Boise HCP qualifies as a Low Effect HCP as defined by the Service's Habitat Conservation Planning Handbook. Low Effect HCPs are those involving: (1) minor or negligible effects on federally listed and candidate species and their habitats; and (2) minor or negligible effects on other environmental values or resources. As more fully explained in the Service's preliminary Low Effect Determination, the Boise HCP qualifies as a Low Effect HCP for the following reasons:

(1) Approval of the HCP would result in minor or negligible effects on the owl and other listed or proposed species. Occurrence of threatened northern spotted owls on the permit lands is limited to one occupied site. There is a possibility that this site may be subject to incidental take as a result of the proposed action. Several facts lead to the conclusion that loss of this site due to incidental take would have a negligible impact on the long-term survival of the species: Loss of the site would probably occur even absent issuance of the permit; this owl site occurs at the very edge of the species range and is relatively isolated; the site is not associated with any Late Successional Reserve or other owl population cluster designated for long-term conservation purposes; the status of the local owl population (east of the national forests in Yakima and Klickitat counties) is most substantially influenced by natural conditions and management actions on the Yakama Indian Reservation and other nearby lands. Except for the owl, no listed or proposed animals occur on the proposed permit lands; due to the presence of a natural fish passage barrier, no bull trout, steelhead (*Oncorhynchus mykiss*) or other anadromous fish are known to occur on the proposed permit lands and no salmonid habitat impacts would result from issuance of the permit. No listed or proposed plant species are known to occur on the proposed permit lands;

(2) The HCP would not have adverse effects on unique geographic, historic or

cultural sites, or involve unique or unknown environmental risks;

(3) Approval of the HCP would not result in any cumulative impacts and would not result in significant adverse effects on public health or safety;

(4) The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, state, local or tribal law or requirement imposed for the protection of the environment; and

(5) Approval of this HCP would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

We have therefore made a preliminary determination that approval of the Boise HCP qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further National Environmental Policy Act documentation. We will consider public comments in making our final determination on whether to prepare such additional documentation.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, HCP, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If we determine that the requirements are met, we will issue a permit for the incidental take of the northern spotted owl. The final permit decision will be made no sooner than 30 days from the date of this notice.

Public Review and Comments

Individuals wishing copies of the permit application, copies of our preliminary Low Effect Determination, or copies of the full text of the HCP, including a map of the proposed permit area, references, and legal descriptions of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

If you wish to comment on the permit application or the HCP, you may submit your comments to the address listed in the **ADDRESSES** section of this document. For internal tracking purposes, please refer to permit number TE 028219–0 when submitting comments. Comments and materials received, including names and addresses of respondents, will be available for public review, by appointment, during normal business hours at the address in the **ADDRESSES** section above and will become part of the public record, pursuant to section 10(c) of the Act. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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, are available for public inspection in their entirety.

Dated: April 19, 2001.

Don Weathers,

Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01–10763 Filed 4–30–01; 8:45 am]

BILLING CODE 4210–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986; Chevron Research and Technology Co.

AGENCY: Geological Survey, Interior.

ACTION: Notice of Proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with the Chevron Research and Technology Company, a division of Chevron U.S.A. Inc. for the purpose of evaluating hyperspectral remote sensing technology that permits the rapid assessment of vegetation type.

INQUIRIES: If any other parties are interested in similar activities with the USGS, please contact Delores Richardson, Administrative Officer, USGS National Wetlands Research Center, 700 Cajundome Blvd., Lafayette, LA 70506, phone (337) 266–8515.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

Susan Haseltine,

Chief Scientist for Biology.

[FR Doc. 01–10815 Filed 4–30–01; 8:45 am]

BILLING CODE 4310–17–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986; Exploration Company of Delaware, Inc.

AGENCY: Geological Survey, Interior.

ACTION: Notice of Proposed Cooperative Research and Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with the Exploration Company of Delaware, Inc., to obtain and characterize various coalbeds from the Maverick Basin, in south Texas.

INQUIRIES: If any other parties are interested in similar activities with the USGS, please contact Charles E. Barker, USGS Denver Federal Center, Sixth Ave. and Kipling St., Building 20, MS 977, Denver, CO 80225, (303) 236–5797.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associate Director for Geology.

[FR Doc. 01–10816 Filed 4–30–01; 8:45 am]

BILLING CODE 4310–47–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed cooperative research & development agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Hamilton Operating, Inc., to obtain and characterize various coalbeds from the Eagle Pass Basin, in south Texas.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact Charles E. Barker, USGS Denver Federal Center, Sixth Ave. and Kipling St., Building 20, MS 977, Denver, CO 80225, (303) 236–5797.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS requirements stipulated in Survey Manual Chapter 500.20.

P. Patrick Leahy,

Associate Director for Geology.

[FR Doc. 01–10817 Filed 4–30–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1220–BY]

Notice of Closure to Motorized Vehicles

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure order for motorized vehicle travel.

SUMMARY: Notice is hereby given that effective May 7th, 2001 certain public lands in Fremont County are closed to all types of motorized vehicle travel. The public lands are located approximately 2 miles northwest of Penrose, Colorado to the west of the Brush Hollow Reservoir. The purpose of this closure is to prevent the development of unauthorized user-created trails, to prevent resource damage to soils and vegetation, to prevent illegal dumping, and to reduce the impacts to wildlife. Future interdisciplinary planning will determine the appropriate travel routes for these areas.

EFFECTIVE DATES: These closures are effective May 7th, 2001 and shall remain in effect until revised, revoked or amended.

ADDRESSES: Royal Gorge Field Office, 3170 East Main Street, Canon City, CO 81212; Telephone (719) 269–8500.

FOR FURTHER INFORMATION CONTACT: Levi D. Deike, Field Office Manager or Diana Kossnar, Outdoor Recreation Planner at the address listed above or 719–269–8500.

SUPPLEMENTARY INFORMATION: The public lands affected by this temporary closure are identified as follows:

Sixth Principal Meridian

T.18S.,R.69W.

Section 24, S½NW¼, W½SW¼, W½SE¼ (240 acres)

This closure does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fine and/or imprisonment as defined in 18 U.S.C. 3571. Notice of this closure and a detailed map will be posted at the Royal Gorge Field Office in Canon City.

Levi D. Deike,

Field Office Manager.

[FR Doc. 01–10752 Filed 4–30–01; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–910–02–1430–LRTN]

Notice of Intent To Prepare Meadowood Planning Analysis/ Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) will prepare a Planning Analysis/Environmental Assessment (PA/EA) to assess management alternatives for Meadowood Farm. The farm, located on Mason Neck in Fairfax County, Virginia, will be administered by the Eastern States Office, upon acquisition by BLM.

The planning effort will follow the procedures set forth in 43 CFR, Subpart 1600.

The public is invited to participate in the planning process, beginning with the identification of planning issues and criteria at a public meeting to be held on May 16, 2001. The meeting time and place will be announced.

You may also participate by sending issues and/or criteria in writing to the Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153.

Dated April 18, 2001.

Walter Rewinski,

Acting State Director.

[FR Doc. 01–10750 Filed 4–30–01; 8:45 am]

BILLING CODE 4310–6J–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–26–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting notice.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council (RAC). The meeting will be held on Wednesday, May 16, in Phoenix, Arizona. The business meeting will be held in the BLM National Training Center, 9828 North 31st Avenue. It will begin at 9 a.m. and will conclude at approximately 4 p.m. The agenda items to be covered include the review of the December 12, 2000, and January 24, 2001 meeting minutes; BLM State Director's Update on legislation, regulations and statewide planning efforts; Update on 3809 Surface Management Regulations for Locatable Mineral Operations; Presentation on Fiber-Optic Rush 2001, Wild Horse and Burro Monitoring/Census Update; Update Proposed Field Office Rangeland Resource Teams; Reports from BLM Field Office Managers; Reports by the Standards and Guidelines, Recreation and Public Relations, Wild Horse and Burro Working Groups; Reports from RAC members; and Discussion of future meetings. A public comment period will be provided at 11:30 a.m. on May 16, 2001, for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9215.

Denise P. Meridith,

Arizona State Director.

[FR Doc. 01–10751 Filed 4–30–01; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Application for authorization to issue health care certificates.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 24, 2001 at 66 FR 7762, allowing for a 60-day public comment period. No comments were received by the INS 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 May 31, 2001. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget,

Office of Information and Regulatory Affairs, 725—17th Street, NW., Room 10235, Washington, DC 20530; Attention: Lauren Wittenberg, Department of Justice Desk Officer.

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:* New information collection.

(2) *Title of the Form/Collection:* Application for Authorization to Issue Health Care Certificates.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–905, Business and Trade Services, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions. The data collected on this form is used by the Service to determine eligibility of an organization to issue certificates to foreign health care workers.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10 responses at 4 hours per responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 40 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: April 25, 2001.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–10802 Filed 4–30–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Executive Leadership Training for Women

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections (NIC) invites applications for a cooperative agreement to provide for the revision of the current curriculum for the program, Executive Leadership Training for Women, and to plan all aspects of program delivery for the leadership series. The cooperative agreement includes the delivery of Phase I of the program in fiscal year 2002.

The award recipient will become familiar with the work currently being done at NIC that provides for an understanding of the history and future development goals of the NIC Executive Leadership Training Program for Women. Through an NIC briefing and review of written materials the recipient will have access to the original design methodology and all aspects of curriculum development and delivery. The recipient will have the full benefit of the work in progress under the cooperative agreement, ''Documentation of the Impact of NIC Executive Leadership Training for Women'' that will provide for an assessment of the impact of the current program on graduates.

This project will be a collaborative venture with the NIC Prisons Division. NIC seeks to continue to offer the most current and effective leadership development for women in senior positions in corrections. A total of $120,000 is reserved for the project during fiscal years 2001 and 2002. The 2001 allocation is $40,000 and the 2002 allocation is $80,000. Funds are subject to congressional approval at the beginning of each fiscal year. The cooperative agreement funds are intended to support one cooperative agreement over an 18 month period. The recipient of the award will be selected through the competitive solicitation process.

Background

History

In the early 1990's the Prisons Division of the National Institute of Corrections made a commitment to a leadership development curriculum that would enhance the ability of women for executive level positions in corrections. Although some women were in mid-level management and executive positions, the gains realized during the previous 20 years seemed to be slowing. Noting the under-representation of women in executive positions NIC awarded a Cooperative Agreement to develop a competency-based executive leadership training program for women. The development of the program was divided into two phases: Needs assessment and curriculum design; and a pilot presentation. The program was originally designed for senior level women working in state departments of corrections. It quickly expanded to include professional women from jails and community corrections. Since the development of the core program, additional ''phases'' or training events have been added to further enhance the long-term development of the graduate and her contribution to her agency.

Curriculum Design

The curriculum design for Executive Leadership for Women was developed as a competency model based on research done with correctional visionaries and women in senior positions in correctional leadership. The administration of several assessment instruments created findings that formed the development of the competencies. Through one such instrument, Strategic Directions Questionnaire, correctional leaders identified 10 competencies as essential to a commissioner's future leadership

effectiveness. From this, a Correctional Leadership Competency Model was developed. In this original research for the program 48 directors of corrections participated.

In addition, twenty women in correctional leadership positions (directors, deputy directors and regional directors of corrections) completed the Leadership 360™ questionnaire, a competency assessment instrument, which was used in conjunction with the Correctional Leadership Competency Model to identify the areas in which women most needed leadership development.

The three largest gap areas—strategic, communication and consensual—were given particular emphasis in the design of the training. All ten competencies were used in the development of the curriculum. Participants attending the program receive Leadership 360™ feedback, which includes a profile of the individual gap scores against the Correctional Leadership Competency Model.

A brief description of the phases offers an overwiew of the goals throughout the process. Classes are small, ranging from 20–22 participants. Participants return a year after the first five day program for the Phase II program, a three day event.

Phase I: Executive Leadership

This five-day program focuses on leadership development. A number of assessments, including the Leadership 360™ feedback, are combined with experiential activities and simulations to help participants gain understanding of their own behavior and leadership effectiveness. The program is highly individualized.

Phase II: Strategic Leadership

At the recommendation of Phase I participants, NIC funded a three-day follow-up training. Phase II emphasizes strategic thinking, the leaders' role in challenging and encouraging change within the organization, and the use of persuasion and consensual skills for managing change.

Phase I and II program participants overlap, thereby creating opportunities for the two classes to network and further build leadership capacity on a national level.

Phase III: Organizational Leadership

Note: Redevelopment of Phase III is not within the scope of this cooperative agreement activity.

With Phase III, NIC extended its leadership program to directors of corrections. Partnerships between Phase I and II participants and their directors are the cornerstone in building organizational competency. Phase III is focused on the dynamics of the organization, especially the use of innovative problem-solving, and the role of the executive team in creating effective vehicles for systemic change.

Scope of the Project

The National Institute of Corrections is interested in ideas the applicant may present that will maximize the opportunity to update the program content based on current research on women's leadership development. Applicants are encouraged to become not only familiar with the existing program model but also to explore a variety of program models that may enhance the existing program.

The work of this project will result in:

A. Background Summary for Women's Leadership Development Program

Development of a brief, research-based written overview that identifies the benefits of offering a program specific to women's leadership development. This document should include a review of leadership education principles or concepts as they apply to women's leadership development.

B. Curriculum Revision

Review of current Executive Leadership Training curriculum and the development of revised material or design model through *one* of the following ways:

Existing Model With Enhancements

- A review and update of the curriculum based on work being done by NIC on leadership competencies that will include an update of the research originally done to support the Correctional Leadership Model as well as recommendations from the information gathered during the course of this cooperative agreement.

Introduction of a New Model

- A review and update of the curriculum using a competency based leadership education model that can be modified to be corrections specific for women in senior management as well as recommendation from the information gathered during the course of this cooperative agreement.

Either approach to program design must include the following:

- A continuation of a two phase program design with an increased emphasis on project work and the use of technology as a tool to strengthen the application of program goals during the calendar year between the two phases.
- A program design that includes an increased emphasis on coaching and mentoring as an executive skill with practical applications.
- An updated participant manual and a faculty companion manual.

C. Training Evaluation Model

Recommendation for a training evaluation design for prospective use which will be developed in consultation with NIC and the provider of the NIC Cooperative Agreement, ''Documentation of the Impact of NIC Executive Leadership Training for Women.''

D. Site Selection

Selection of site for Phase I program delivery. An important component to the success of the previous programs has been the effectiveness of the learning environment. The site description or recommendations included within the application of this cooperative agreement will be a consideration in the selection criteria. The learning environment must be a site that is conducive to outdoor experimental activities; individual quiet work; and provide space for small group break out space. The recommended site should be located within a one hour drive from a major airport.

E. Program Delivery

Delivery of Phase I in the summer of 2002 is a part of this agreement. Traditionally offered in June, the delivery of this program may be delivered between the months of June and September of 2002 to assure adequate program development time. The delivery of the Executive Leadership Training Program, Phase I includes preparation of program material, setting the agenda for and hosting a faculty planning meeting, negotiating faculty contracts and coordination of all on site logistics. Participant and faculty travel is managed and funded separately by NIC. Participant lodging and meals are funded within this agreement based on government per diem.

Required Project Activities

A. Identification of women's leadership training programs in the private or public sector to provide background for further understanding of the role of such programs in Executive Leadership and to review various models.

B. If an award has been made, attendance of the primary team members at the June 20–24, 2001 class

at the Searles Castle in Salem, New Hampshire to allow for a more in depth orientation to the current program and to participate in a focus group with graduates and the provider for the ''Documentation of the Impact of NIC Executive Leadership Training for Women.'' (If an award has not been made by that date, one team member, preferably the project director, from the top three applicants will be invited at NIC's expense to observe aspects of the program.)

C. Initial meeting with NIC, the current provider of the training, and the awardee of the Cooperative Agreement, ''Documentation of the Impact of NIC Executive Leadership for Women'' for an overview of program's history, development and current goals. This commitment may be met under item B above, if a final award has been made.

D. All activities necessary to meet the goals under Scope of Project. Inclusion of a person on the project team with recent experience in developing leadership programs for and/or conducting training for executive women is desirable.

E. Collaborating with NIC and the awardee of the cooperative agreement entitled ''Documentation of the Impact of NIC Executive Leadership Training for Women,'' announced in the February 2001 **Federal Register**. This collaboration will be for the purpose of sharing information for program development.

Authority: Public Law 93–415.

Funds Available: The award will be limited to $120,000 (direct and indirect costs) and project activity must be completed within 18 months of the date of award. Participant and faculty travel for the delivery of Phase I is not included in the funding for this project. This project will be a collaborative venture with the NIC Prisons Division. Funds will be allocated for fiscal year 2001, at $40,000 and fiscal year, 2002 at $80,000.

Application Requirements: The successful applicant will propose a project approach that will ensure accomplishment of each of the stated desired outcomes under the section Scope of the Project within this announcement. The applicant will assure that the project team offers technical expertise in the areas of program development, leadership education specific to the development of women in leadership, and administrative capabilities to coordinate all logistical requirements of the project. The project staff identified must indicate a willingness to the commitment of time necessary to complete the project plan.

The success of the work under this project is critical to the further development of NIC's leadership series for executive women. This announcement is running concurrently with the NIC cooperative agreement entitled ''Documentation of the Impact of the NIC Executive Leadership Training for Women.'' Successful applicants for each of these related projects must be willing to work in collaboration to provide for coordinated information sharing in the curriculum refinement goals of NIC. The NIC Program Manager will be responsible for assuring adequate opportunities for coordination.

Deadline for Receipt of Applications: Applications must be received by 1 p.m. on Tuesday, May 29, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information: A copy of this announcement, application forms, and information on the current NIC Executive Leadership Training for Women Program may be obtained through the NIC web site: *http://www.nicic.org* (click on ''Cooperative Agreements''). If a written copy is needed contact Judy Evens, Cooperative Agreement Control Office (1–800–995–6423 ext. 44222 or (202) 307–3106 ext. 44222, e-mail at *jevens@bop.gov*.) All technical and/or programmatic questions concerning this announcement should be directed to Andie Moss, at 320 First Street, NW., Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 30485, 202–307–3106, ext. 30485, or e-mail: amoss@bop.gov.

Eligibility Applicants: An eligible applicant is any State or general unit of local government, public or private agency, educational institution, organization, team, or individual with the requisite skills to successfully meet the outcome objectives of the project.

Review Considerations: Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards: One (1).

NIC Application Number: 01P04. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Executive Order 12372: This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on proposed projects serving more than one State.

(Catalog of Federal Domestic Assistance Number: 16.603)

Dated: April 25, 2001.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 01–10759 Filed 4–30–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 19, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ESA, and PWBA contact Marlene Howze ((202) 219–8904 or by email to Howze-Marlene@dol.gov). To obtain documentation for ETA, MSHA, OSHA, and VETS contact Darrin King ((202) 693–4129 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, 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.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Vehicle Mechanical Inspection Report for Transportation Subject to DOT Requirements; Subject to DOL Safety Standards.

OMB Number: 1215–0036.

Affected Public: Business or other for-profit; and farms.

Frequency: On Occasion.

Annual Respondents: 1,200.

Annual Responses: 3,600.

Estimated Time Per Record Keeping: 5 minutes.

Total Burden Hours: 300.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $166.

Description: Section 401 of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires that Farm Labor Contractors (FLCs), Agricultural Employers (AGERs) or Agricultural Associations (AGASs) which use, or cause to be used, any vehicle to transport a migrant or seasonal agricultural worker ensure that such vehicle conforms to vehicle safety standards prescribed by the Secretary of Labor under MSPA and with other applicable Federal and State safety standards.

Sections 500.100–102 and 500.104 of Regulations, 29 CFR Part 500, Migrant and Seasonal Agricultural Worker Protection Act (MSPA), set forth the vehicle safety standards which must be met to be able to transport migrant and seasonal agricultural workers.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Maintenance of Receipt for Benefits Paid by a Coal Mine Operator.

OMB Number: 1215–0124.

Affected Public: Business or other for-profit; and State, Local, or Tribal Government.

Frequency: On Occasion.

Annual Respondents: 150.

Annual Responses: 150.

Estimated Time Per Record-keeping: 1 hour.

Total Burden Hours: 1.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 U.S.C. 933(a) requires coal mine operators to secure the payment of benefits for which they may become liable by:

a. Qualifying as a self insurer in accordance with regulations prescribed by the Secretary; or

b. Insuring the payment of such benefits with any stock or mutual company or association, or with any other person or fund, including any state fund, while such company, association, person or fund is authorized under the laws of any state to insure workers' compensation.

20 CFR 725.531 requires self insured operators or insurance carriers to retain receipts for black lung benefit payments made for five years after the date on which the receipt was executed. 30 USC 933(d) includes a civil penalty of not more than $1,000, which may be assessed to coal mine operators by the Secretary for each day during which the operator fails to secure the payment of benefits.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Claim for Reimbursement: Assisted Reemployment.

OMB Number: 1215–0178.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Frequency: Quarterly.

Annual Respondents: 20.

Annual Responses: 80.

Estimated Time per Record keeper: 30 minutes.

Total Burden Hours: 40.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $30.

Description: To aid in the employment of Federal employees with disabilities related to an injury on the job, employers submit the form CA–2231 to claim reimbursement for wages paid under the assisted re-employment project. The collection of this information is authorized under section 8104(a) of the Federal Employees Compensation Act (FECA) as well as Public Laws 103–333 and 106–113.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–10828 Filed 4–30–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 10, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ESA, and PWBA contact Marlene Howze ((202) 693–4120 or by email to Howze-Marlene@dol.gov). To obtain documentation for ETA, MSHA, OSHA, and VETS contact Darrin King ((202) 693–4129 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected, and

• Minimize the burden of the collection of information on those who are to respond, 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.

Type of Review: New Collection.

Agency: Bureau of Labor Statistics (BLS).

Title: Survey of Respirator Use and Practices.

OMB Number: 1220–0NEW.

Affected Public: Business or other for-profit; farms; and not-for-profit institutions.

Frequency: One-time.

Number of Respondents: 40,000.

Number of Annual Responses: 40,000.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 20,000.

Total Annualized Capital/Startup Costs: 50.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The National Institute for Occupational Safety and Health (NIOSH) and the Bureau of Labor Statistics (BLS), U.S. Department of Labor (DOL) have agreed to conduct a survey of United States employers regarding the use of the respiratory protective devices. NIOSH needs more in-depth usage data to evaluate standards (29 CFR 1910.134, Respiratory Protection) and to pinpoint areas where education and training efforts are needed. NIOSH will use the information obtained by BLS from the survey to identify industrial sector and establishment size: (1) The distribution of respirator use, (2) the types of respirators used, (3) the hazards that respirators are used against, (4) the training of respirator users, (5) the extent medical examinations are used to qualify workers for respirator use for all respirator users, (6) the extent fit testing is used to qualify workers for respirator use, (7) the conductor of fit testing by users, (8) the distribution of fit test methods, (9) the training level of respirator program administrators, (10) the characteristics of respirator programs; and (11) the usefulness of an NIOSH certification label.

The findings of the survey will permit direction and evaluation of efforts to protect workers. It will give researchers information to develop educational interventions for specific populations to improve respirator use in the workplace.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–10829 Filed 4–30–01; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Employment, Wages, and Contributions Report'' (ES–202 Program). A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before July 2, 2001.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The ES–202 Program, a Federal/State cooperative effort, produces monthly employment and quarterly wage information. It is a by-product of quarterly reports submitted to State Employment Security Agencies (SESAs) by employers subject to State Unemployment Insurance (UI) laws. The collection of these data is authorized by 29 U.S.C. 1, 2. The ES–202 data, which are compiled for each calendar quarter, provide a comprehensive business name and address file with employment and wage information for employers subject to State UI laws. Similar data for Federal Government employers covered by the Unemployment Compensation for Federal Employees program also are included. These data are submitted to the BLS by all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. The BLS summarizes these data to produce totals for all counties, Metropolitan Statistical Areas, the States, and the nation. The ES–202 Program provides a virtual census of nonagricultural employees and their wages, with about 55 percent of the workers in agriculture covered as well.

The ES–202 Program is a comprehensive and accurate source of data on the number of establishments, monthly employment, and quarterly wages, by industry, at the four-digit Standard Industrial Classification (SIC) level, and at the national, State, Metropolitan Statistical Area, and county levels. The North American Industry Classification System (NAICS), which will replace the SIC coding system, is scheduled to be implemented in the ES–202 Program with data for the first quarter of 2001. The ES–202 series has broad economic significance in measuring labor trends and major industry developments, and in time series analyses of establishments, employment, and wages by size of establishment.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget clearance is being sought for the

Employment, Wages, and Contributions Report (ES–202 Program).

The ES–202 program is the only Federal statistical program that provides information on establishments, wages, tax contributions and the number of employees subject to State Unemployment Insurance laws and the Unemployment Compensation for Federal Employees program. The consequences of not collecting ES–202 data would be grave to the Federal statistical community. BLS would not have a sampling frame for its establishment surveys; the Bureau of Economic Analysis would not be able to publish as accurate personal income data in a timely manner for the U.S., States, and local areas; and the Employment Training Administration would not have the information it needs to administer the Unemployment Insurance Program.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Employment, Wages, and Contributions (ES–202) Program.

OMB Number: 1220–0012.

Affected Public: State, local, or tribal government.

Total Respondents: 53.

Frequency: Quarterly.

Total Responses: 212.

Average Time Per Response: 4,503 hours.

Estimated Total Burden Hours: 954,720 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 25th day of April, 2001.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 01–10827 Filed 4–30–01; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used in issuing a building pass to National Archives and Records Administration (NARA) volunteers and employees of NARA contractors so that they can enter NARA facilities to perform their duties. NARA uses the information to ensure that only authorized persons have access. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before July 2, 2001 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Request for and Record of Pass.

OMB number: 3095–0026.

Agency form number: NA Form 6006.

Type of review: Regular.

Affected public: Individuals or households, business or other for-profit organizations and institutions, and Federal government.

Estimated number of respondents: 1,266.

Estimated time per response: 3 minutes.

Frequency of response: On occasion (when respondent wishes to enter NARA facilities). Respondents who are contractors are given a building pass which expires at the end of each fiscal year; those who are volunteers are given a pass valid for 5 years.

Estimated total annual burden hours: 63 hours.

Abstract: The collection of information is necessary as a security measure to protect employees, information, and property in National Archives and Records Administration (NARA) facilities and to facilitate the issuance of passes. Use of the form is authorized by 44 U.S.C. 2104. At the NARA College Park facility, individuals receive an access card with the pass that is electronically coded to permit access to secure zones ranging from a general nominal level to stricter access levels for classified records zones. The access card system is part of the security management system which meets the accreditation standards of the Government intelligence agencies for storage of classified information, and serves to comply with E.O. 12958.

Dated: April 25, 2001.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 01–10790 Filed 4–30–01; 8:45 am]

BILLING CODE 7515–01–U

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection using an application that is submitted to a Presidential library to request the use of space in the library for a privately sponsored activity. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before July 2, 2001 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives

and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Application and Permit for Use of Space in Presidential Library and Grounds.

OMB number: 3095–0024.

Agency form number: NA Form 16011.

Type of review: Regular.

Affected public: Private organizations.

Estimated number of respondents: 1,000.

Estimated time per response: 20 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 333 hours.

Abstract: The information collection is prescribed by 36 CFR 1280.42. The application is submitted to a Presidential library to request the use of space in the library for a privately sponsored activity. NARA uses the information to determine whether use will meet the criteria in 36 CFR 1280.42 and to schedule the date.

Dated: April 25, 2001.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 01–10791 Filed 4–30–01; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities; Submission for OMB Review

AGENCY: National Science Foundation.

ACTION: Notice Antarctic Conservation Act Application and Permit Form Under OMB Review.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** on February 5, 2001 (66 FR 8984), and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Teresa R. Pierce, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to tpierce@nsf.gov. Comments regarding these information collections are best assured to having their full effect if received within 30 days of this notification. Copies of the submission(s) maybe obtained by calling 703–292–7555.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Teresa Pierce at (703) 292–7555 or send email to tpierce@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Antarctic Conservation Act Application Permit Form.

OMB Approval Number: 3145–0034.

Type of Request: Intent to seek a three year extension of an approved information collection that will expire August 31, 2001.

Proposed Project: The current Antarctic Conservation Act Application Permit Form (NSF 1078) has been in use of many years. The form requests general information, such as name, affiliation, location, etc., and more specific information as to the type of activity to be undertaken, which requires a permit, such as taking of a native mammal or bird, entry into a protected area or introduction of non-native species.

Use of the Information: The purpose of the regulations (45 CFR part 670) is to conserve and protect the native mammals, birds, plants, and invertebrates of Antarctica and the ecosystem upon which they depend and to implement the Antarctic Conservation Act of 1978, Public Law 95–541, as amended by the Antarctic Science, Tourism, and Conservation Act of 1996, Public Law 104–227.

Burden on the Public: The Foundation estimates about 25 responses annually at ½ hour per response; this computes to approximately 12.5 hours annually.

Dated: April 25, 2001.

Teresa R. Pierce,

NSF Reports Clearance Officer.

[FR Doc. 01–10794 Filed 4–30–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Docket No. 50–305

Nuclear Management Company LLC; Kewaunee Nuclear Power Plant Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of exemptions from 10 CFR 50.61 and apendices G and H to part 50 to Facility Operating License No. DPR–43 issued to the Nuclear Management Company, LLC (NMC or the licensee), for operation of the Kewaunee Nuclear Power Plant (KNPP or Kewaunee), located in Kewaunee County, Wisconsin.

Environmental Assessment

Identification of the Proposed Action

The proposed action allows the incorporation of the use of fracture toughness (KJC) test data for evaluating the integrity of the Kewaunee Nuclear Power Plant (KNPP) reactor pressure vessel (RPV) circumferential beltline weld. The licensee submittal requested NRC staff approval of a new methodology for assessing the integrity of the RPV circumferential beltline weld based on the use of the 1997 Edition of American Society for Testing and Materials (ASTM) Standard Test Method E–1921 and American Society for Mechanical Engineering (ASME) Code Case N–629. The licensee submittal included: (1) An exemption from 10 CFR 50.61 to use a proposed alternative methodology based on ASME Code Case N–629 and WCAP–15075; (2) an exemption from Appendix H to Part 50, which specifies use of ASTM E185–82 for testing of surveillance materials, to use a proposed alternative, ASTM E185–98, which allows use of ASTM E1921–97 for testing of surveillance capsule material; (3) an exemption from appendices G and H to part 50, which specifies Charpy V–Notch impact and drop weight testing, to use a proposed alternative ASTM E1921–97; and, (4) a reassessment of the KNPP RPV's compliance with 10 CFR 50.61 (concerning pressurized thermal shock, PTS) for end of license (EOL) condition.

The proposed action is in accordance with the licensee's application for exemptions dated June 7, 1999, as supplemented by letters dated February 4, September 26, and December 18, 2000.

The Need for the Proposed Action

KNPP is a pressurized water reactor (PWR) which commenced commercial operation in 1974, and its current operating license will expire in December 2013. The proposed action, exemptions from 10 CFR 50.61, Appendix G of Part 50, and appendix H of part 50, is needed to allow the use of the proposed alternative methodology. The exemption is necessary since the alternative methodology differs from the current methodology specified in the regulations. The proposed exemptions would permit the use of a proposed methodology to use fracture toughness data as an alternative to the Charpy V-notch and to use a drop weight-based methodology to adequately evaluate the integrity of the KNPP RPV, establish pressure-temperature limit curves, and ensure that the RPV is protected from failure by PTS.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemptions and assessment methodology described above would provide an adequate evaluation of the reactor vessel fracture toughness for KNPP for end of license (EOL) condition. The proposed action would use an alternate methodology from the methodology currently utilized. The proposed action does not result in any physical or operational changes to the plant.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with this action.

Alternatives to the Proposed

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no significant change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Kewaunee.

Agencies and Persons Contacted

In accordance with its stated policy, on November 14, 2000, the NRC staff consulted with the Wisconsin State official, S. Jenkins of the Wisconsin Public Service Commission, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 7, 1999, as supplemented by letters dated February 4, September 26, and December 18, 2000, which are available for public inspection at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 12th day of February, 2001.

For the Nuclear Regulatory Commission.

Tae J. Kim,

Acting Section Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–10824 Filed 4–30–01; 8:45am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of April 30, May 7, 14, 21, 28, June 4, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 30, 2001

There are no meetings scheduled for the Week of April 30, 2001.

Week of May 7, 2001—Tentative

Thursday, May 10, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (If needed).

10:30 a.m.—Briefing on Office of Nuclear Regulatory Research (RES) Programs and Performance (Public Meeting) (Contact: James Johnson, 301–415–6802).

Friday, May 11, 2001

10:30 a.m.—Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301–415–7360).

Week of May 14, 2001—Tentative

There are no meetings scheduled for the Week of May 14, 2001.

Week of May 21, 2001—Tentative

There are no meetings scheduled for the Week of May 21, 2001.

Week of May 28, 2001—Tentative

Wednesday, May 30, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (If needed).

Week of June 4, 2001—Tentative

Tuesday, June 5, 2001

9:25 a.m.—Affirmation Session (Public Meeting) (If needed).

2 p.m.—Discussion of Management issues (Closed-Ex. 2).

Wednesday, June 6, 2001

10:30 a.m.—All Employees Meeting (Public Meeting).

1:30 p.m.—All Employees Meeting (Public Meeting).

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

ADDITIONAL INFORMATION: By a vote of 5–0 on April 23, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Final Rule to Amend 10 CFR Part 2, Subpart J, in Regard to the Licensing Support Network'' be held on April 24, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. if you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: April 26, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–10955 Filed 4–27–01; 12:20 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Report to Congress on Abnormal Occurrences Fiscal Year 2000; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974 (Pub. L. 93–438) identifies an abnormal occurrence (AO) as an unscheduled incident or event that the U.S. Nuclear Regulatory Commission (NRC) determines is significant from the standpoint of public health or safety. The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104–66) requires that AOs be reported to Congress annually. During fiscal year 2000, nine events that occurred at facilities licensed or otherwise regulated by the NRC and/or the Agreement States were determined to be AOs. These events are discussed below. As required by Section 208, the discussion for each event includes the date and place, the nature and probable consequences, the cause or causes, and the action taken to prevent recurrence. Each event is also being described in NUREG–0090, Vol. 23, ''Report to Congress on Abnormal Occurrences, Fiscal Year 2000.'' This report will be available electronically at the NRC Web site <http://www.nrc.gov/NRC/NUREGS/indexnum.html> at the NRC Homepage.

Nuclear Power Plants

The following event that occurred at U.S. nuclear power plants during fiscal year 2000 was determined to be significant enough to be reported as an AO to Congress.

00–1 Steam Generator Tube Failure at Indian Point Unit 2 in Buchanan, New York

Date and Place—February 15, 2000; Indian Point Unit 2, a commercial nuclear power plant operated by Consolidated Edison Company, located about 24 miles north of New York City.

Nature and Probable Consequences—On February 15, 2000, at 7:17 p.m., the Indian Point Unit 2 nuclear plant experienced a steam generator tube failure which required the declaration of an ''Alert'' (the second lowest of four emergency classifications in the NRC-required emergency response plan) at 7:29 p.m., and a manual reactor trip at 7:30 p.m. The steam generator is a heat exchanger which allows heat to pass from the reactor (primary system) to the turbine generator (secondary system). It also provides the boundary between the radioactive primary system and the non-radioactive secondary system. At Indian Point Unit 2 there are four steam generators and each steam generator has approximately 3300 tubes. On February 15, the failure of one of these tubes allowed reactor water to leak into the secondary system. By 8:31 p.m. the operators had taken steps to isolate the steam generator which contained the leaking tube. After the steam generator was isolated, the operators began to cool down the plant. At 9:02 p.m. they were forced to suspend the cooldown process when they realized they had inadvertently established an excessive cooldown rate. This excessive cooldown rate caused a rapid reduction in reactor coolant system (pressurizer) level. To restore the level the licensee pumped borated water into the reactor coolant system using the safety injection system. After the level was restored the operators resumed the cooldown and reached cold shutdown at 4:57 p.m on February 16, 2000. The licensee exited the ''Alert'' emergency classification at 6:50 p.m. that day.

The steam generator tube failure resulted in an initial primary-to-secondary leak of reactor coolant of approximately 146 gallons per minute, and required an ''Alert'' declaration. This event involved some procedural and equipment issues that challenged operators, complicated the event response, and delayed achieving the cold shutdown condition. It caused significant public and media interest, and required increased NRC attention. The event resulted in a minor radiological release to the environment that was well within regulatory limits. No radioactivity was measured offsite above normal background levels, and the event did not impact public health and safety.

Following the event, the NRC performed an inspection and determined that Consolidated Edison Company had not performed an adequate examination of the steam generator tubes during its 1997 outage.

As a result, degraded tubes were allowed to remain in service during plant operation, which ultimately led to a steam generator tube failure.

Cause or Causes— The event was caused by primary water stress corrosion cracking (PWSCC) flaws in steam generator tubes. There were deficiencies in the overall direction and execution of the 1997 steam generator in-service examinations at Indian Point Unit 2. Specifically, the licensee did not identify the presence of PWSCC flaws in steam generator tubes and remove these tubes from service, despite opportunities to do so. As a result, tubes with PWSCC were left in service following the 1997 steam generator inspection until one of these tubes failed on February 15, 2000, when the reactor was at 100 percent power.

Actions Taken To Prevent Recurrence

Licensee—The licensee performed the necessary actions to protect the health and safety of the public. Before the event, the licensee was in the process of implementing a station improvement program. This event demonstrated the need for continuous management attention to planned improvements to ensure they are timely and effective. Subsequently the licensee made the decision to replace all four steam generators prior to returning to power. The industry completed a lessons-learned report based on the Indian Point Unit 2 steam generator tube failure event and provided it to the NRC on October 26, 2000.

NRC—The NRC reviewed the causes, safety implications, and licensee actions following the event. Information Notice 2000–09, ''Steam Generator Tube Failure at Indian Point Unit 2,'' was issued on June 28, 2000, to alert other licensees to this event. A Notice of Violation was issued to Indian Point 2 on November 20, 2000. A lessons-learned report on the steam generator tube failure at Indian Point Unit 2 was completed on October 23, 2000. In this report, the NRC evaluated the staff's technical and regulatory processes related to assuring steam generator tube integrity and identified and recommended areas for improvement applicable to the NRC and the industry. Subsequently, the NRC established a Steam Generator Action Plan detailing activities to be addressed by the NRC and the industry to improve management of steam generator performance.

This event is closed for the purpose of the AO report to Congress.

Fuel Cycle Facilities (Other Than Nuclear Power Plants)

None of the events that occurred at the fuel cycle facilities during fiscal year 2000, was determined to be significant enough to be reported as an AO to Congress.

Other NRC Licensees (Industrial Radiographers, Medical Institutions, etc.)

The following three events occurred at facilities licensed or otherwise regulated by the NRC during fiscal year 2000 and were determined to be significant enough to be reported as AOs to Congress.

00–2 Overexposures at Mallinckrodt, Inc., in Maryland Heights, Missouri

Date and Place—From 1995 through 2000; Mallinckrodt, Inc.; Maryland Heights, Missouri.

Nature and Probable Consequences—On March 31, 2000, a contract employee who was providing services for Mallinckrodt, Inc., was attempting to correct flow problems with a 703,000 megabecquerel (19 curie) molybdenum-99/technetium-99m generator. The employee performed the operation in a glove box. The employee's initial attempts to correct the generator problem were not successful. The employee then removed the generator column containing the radioactive material from its shield and determined that the inlet line was not connected and the outlet line was bent at an angle. Holding the unshielded column in his right hand, the employee corrected the problems with the inlet and outlet lines. This process took between 10 and 20 seconds to complete. Dose rates at the location of the column held by the employee were calculated to be approximately 510 mSv (51 rem) per second. As a result the employee's thumb and index finger of the right hand received a dose ranging from 5,100 mSv (510 rem) to 11,200 mSv (1,120 rem) shallow-dose equivalent. The NRC annual dose limit to the skin or any extremity is 500 mSv (50 rem) shallow-dose equivalent. The employee believed that the gloves he wore provided him adequate protection from radiation.

On April 5, 2000, Mallinckrodt determined that the radiation monitor worn on the employee's right hand recorded a dose of 57 mSv (5.7 rem) shallow-dose equivalent in excess of its administrative weekly limit which was 20 mSv (2 rem). Mallinckrodt's investigation of the exposure determined that the employee had directly handled the generator column and reported the event to the NRC on April 13, 2000. The employee was examined by a physician, who identified no immediate health effects. Due to the inability of either the NRC or the licensee to precisely estimate the likely exposure to the employee's finger and thumb, long-term health effects could not be predicted.

During its investigation of the March 31, 2000, event, Mallinckrodt identified other employee overexposures that occurred in the preceding 5 years during the performance of two routine operations. As a result of the first routine operation, 11 employees involved in the hand-labeling of vials containing millicurie quantities of indium-111 (In-111) (a State-regulated, non-NRC licensed material) received extremity doses ranging from 500 mSv (50 rem) to 3,200 mSv (320 rem) shallow-dose equivalent. In addition to these doses from In-111, the 11 employees had also received doses from NRC-regulated material, typically less than 5 percent of their total extremity doses.

The second operation involved the handling of unshielded and partially shielded vials and syringes containing radioactive material (State- and NRC-regulated material) in a sterility testing laboratory. As a result of this operation Mallinckrodt identified four employees who received extremity doses ranging from 680 mSv (68 rem) to 960 mSv (96 rem) shallow-dose equivalent.

Cause or Causes—The causes of the March 31, 2000, event were insufficient training to ensure that the employee understood the difference between radioactive contamination and radiation and inadequate oversight of the laboratory. The written, approved procedure on the employee's assigned duties did not allow the removal of the generator column during manufacturing. However, an ad hoc procedure had been developed by the staff of the laboratory that was not known to, or approved by, the management outside the laboratory. The ad hoc procedure allowed the removal of the generator column from the shield using remote handling tools. On March 31, 2000, the employee was using the ad hoc procedure but the tools that were used to remove the generator column from the shield had fallen to the bottom of the glove box and were out of the employee's reach. The employee decided on his own to remove the column and to perform repairs without using tools.

Regarding the other operations that resulted in significant doses, Mallinckrodt personnel believed, erroneously, that the doses recorded by the personnel monitoring devices worn by its employees reflected the actual

exposures received. However, the actual doses were, in some instances, 100 times greater than those recorded by the monitors. This was due to the distance between the monitors, which are normally worn like a ring at the base of the finger, and the fingertips, where the exposures were received.

Actions Taken To Prevent Recurrence

Licensee—The licensee staff was instructed in the proper handling of unshielded containers of radioactive material. The licensee increased its radiation safety and supervisory oversight in the generator manufacturing laboratory. In addition, the licensee initiated and implemented managerial changes to its operations and agreed to: (1) Retain an independent organization to assess the radiation safety program and the radiation safety aspects of its radioactive material manufacturing processes; (2) provide assurance that workers have received training and understand procedures and practices to maintain radiation exposures as low as is reasonably achievable (ALARA); (3) develop a plan to review operations for the last five years to determine if additional workers have received exposures in excess of regulatory limits; and (4) request an amendment to incorporate a corrective action program into its license. NRC confirmed the licensee's agreement in a Confirmatory Order Modifying license issued on June 22, 2000.

NRC—The NRC conducted an Augmented Inspection Team (AIT) inspection on May 4 through May 26, 2000, and a follow up inspection on July 17 through August 4, 2000. As a result of the AIT inspection, NRC issued the June 22, 2000, Confirmatory Order Modifying License to Mallinckrodt. On December 21, 2000, NRC issued a Notice of Violation and Proposed Imposition of a $125,000 Civil Penalty.

This event is closed for the purpose of the AO report to Congress.

* * * * *

00–3 Brachytherapy Misadministration at Sibley Memorial Hospital in Washington, District of Columbia

Date and Place—September 15–20, 2000; Sibley Memorial Hospital; Washington, District of Columbia.

Nature and Probable Consequences—Two patients were prescribed doses of 70 Gy (7,000 rad) each for eye treatment. The first patient received a dose of 108.7 Gy (10,870 rad) and the second patient received a dose of 114.70 Gy (11,470 rad).

The two patients were prescribed iodine-125 (I–125) eye plaques for treatment of ocular melanomas. These treatments were performed in an attempt to preserve the patients' eyes, which otherwise would have been surgically removed. The licensee's treatment planning system uses air-kerma, and the supplier of the I–125 seeds uses millicurie units. The licensee made an error converting air-kerma to millicurie units. Consequently, orders were placed for a higher source strength of I–125 seeds, which were subsequently administered to the patients, resulting in the overdoses.

The error was identified by the licensee during a review of the patients' charts on September 22, 2000, after the physicist noted that the dosimetrist was ordering I–125 seeds for an upcoming study with higher than expected source strength.

The patients were informed of the misadministrations. Before the start of the treatments, the patients were informed of the substantial risk of vision loss, the possibility of cataract formation, and a 10 to 15 percent possibility that removal of the eye might be required due to tumor progression or eye pain.

Cause or Causes—The principal cause of the misadministrations was a human error in converting source strength of the I–125 seeds from air-kerma to millicurie units. A secondary cause was the failure of the authorized user and medical physicist to recheck the conversion factor equations before the treatment was completed (a requirement of the licensee's Quality Management Plan).

Actions Taken To Prevent Recurrence

Licensee—The licensee suspended all procedures involving the eye plaques until corrective actions were developed and the staff was trained in the corrective actions. Written procedures were established to ensure the accuracy of the treatment calculations. The licensee has submitted to the NRC its planned corrective actions to prevent potential errors in the future.

NRC—An inspection was conducted by the NRC's Region I office on September 28 and 29, 2000, to examine the circumstances of the misadministration and the licensee's corrective and preventive actions. In accordance with the NRC's Medical Event Assessment Program, the NRC has retained a medical consultant to assess the misadministrations and their potential consequences. Enforcement action is pending.

This event is closed for the purpose of the AO report to Congress.

Agreement State Licensees

The following six events occurred at facilities of Agreement State licensees during fiscal year 2000 and were determined to be significant enough to be reported as AOs to Congress.

AS 00–1 Gamma Stereotactic Radiosurgery Misadministration at Healthsouth Medical Center in Birmingham, Alabama

Date and Place—April 12, 2000; Healthsouth Medical Center; Birmingham, Alabama.

Nature and Probable Consequences—Patient A was prescribed a dose of 80 Gy (8,000 rad) to the left trigeminal nerve using a gamma stereotactic radiosurgery (GSR) device. However, because of an error, a dose of about 0.2 Gy (20 rad) was delivered to the intended treatment site and a dose of 80 Gy (8,000 rad) was delivered to a wrong treatment site.

On the same day that patient A was scheduled for a GSR treatment, patient B was also admitted for a similar treatment using the same device. During the approval process of the treatment plan, the dose delivery sheet of patient B was inadvertently switched with that of patient A. As a result, patient A was treated with the radiosurgery parameters intended for patient B, and a dose of 80 Gy (8,000 rad) was delivered at the wrong treatment site within the patient's skull. The misadministration was discovered immediately following the delivery of the dose by the patient's radiation oncologist. The identification of this misadministration prevented a related misadministration for patient B. The licensee notified the State agency of this misadministration on April 12, 2000. The patient returned to the Medical Center on April 20, 2000, and was treated as prescribed.

The licensee stated that the misadministration resulted in no observable acute effects to the patient. The patient was notified verbally within 24 hours by the referring physician and the neurosurgeon and will be closely monitored by the neurosurgeon.

Cause or Causes—This misadministration was caused by mixing patient treatment protocol documentation during approval of the treatment plans for the two different patients that were prescribed similar treatments.

Actions Taken To Prevent Recurrence

Licensee—The licensee took immediate action to prevent the mixing of patient treatment protocol documentation. As a result, each page of the treatment protocol contains a unique

name and time stamp, which the radiation oncologist or medical physicist will in the future check before delivering the radiosurgery treatment.

State Agency—The Alabama Department of Public Health, Office of Radiation Control was satisfied with the licensee's corrective actions. The licensee's corrective measures will be reviewed during the agency's next routine inspection of the licensee's activities.

This event is closed for the purpose of the AO report to Congress.

* * * * *

AS 00–2 Gamma Stereotactic Radiosurgery Misadministration at University of California in San Francisco, California

Date and Place—September 11, 1998; University of California; San Francisco, California. The California Department of Health Services, Radiologic Health Branch was notified of the misadministration on September 17, 1998. The NRC staff was informed of this event in July 2000. The State of California indicated that the delay in reporting this event to the NRC resulted from a computer error.

Nature and Probable Consequences—A patient was prescribed a radiation therapy treatment of two metastatic lesions of the brain using a gamma stereotactic radiosurgery (GSR) device. One of the brain lesions was prescribed a dose of 16 Gy (1,600 rad). However, because of an error, the wrong site of the brain received more than 10 Gy (1,000 rad).

The patient was treated for two metastatic brain lesions, one in the left thalamus and the other in the right parietal regions of the brain. A treatment plan was developed for the lesion in the left thalamus to deliver a single dose of 16 Gy (1600 rad), at the 60% isodose line. However, one of the seven parameter settings of the GSR, the ''left Y'' coordinate, was erroneously set at 111 mm (4.37 in.) instead of 101 mm (3.98 in.) resulting in a 5 mm (0.20 in.) translocation of the treatment volume. This error resulted in an under-dose of a portion of the intended treatment volume and an unintended dose of more than 10 Gy (1,000 rad) to brain tissue outside of the prescribed treatment volume. The misadministration was discovered when the licensee performed a quality control verification of the GSR parameters after the radiation treatment.

The licensee reported that the patient experienced no acute side effects from this misadministration. The physician who was involved in this treatment notified the patient of this misadministration. The physician explained the necessity of another treatment because of the under-dose to a portion of the tumor site. An additional treatment was added to the treatment plan to complete the prescribed dose to the intended treatment volume of the left thalamus, and the treatment was completed. The patient died as a direct result of the metastatic condition on March 3, 1999.

Cause or Causes—The misadministration was caused by a human error. One member of the treatment team set a wrong coordinate and another member of the treatment team failed to independently verify the coordinate setting.

Actions Taken To Prevent Recurrence

Licensee—The initial corrective actions by the licensee included decreasing distractions to the treatment team by limiting telephone calls in the treatment control area and restricting conversations in the treatment room to conversations required for the treatment of the patient.The licensee was requested by the State to contact other GSR facilities to review their methods of operation. The licensee found that another GSR facility had performed a study comparing the frequency of incorrect coordinate settings by licensees who did one independent verification and licensees who did two. The licensee used this study as a guide and has adopted the procedure of performing two independent checks of the coordinate settings before each treatment and retaining the follow-up check of the coordinate settings after each treatment to determine if an error was made.

State Agency—The findings of the onsite investigation by the State staff agreed with the findings of the licensee's quality assurance review. The State also shared the finding of the study performed by the licensee with other Agreement States and with the NRC because of the study's generic implications. The State was satisfied with the licensee's corrective actions and believes they should be adequate to prevent recurrence. No enforcement actions were taken by the State for this misadministration.

This event is closed for the purpose of the AO report to Congress.

* * * * *

AS 00–3 Gamma Stereotactic Radiosurgery Misadministration at Healthsouth Doctor's Hospital in Coral Gables, Florida

Date and Place—January 25, 2000; Healthsouth Doctor's Hospital; Coral Gables, Florida.

Nature and Probable Consequences—A patient was prescribed a gamma stereotactic radiosurgery (GSR) treatment for 80 brain lesions. Each brain lesion site was prescribed 12 Gy (1,200 rad). However, a lesion site was treated twice because of an error.

The patient's treatments were based on computer-generated magnetic resonance imaging (MRI) slices taken in the Z direction. Prior to each treatment, the lesion site coordinates were printed out as part of the written directive and they were checked manually and initialed by the authorized user and the medical physicist. For the fourth treatment, the licensee intended to deliver 12 Gy (1,200 rad) to lesion site 47. However, prior to the treatment the wrong MRI slice was displayed in the computer showing lesion site 16 (Z=70.7 mm [2.78 in.]) instead of lesion site 47 (Z= 65.0 mm [2.56 in.]). Thus, the treatment plan was calculated at lesion site 16, which had already been treated. The written directive was prepared and signed by the authorized user and the radiation safety officer (RSO) indicating a dose of 12 Gy (1,200 rad) to Z=70.7 mm (2.78 in.). The treatment was administered as indicated in the directive. As a result, lesion site 16 was treated twice. The RSO discovered the error on January 28, 2000, during a routine quality assurance review of the treatment plan. The licensee indicated that the retreatment of site 16 did not result in harmful effects for the patient. The patient was rescheduled for treatment of lesion site 47 and treatment of additional untreated sites.

The misadministration was reported to the Florida Bureau of Radiation Control, the authorized user, and the patient on January 28, 2000.

Cause or Causes—The licensee determined that this misadministration was caused by human error.

Actions Taken To Prevent Recurrence

Licensee—No action was taken by the licensee. The licensee has not identified any quality management procedures that need to be changed to prevent this type of human error. In addition, the licensee believes that this type of error was detected because of its aggressive quality assurance program.

State Agency—The Bureau of Radiation Control performed an onsite investigation on February 2, 2000. The investigation found no apparent violations of the licensee's license or the regulations. During the investigation the licensee indicated that it has performed in excess of 2,000 GSR procedures and a quality assurance review of each procedure. Of the 2,000 procedures the

licensee has estimated that over 600 procedures involved the treatment of 20 or more lesion sites and that this was the only time a lesion site was treated twice.

This event is closed for the purpose of the AO report to Congress.

* * * * *

AS 00–4 Gamma Stereotactic Radiosurgery Misadministration at University of Maryland Medical Systems in Baltimore, Maryland

Date and Place—April 20, 2000; University of Maryland Medical Systems (UMMS); Baltimore, Maryland.

Nature and Probable Consequences—A patient was prescribed a radiation therapy treatment for pituitary adenoma using a gamma stereotactic radiosurgery (GSR) device. The licensee's therapy treatment team planned to deliver a maximum dose of 18 Gy (1,800 rad) to the 50% isodose line given in six administrations. However, because of the incorrect settings of the Y and Z coordinates, a dose of 12.5 Gy (1,250 rad) was administered to the wrong treatment site.

The licensee's therapy treatment team consisted of a neurosurgeon, an oncologist, and a medical physicist. The treatment plan was developed, reviewed, and signed by each member of the treatment team prior to the administration of the first dose. When the medical physicist briefly left the GSR facility, the neurosurgeon and the oncologist inadvertently reversed the Y and the Z coordinates while adjusting the position of the patient's stereotactic frame (moving the patient's head to the incorrect position). When the medical physicist returned, each member of the treatment team incorrectly verified the position of the patient's frame assembly. All team members signed the quality assurance checklist to indicate that they conducted this check and that the patient's frame was positioned in accordance with the written directive. As a result, the patient's base of the frontal lobe received the unintended dose. The medical physicist identified the incorrect settings of the Y and Z coordinates while preparing to adjust the frame assembly for the second administration. Upon discovery of the misadministration, the treatment team revised the treatment plan to accommodate for the error and to complete the therapy procedure. The State agency was notified of this misadministration on April 21, 2000, and performed an onsite investigation on April 26–28, 2000.

The neurosurgeon notified the patient, provided an estimate of the unintended dose delivered, and explained that no adverse health effects were expected to result from this event.

Cause or Causes—This misadministration was determined to be a sequence of human errors made by the neurosurgeon, oncologist, and medical physicist during patient positioning. However, while the root cause of the event appears to be human errors during the setting of the patient positioning parameters, other factors may have contributed to the event. For example, to position the patient, the treatment team used an internal procedure which was not documented in writing. This procedure was not sent to the licensee's Radiation Safety Committee or the State Agency for approval. The radiation safety officer (RSO) was a contract employee of the UMMS. Furthermore, he had not received any specialized training, e.g., equivalent to the authorized user training. Interaction between the RSO and the authorized users was rare. Finally, the RSO failed to complete and document the annual reviews of the GSR radiation protection program content and implementation for the previous 3 years (1997 through 2000).

Actions Taken To Prevent Recurrence

Licensee—The licensee held a management conference with key members of management, radiation safety, radiation oncology, neurosurgery, patient care services, and clinical effectiveness. As a result of this meeting, the licensee implemented a written protocol regarding patient positioning.

State Agency—The onsite investigation by the State determined that the licensee failed to implement approved written procedures regarding treatment planning, patient positioning, and administration of doses. Furthermore, the licensee failed to complete and document the annual reviews of the GSR radiation protection program content and implementation for the previous 3 years. A Department Letter/Notice of Violation was issued on June 21, 2000. An enforcement action is pending.

This event is closed for the purpose of the AO report to Congress.

* * * * *

AS 00–5 Teletherapy Misadministration at Western Baptist Hospital in Paducah, Kentucky

Date and Place—October 16, 1996, to November 1, 1996; Western Baptist Hospital; Paducah, Kentucky. This misadministration was discovered by the hospital on January 8, 1997. The State was informed of the misadministration on January 8, 1997 and was reported to NRC on March 5, 1997. However, it was identified as an AO during discussions of the event at an Integrated Materials Performance Evaluation Program review of the State of Kentucky in July 2000.

Nature and Probable Consequences—A patient was prescribed a radiation therapy treatment using cobalt-60 teletherapy equipment. The patient was prescribed a dose of 39 Gy (3900 rad). However, the dose was administered to the wrong treatment site because of an error.

The patient was treated for bone pain associated with renal cell carcinoma with metastases to the right iliac bone. The prescribed treatment was 5 treatments per week for a total of 13 treatments. The prescribed dose to the right iliac bone was 39 Gy (3900 rad). When the patient returned for evaluation of the right iliac bone pain, the physician determined that the dose of 39 Gy (3900 rad) was administered to the left iliac bone.

The licensee stated that the misadministration had no effect on the patient's life-span and did not result in any permanent impairment or dysfunction.

Cause or Causes—The causes of this misadministration were that (1) markers were not used on the patient's x-ray film to distinguish the supine/prone positions; (2) a second x-ray film was incorrectly labeled as to left/right; (3) the physician did not perform a visual inspection to determine that the correct area had been marked on the patient; and (4) the prescribing physician and simulator therapists failed to correctly orient left/right on fluoroscopy.

Actions Taken To Prevent Recurrence

Licensee—The licensee established a requirement to label the x-ray films to distinguish left/right and supine/prone positions. One of the radiation physicists will review the treatment plans of patients that are not responding clinically as expected. The physicists have been retrained to check all information in the patient's chart regarding calculations and setup. The physicians and therapists have been reminded of the importance of accurately determining patient orientation.

State Agency—The State agency reviewed the written directive and no problems were noted. A telephone conference was held with the radiation safety officer, the attending physician, and the Director of Safety Management. The inspection frequency for the facility was increased. An inspection in March 1998 found no violations.

This event is closed for the purpose of the AO report to Congress.

* * * * *

AS 00–6 Brachytherapy Misadministration at Aultman Hospital in Canton, Ohio

Date and Place—August 22, 2000 through October 30, 2000; Aultman Hospital; Canton, Ohio.

Nature and Probable Consequences—As a result of a common error, four patients that were prescribed manual brachytherapy gynecological procedures were administered doses higher than those prescribed.

The first patient was prescribed a total dose of 92.9 Gy (9,290 rad). This dose included brachytherapy treatments of 20 Gy (2,000 rad) and 22.5 Gy (2,250 rad) using Ir-192 sources and a dose of 50.4 Gy (5,040 rad) from an external beam linear accelerator. On September 18, 2000, the patient was administered a brachytherapy dose of 33.3 Gy (3,330 rad) Ir-192 instead of the prescribed dose of 20 Gy (2,000 rad). On October 9, 2000, the same patient was administered a brachytherapy dose of 35 Gy (3,500 rad) Ir-192 instead of the prescribed dose of 22.5 Gy (2,250 rad) Ir-192. The patient was also administered the prescribed dose of 50.4 Gy (5,040 rad) from an external beam linear accelerator.

The second patient was prescribed a total dose of 90.7 Gy (9,070 rad). This dose included brachytherapy treatments of 19.8 Gy (1,980 rad) using Ir-192 sources and of 20.5 Gy (2,050 rad) using a combination of Ir-192 and radium-226 (Ra-226) sources and a dose of 50.4 Gy (5,040 rad) from an external beam linear accelerator. On August 22, 2000, the patient was administered a brachytherapy dose of 35.2 Gy (3,520 rad) Ir-192 instead of the prescribed dose of 19.8 Gy (1,980 rad) Ir-192. On September 5, 2000, the same patient was administered the prescribed dose of 20.5 Gy (2,050 rad) using a combination of Ir-192 and Ra-226 implant sources. The patient was also administered the prescribed dose of 50.4 Gy (5,040 rad) from an external beam linear accelerator.

The third patient was prescribed a total dose of 63.9 Gy (6,390 rad). This dose included a brachytherapy treatment of 18.9 Gy (1,890 rad) using Ir-192 sources and a dose of 45 Gy (4,500 rad) from an external beam linear accelerator. On October 30, 2000, the patient was administered a brachytherapy dose of 32.4 Gy (3,240 rad) Ir-192 instead of the prescribed dose of 18.9 Gy (1,890 rad) Ir-192. The patient was also administered the prescribed dose of 45 Gy (4,500 rad) from an external beam linear accelerator.

The fourth patient was prescribed a total dose of 79.3 Gy (7,925 rad). This dose included brachytherapy treatments of 20.3 Gy (2,025 rad) and 14 Gy (1,400 rad) using Ir-192 sources and a dose of 45 Gy (4,500 rad) from an external beam linear accelerator. On October 23, 2000, the patient was administered a brachytherapy dose of 31.5 Gy (3,150 rad) Ir-192 instead of the prescribed dose of 20.3 Gy (2,025 rad) Ir-192. On November 6, 2000, the same patient was administered the prescribed brachytherapy dose of 14 Gy (1,400 rad) Ir-192. The patient was also administered the prescribed dose of 45 Gy (4,500 rad) from an external beam linear accelerator.

The misadministrations were discovered on November 3, 2000, and November 13, 2000, during an internal audit of the licensee's Quality Management Program (QMP) by the Radiation Safety Officer (RSO) and the Radiation Protection Staff. A telephone report by the licensee's RSO was made to the Ohio Department of Health, Bureau of Radiation Protection, on November 4, 2000, and November 13, 2000.

The first, second, and fourth patients were notified of the misadministrations. The notification of the third patient is pending because the patient was hospitalized for an unrelated infection. The licensee stated that the clinical treatment of these patients has not been affected by the misadministrations.

Cause or Causes—The licensee indicated that this event was primarily caused by an operator error in the data entry of the source strength in the treatment planning computer. The facility obtained a new computer in August 2000, and the operator made a mistake and entered the source strengths in milligram-radium-equivalent instead of millicurie. Also, the quality assurance of the treatment planning was inadequate, and the second checks of treatment plans, to which the licensee committed in its QMP were inadequate.

Actions Taken To Prevent Recurrence

Licensee—As soon as the licensee's management determined that a reportable event had occurred, the licensee took action to provide additional training to the staff involved in brachytherapy procedures. The licensee submitted a written report to the Ohio Department of Health, Bureau of Radiation Protection, within 15 days of discovering the misadministrations.

State Agency—The Ohio Department of Health, Bureau of Radiation Protection, performed an onsite investigation on November 21 and 22, 2000, to review the procedures and the findings of the licensee's quality management review and to confirm that the licensee's corrective action proposal is adequate to prevent recurrence. Enforcement actions or penalties, if any, will be determined at a later date.

This event is closed for the purpose of the AO report to Congress.

* * * * *

Dated at Rockville, Maryland this 25th day of April, 2001.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01–10821 Filed 4–30–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Plan for Updating and Consolidating the Decommissioning Policy and Guidance of the Nuclear Regulatory Commission's Office Nuclear Material Safety and Safeguards, and Notice of Public Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of plan and notice of public meeting.

SUMMARY: The Office of Nuclear Material Safety and Safeguards (NMSS) intends to consolidate and update the policy and guidance for NMSS's decommissioning program. This endeavor is in response to the NMSS performance goals, in the NRC's Strategic Plan, of: (1) Making NRC activities and decisions more effective, efficient, and realistic; and (2) reducing unnecessary regulatory burden on stakeholders.

DATES: Comments on this plan should be submitted by June 15, 2001. The comments will be considered by NRC in the process of updating and consolidating the policy and guidance for NMSS's decommissioning program.

ADDRESSES: Submit written comments to: Jack D. Parrott, Project Scientist, Office of Nuclear Material Safety and Safeguards, Mail Stop T–7F27, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand-deliver comments to: 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Room O–1F21, Rockville, MD 20852. The NRC Public Document Room is open from 7:45 a.m.

to 4:15 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jack D. Parrott, Mail Stop T–7F27, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6700; Internet: JDP1@NRC.GOV.

SUPPLEMENTARY INFORMATION: The initial scope of this effort covers all of the decommissioning policies and guidance that implement the NMSS decommissioning regulations. Three NUREG volumes have been identified for development which would update/consolidate all existing NMSS decommissioning guidance documents to the extent practicable. Also reviewed will be decommissioning technical assistance requests, decommissioning licensing conditions, and all decommissioning generic communications issued over the past several years. For the purposes of this project, the NMSS decommissioning policy and guidance documents will be grouped into the functional categories of: (1) The General Materials Decommissioning Process, (2) Characterization, Survey, and Determination of Radiological Criteria, and (3) Financial Assurance, Recordkeeping, and Timeliness. The three NUREG volumes will follow these functional categories. The documents that will be considered in this consolidation/updating project are identified in Table 1.

Table I.—Documents for Consideration in the Decommissioning Guidance Consolidation Project

Guidance Documents To Be Consolidated

NUREG–1727, ''NMSS Decommissioning Standard Review Plan,'' September 2000
NUREG/BR–0241, ''NMSS Handbook for Decommissioning Fuels Cycle and Materials Licensees,'' March 1997
Information Notice 90–16, ''Compliance with New Decommissioning Rule,'' March 1990
''Draft Branch Technical Position on Site Characterization for Decommissioning,'' November 1994
NRC Regulatory Issue Summary 2000–09, ''Standard Review Plan for Licensee Requests to Extend the Time Periods Established for Initiation of Decommissioning Activities,'' June 2000
NRC Administrative Letter 96–05, Revision 1, ''Compliance with the Rule ''T 'Timeliness in Decommissioning of Material Facilities' '' July 1998
Information Notice 96–47, ''Record-keeping and Decommissioning Notifications for Disposals of Radioactive Waste by Land Burial Authorized under Former 10 CFR 20.304, 20.302, and Current 20.2002,'' August 1996
Information Notice 90–38, Supplement 1, ''License and Fee Requirements For Processing Financial Assurance Submittals for Decommissioning,'' November 1990
Information Notice 90–38, ''Requirements for Processing Financial Assurance Submittals for Decommissioning,'' May 1990
Information Notice 90–16, ''Compliance with New Decommissioning Rule,'' March 1990
Records Management Guide 93–03, ''Final Criteria for Determining That Records Should be Retained Permanently Because of Significant Historical Value,'' 1993
Records Management Guide 92–01, ''Plan for Decommissioning Records,'' 1992

Other Documents for Reference/Consideration

NUREG–1575, ''Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), Rev. 1,'' August 2000
NUREG/CR–5512, Volume 1, ''Residual Radioactive Contamination from Decommissioning: Technical Basis for Translating Contamination Levels to Annual Total Effective Dose Equivalent,'' October 1992
Draft NUREG/CR–5512, Volume 2, ''Residual Radioactive Contamination from Decommissioning: User's Manual,'' May 1999
Draft NUREG/CR–5512, Volume 3, ''Residual Radioactive Contamination From Decommissioning: Parameter Analysis,'' October 1999
Draft NUREG/CR–5512, Volume 4, ''Comparison of the Models and Assumptions used in the DandD 1.0, RESRAD 5.61, and RESRAD-Build Computer Codes with Respect to the Residential Farmer and Industrial Occupant Scenarios Provided in NUREG/CR–5512,'' October 1999
NUREG/CR–5621, ''Groundwater Models in Support of NUREG/CR–5512,'' December 1998
Draft NUREG–1549, ''Decision Methods for Dose Assessment to Comply with Radiological Criteria for License Termination,'' July 1998
NUREG/CR–6692, ''Probabilistic Modules for the RESRAD and RESRAD-Build Computer Codes,'' November 2000
Draft NUREG–1505, Rev. 1, ''A Nonparametric Statistical Methodology for the Design and Analysis of Final Status Decommissioning Surveys,'' June 1998
NUREG–1506, ''Measurement Methods for Radiological Surveys in Support of New Decommissioning Criteria,'' August 1995
NUREG–1507, ''Minimum Detectable Concentrations with Typical Radiation Survey Instruments for Various Contaminants and Field Conditions,'' August 1995
Manual Chapter 2605, ''Decommissioning Procedures for Fuel Cycle and Materials Licensees,'' November 1996
Manual Chapter 2602, ''Decommissioning Inspection Program for Fuel Cycle Facilities and Materials Licensees,'' June 1997
Inspection Procedure 87104, ''Decommissioning Inspection Procedure for Materials Licensees,'' June 1997
Inspection Procedure 88104, ''Decommissioning Inspection Procedure for Fuel Cycle Facilities,'' June 1997
Inspection Procedure 83890, ''Closeout Inspection and Survey,'' March 1994
Temporary Instruction 2800/026, ''Follow-up Inspection of Formerly Licensed Sites Identified as Potentially Contaminated'', July 2000

Background/Bases Documents

Atomic Energy Act of 1954, as amended
National Environmental Policy Act
10 CFR 20, Subpart E—Radiological Criteria for License Termination
10 CFR 30.35—Financial assurance and recordkeeping for decommissioning
10 CFR 30.36—Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas
10 CFR part 30, Appendix A—Criteria Relating to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning
10 CFR part 30, Appendix C—Criteria Relating to Use of Financial Tests and Self Guarantees for Providing Reasonable Assurance of Funds for Decommissioning
10 CFR part 30, Appendix D—Criteria Relating to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies That Have no Outstanding Rated Bonds
10 CFR part 30, Appendix E—Criteria Relating to Use of Financial Tests and Self-Guarantee For Providing Reasonable Assurance of Funds For Decommissioning by Nonprofit Colleges, Universities, and Hospitals

10 CFR 40.36—Financial assurance and recordkeeping for decommissioning
10 CFR 40.42—Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas
10 CFR 70.25—Financial assurance and recordkeeping for decommissioning
10 CFR 70.38—Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas
10 CFR 72.30—Financial assurance and recordkeeping for decommissioning
10 CFR 72.54—Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas
10 CFR 72.130—Criteria for decommissioning
62 FR 39058, ''Radiological Criteria for License Termination,'' July 1997
53 FR 24018, ''General Requirements for Decommissioning Nuclear Facilities,'' June 1988
64 FR 68395, ''Supplemental Information on the Implementation of the Final Rule on Radiological Criteria for License Termination,'' December 1999
63 FR 64132, ''Supplemental Information on the Implementation of the Final Rule on Radiological Criteria for License Termination,'' November 1998
62 FR 39058, ''Radiological Criteria for License Termination,'' July 1997
53 FR 24018, ''General Requirements for Decommissioning Nuclear Facilities,'' June 1988
61 FR 24669, ''Termination or Transfer of Licensed Activities: Recordkeeping Requirements,'' May 1996
60 FR 38235, ''Clarification of Decommissioning Funding Requirements,'' July 1995
59 FR 36026, ''Timeliness in Decommissioning of Materials Facilities,'' July 1994
58 FR 39628, ''Decommissioning Recordkeeping and License Termination: Documentation Additions,'' July 1993
53 FR 24018, ''General Requirements for Decommissioning Nuclear Facilities,'' June 1988
NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities,'' July 1997
NUREG–0586, ''Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities,'' August 1988
NUREG/CR–1754, ''Technology, Safety and Costs of Decommissioning Reference Non-Fuel-Cycle Nuclear Facilities,'' February 1981
NUREG/CR–1754, ''Technology, Safety and Costs of Decommissioning Reference Non-Fuel Cycle Nuclear Facilities,'' Addendum 1, October 1989
NUREG/CR–0129, ''Technology, Safety and Costs of Decommissioning a Reference Small Mixed Oxide Fuel Fabrication Plant,'' February 1979
NUREG/CR–1266, ''Technology, Safety and Costs of Decommissioning a Reference Uranium Fuel Fabrication Plant,'' October 1980
NUREG/CR–1757, ''Technology, Safety and Costs of Decommissioning a Reference Uranium Hexafluoride Conversion Plant,'' October 1981
NUREG/CR–2210, ''Technology, Safety and Costs of Decommissioning a Reference Independent Spent Fuel Storage Installation,'' January 1984
NUREG/CR–2241, ''Technology and Costs of Termination Surveys Associated with Decommissioning of Nuclear Facilities,'' February 1982
NUREG/CR–3293, ''Technology, Safety and Costs of Decommissioning Reference Nuclear Fuel Cycle and Non Fuel Cycle Facilities Following Postulated Accidents,'' May 1985
NUREG/CR–6280, ''Technology, Safety, and Costs of Decommissioning a Reference Large Irradiator and Reference Sealed Sources,'' January 1996
NUREG/CR–6477, ''Revised Analyses of Decommissioning Reference Non-Fuel-Cycle Facilities,'' July 1998
NUREG/CR–6656, ''Information on Hydrologic Conceptual Models, Parameters, Uncertainty Analysis, and Data Sources for Dose Assessments at Decommissioning Sites,'' November 1999

Licensing Documents To Be Considered

Post License Termination Rule decommissioning technical assistance requests
Post License Termination Rule license amendments
Site specific decommissioning Environmental Assessments/ Environmental Impact Statements
Site specific decommissioning Safety Evaluation Reports
Results of decommissioning financial assurance reviews
Site specific submittals of Form NRC–314, ''Certificate of Disposition of Materials''

Other Documents for Possible Reference

Other agencies' documents—e.g., U.S. Department of Energy, U.S. Environmental Protection Agency, U.S. Geological Survey, Council on Environmental Quality
Consensus standards—American Nuclear Society, American Society of Mechanical Engineers, American Society for Testing and Materials, Health Physics Society
International guidance—International Atomic Energy Agency, Nuclear Energy Agency

The implementation of the consolidation and updating of the decommissioning policy and guidance documents will be conducted using the Business Process Reengineering (BPR) techniques established for the NRC's materials licensing policy and guidance consolidation and updating efforts (NUREG–1556 series). The BPR approach will be used to both develop the product, and manage the review and concurrence process, using self-managed teams consisting of NRC headquarters and regional resources. The goal is to produce consolidated NMSS decommissioning guidance that allows the NRC staff to evaluate information submitted by licensees in a timely, efficient, and consistent manner that protects public health and safety.

The development of each NUREG volume will follow a standardized BPR team model to facilitate overall project management. Teams will consist of a team leader and three or four team members, representing headquarters and regional staff, and possibly Agreement State participation.

The goal is to commence the first NUREG volume project in the June/July 2001 time frame, the second NUREG volume in the January 2002 time frame, and the third NUREG volume in the June/July 2002 time frame. The BPR model uses a one year schedule that contains two periods of document production for each volume. The first phase of document production lasts five months during which the teams work together at NRC headquarters during much of this time to focus their efforts on the guidance document, and to take advantage of the facilitation services provided by the NRC's Regulatory Product Development Center. At the end of the first phase a draft NUREG volume is produced which is released to the public for review and to solicit public input. After a 90-day comment period, the teams reconvene periodically over approximately four months to consider public input and revise the document. The NUREG volume is then published in final.

The overall project is scheduled to be completed by the end of fiscal year 2003 with the publication of the final version of the third NUREG volume. The end result will be a streamlined multi-volume NUREG grouped into the decommissioning functional categories described above, with the goal of

making decommissioning activities licensed by NRC more effective and efficient while reducing unnecessary regulatory burden on stakeholders. Further ease of use will be realized by making this a web-based document. Note also that the BPR model establishes a 3-year review cycle for updating the guidance.

The updated, consolidated guidance will be provided to all users, both NRC and licensee, in hardcopy and/or electronic media. Since each group will have access to the same guidance, the expected results are more complete license documents that will expedite the approval process for both applicants and reviewers. As a result, the resource expenditure for this project will serve to improve the overall decommissioning process. Successful completion of this project is an integral component of the effort to meet NMSS' performance goals in the NRC's Strategic Plan. This will be done by developing decommissioning guidance that ensures that NRC's decommissioning activities and decisions are more effective, efficient, and realistic; and that they reduce unnecessary regulatory burden on stakeholders through, for example, the application of risk insights and performance-based methods, and the use of a consistent decommissioning regulatory basis.

Public Meeting: NRC will conduct a public meeting in the auditorium of the NRC's headquarters office, Two White Flint North, 11545 Rockville Pike, Rockville, MD, on June 1, 2001, to discuss this plan for updating and consolidating the decommissioning policy and guidance of the NRC's Office Nuclear Material Safety and Safeguards with interested members of the public. The meeting is scheduled for 9 a.m. to 2 p.m. There will be an opportunity for members of the public to ask questions of NRC staff and make comments related to the plan. The meeting will be transcribed. For more information on the public meeting, please contact Jack D. Parrott, Project Scientist, Office of Nuclear Material Safety and Safeguards, Mail Stop T–7F27, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; 301–415–6700; Internet: JDP1@NRC.GOV.

Dated at Rockville, MD, this 20th day of April, 2001.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–10823 Filed 4–30–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44217; File No. SR–EMCC–00–04]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Approving a Proposed Rule Change Relating to Membership Criteria for Inter-Dealer Brokers Regulated by the Securities and Futures Authority Limited

April 24, 2001.

On July 3, 2000, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–EMCC–00–04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on December 13, 2000.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change establishes admission criteria for brokers or dealers who are regulated by the Securities and Futures Authority Limited (''SFA'')[3] and act as inter-dealer brokers (''IDBs''). EMCC's membership criteria for IDBs that are registered by the SFA will mirror the requirements of U.S. registered broker-dealers acting as IDBs[4] except SFA regulated IDBs will be required to maintain ''excess financial resources'' of $10,000,000 US as opposed to excess net capital of $10,000,000.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[5] Since the Commission's approval of EMCC Rule 2, EMCC has been informed that brokers or dealers who are regulated by the SFA also act as IDBs and, in fact, that there are broker-dealers who are regulated by the SFA who would like to be IDB members of EMCC. The Commission believes it is prudent for EMCC to establish criteria for broker-dealers that act as IDBs and that are regulated by the SFA because it will encourage IDBs regulated by the SFA to become participants in EMCC and therefore should facilitate the prompt and accurate clearance and settlement of emerging market securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–EMCC–00–04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–10748 Filed 4–30–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43680 (December 6, 2000), 65 FR 77947.

[3] SFA is the United Kingdom financial services regulator.

[4] EMCC's Rules define an IDB as ''a broker-dealer that conducts securities trading which matches buyers and sellers who are banks or dealers, and who is designated as such by the Corporation.'' EMCC's membership criteria for broker-dealers acting as IDBs require an applicant to demonstrate to the EMCC Board or Membership and Risk Committee that: (1) The applicant has the operational capacity to perform its membership functions in a satisfactory manner; (2) the applicant has an established business history of at least three years or personnel with sufficient operational background and experience to ensure the ability of the applicant to conduct its business; (3) the applicant has the financial ability to make all anticipated payments required by EMCC; (4) the applicant is in compliance with the capital requirements imposed by its appropriate regulatory authority; and (5) no adverse conditions exist which might prohibit applicant's membership in EMCC.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44219; File No. SR–OCC–00–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to OCC Clearing Members Pledging Long Options Positions

April 25, 2001.

On March 6, 2000, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–00–02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on July 19, 2000.[2] No comment letters

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 43029 (July 12, 2000), 65 FR 44844.

were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change expands the categories of accounts from which clearing members may pledge long options positions to third party lenders and expands the categories of permitted pledgees. The proposed rule change is intended to reflect liberalizing amendments to Regulation T (12 CFR 220) and Regulation U (12 CFR 221) made by the Board of Governors of the Federal Reserve System (''Fed Board'').

Options have traditionally had no loan value under the Fed Board's margin regulations. The only relevant exception was for ''special purpose credit'' extended to broker-dealers.[3] A bank or another broker-dealer could extend credit on long options carried for the accounts of market makers and specialists to secure credit for financing their market making functions. Accordingly, when OCC adopted Rule 614, which allowed long options to be pledged to a bank or another broker-dealer, OCC specified that options could only be pledged from clearing members' market-maker and specialist accounts.[4] In addition, the permitted pledgees under Rule 614 were limited to banks and broker-dealers as these were the only categories of lenders from which a broker-dealer such as a clearing member or market maker was permitted to borrow.[5]

In 1996, the Fed Board eliminated the general prohibition against extending credit on long options and instead deferred to the rules of the options exchanges regarding option loan value by incorporating those rules by reference into Regulation T.[6] Although exchange margin rules then in effect also prohibited extensions of credit against long options, these rules have subsequently been amended to permit broker-dealers to extend credit on certain long option positions in a customer margin account.[7]

In 1998, the Board amended the Supplement to Regulation U to allow lenders other than broker-dealers to extend 50 percent loan value against all long positions in listed options.[8] The Fed Board also modified the margin regulations to reflect amendments to the Act. The National Securities Markets Improvement Act of 1996 (''NSMIA'') repealed section 8(a) of the Act which, among other things, had prohibited broker-dealers from obtaining credit against the collateral of exchange-traded equity securities from lenders other than broker-dealers and certain banks. For that reason, the Fed Board deleted provisions of Regulations T and U that implemented section 8(a) of the Act.

As a result of all of the foregoing statutory and regulatory changes, credit may now be extended by broker-dealers, banks, and other lenders against long option positions whether carried for the account of a market-maker or specialist, another broker-dealer, a public customer, or for the clearing member's own proprietary account. This renders the provisions of Rule 614, restricting the types of OCC accounts from which long options may be pledged and the kind of entities that may be pledgees obsolete. In recognition of this fact, OCC proposed to amend Rule 614 to delete the obsolete restrictions.

Of course, Regulations T and U continue to impose certain restrictions on extensions of credit secured by OCC-issued options. For example, the 50 percent loan limit would generally be applicable with certain exceptions such as when the credit is extended to an ''exempted borrower.''[9] As is the case with other securities credit transactions, lenders and borrowers who use the OCC pledge program are obligated to comply with the Fed Board's margin regulations.

OCC also proposed to make certain technical amendments to Rule 614. These reflect, among other things, revisions to Sections 8 and 9 of the Uniform Commercial Code adopted since Rule 614 was originally drafted. Conforming changes are being made to Rules 601, 602, 1105, and 1106.

II. Discussion

In Section 17A, Congress stated its finding that the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors. The Commission believes that the approval of OCC's rule change is in line with this finding and directive of Congress. The proposed rule change is intended to reflect liberalizing amendments to Regulation T (12 CFR 220) and Regulation U (12 CFR 221) made by the Fed Board. Due to those amendments, credit may now be extended by broker-dealers, banks, and other lenders against long options positions whether carried for the account of a market-maker or specialist, another broker-dealer, a public customer, or for the clearing member's own proprietary account. This renders the provisions of Rule 614, restricting the types of OCC accounts from which long options may be pledged and the kinds of entities that may be pledgees, obsolete. In recognition of this fact, OCC is amending Rule 614 to delete the obsolete restrictions. As a result, OCC's rules governing the pledging of long options positions will be consistent with those of the options exchanges and with the Fed Board's Reg T and Reg U.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–00–02) be and hereby is approved.

For the Commission by the Division of market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–10782 Filed 4–30–01; 8:45 am]

BILLING CODE 8010–01–M

[3] Long options may also be given value in a customer's margin account when used to offset margin otherwise required on short option positions and are in turn given margin credit in the clearing member's account at OCC. However, that use of long option value does not involve the pledging of options to third party lenders, and Rule 614 therefore has no application to such use.

[4] In recognition of the ability of a clearing member to pledge long options to a commodity clearing organization for the purpose of securing obligations to such clearing organization on related futures and futures option contracts, OCC later amended Rule 614 to permit this particular form of pledge. In 1999, OCC also amended its rules to permit pledging of long positions to third party lenders from a non-proprietary cross-margining account. Securities Exchange Act Release No. 41883 (September 17, 1999), 64 FR 51819 (September 24, 1999).

[5] As noted in the footnote above, the rule was later amended to permit pledging of long options to a commodity clearing organization.

[6] Fed Board Release, 61 FR 20385 (May 6, 1996).

[7] *See, e.g.,* Securities Exchange Act Nos. 41658 (July 27, 1999), 64 FR 42736 (August 5, 1999)[SR–CBOE–97–67] and 42011 (October 14, 1999), 64 FR 57172 (October 22, 1999) [SR–NYSE–99–03].

[8] Fed Board Release, 63 FR 2806 (January 16, 1998).

[9] Exempted borrower is defined in Section 220.2 of Regulation T and in Section 221.2 of Regulation U.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44182; File No. SR–PCX–2001–01]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Trust Issued Receipts

April 16, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. Amendment No. 1 to the proposed rule change was filed on April 18, 2001.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and to grant approval to the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt generic listing requirements for Trust Issued Receipts (''TIRs'') that would permit its wholly-owned subsidiary PCX Equities, Inc. (''PCXE'' or ''the Corporation'') to trade, either by listing or pursuant to unlisted trading privileges (''UTP''), specified series of TIRs pursuant to Rule 19b–4(d) under the Act. Below is the text of the proposed rule change. *Italics* indicate text to be added.

* * * * *

PCX Equities, Inc. Trust Issued Receipts

Rule 8.200(a). The Corporation will consider for trading, whether by listing or pursuant to unlisted trading privileges, Trust Issued Receipts that meet the criteria of this Rule.

(b) Definitions. A Trust Issued Receipt is a security (1) that is issued by a trust (''Trust'') which holds specific securities deposited with the Trust; (2) that, when aggregated in some specified minimum number, may be surrendered to the Trust by the beneficial owner to receive the securities; and (3) that pay beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee (''Trustee'') by an issuer of the deposited securities.

(c) Designation. The Corporation may trade, whether by listing or pursuant to unlisted trading privileges, Trust Issued Receipts based on one or more securities. The Trust Issued Receipts based on particular securities shall be designated as a separate series and shall be identified by a unique symbol. The securities that are included in a series of Trust Issued Receipts shall be selected by the Corporation or by such other person as shall have a proprietary interest in such Trust Issued Receipts.

(d) Initial and Continued Listing and/or Trading. Trust Issued Receipts will be traded on the Corporation subject to application of the following criteria:

(1) Commencement of Trading—For each Trust, the Corporation will establish a minimum number of Trust Issued Receipts required to be outstanding at the time of commencement of trading on the Corporation.

(2) Continued Trading—Following the initial twelve month period following formation of a Trust and commencement of trading on the Corporation, the Corporation will consider the suspension of trading in or removal from listing of or termination of unlisted trading privileges for a Trust upon which a series of Trust Issued Receipts is based under any of the following circumstances:

(A) if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

(B) if the Trust has fewer than 50,000 receipts issued and outstanding;

(C) if the market value of all receipts issued and outstanding is less than 1,000,000; or

(D) if any other event shall occur or condition exists which, in the opinion of the Corporation, makes further dealings on the Corporation inadvisable.

Upon termination of a Trust, the Corporation requires that Trust Issued Receipts issued in connection with such trust be removed from listing or have their unlisted trading privileges terminated. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(3) Term—The stated term of the Trust shall be as stated in the Trust prospectus; however, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(4) Trustee—The trustee must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handing corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, as qualified trust company or banking institution must be appointed co-trustee.

(5) Voting—Voting rights shall be as set forth in the Trust prospectus.

(e) ETP Holders and ETP Firms. ETP Holders and ETP Firms shall provide to all purchasers of newly issued Trust Issued Receipts a prospectus for the series of Trust Issued Receipts.

(f) Applicability. This Rule is applicable only to Trust Issued Receipts. Except to the extent inconsistent with this Rule, or unless the context otherwise requires, the provisions of the Bylaws and all other rules and procedures of the Board of Directors shall be applicable to the trading on the Corporation of such securities. Trust Issued Receipts are included within the definition of ''security'' or ''securities'' as such terms are used in the Bylaws and Rules of the Corporation.

Commentary:

.01 The Corporation may approve trust issued receipts for trading, whether by listing or pursuant to unlisted trading privileges, pursuant to Rule 19b–4(e) under the Securities Exchange Act of 1934, provided that the following criteria are satisfied:

(a) each security underlying the trust issued receipt must be registered under Section 12 of the Exchange Act;

(b) each security underlying the trust issued receipt must have a minimum public float of at least $150 million;

(c) each security underlying the trust issued receipt must be listed on a national securities exchange or traded through the facilities of Nasdaq as a reported national market system security;

(d) each security underlying the trust issued receipt must have an average daily trading volume of at least 100,000 shares during the preceding, sixty-day trading period;

(e) each security underlying the trust issued receipt must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million; and

(f) the most heavily weighted security in the trust issued receipt cannot initially represent more than 20% of the overall value of the trust issued receipt.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt generic listing requirements to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the PCX made certain technical changes relating to numbering of proposed rule text. *See* letter from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, to Andrew Shipe, Attorney, Division of Market Regulation, SEC, dated April 16, 2001 (''Amendment No. 1'').

accommodate the trading, whether by listing or UTP, of TIRs pursuant to Rule 19b–4(e) under the Act.[4] Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') will not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[5] if the Commission has approved, pursuant to Section 19(b) of the Act,[6] the SRO's trading rules, procedures and listing requirements for the product class that include the new derivative securities product, and the SRO has a surveillance program for the product class.[7] The Exchange believes that the Commission's approval of the proposed listing requirements for TIRs will allow PCXE to begin trading qualifying products without the need for notice and comment and Commission approval under section 19(b) of the Act.[8] The Exchange's ability to rely on Rule 19b–4(e) for these products potentially reduces the time frame for bringing these securities to the market and thus enhances investors' opportunities.

The Commission has previously approved requests of the American Stock Exchange (''Amex'') and the Chicago Stock Exchange (''CHX'') to provide generic standards to list and/or trade TIRs.[9] The Exchange believes that its proposed listing requirements for TIR are substantially similar to the listing requirements at the Amex and CHX. The information provided below is intended to provide a description of how TIRs are created traded and is similar to that discussed in the original Amex TIRs Approval Order.[10]

a. *General.* TIRs are negotiable receipts that are issued by a trust in which securities of issuers are deposited and held on behalf of the holders of the TIRs. They are designed to allow investors to hold interests in a variety of companies in a particular industry through a single, exchange-listed and traded instrument that represents beneficial ownership in the deposited securities. Holders may cancel their TIRs at any time to receive their *pro rata* share of the underlying securities.

Beneficial owners of the receipts have the same rights, privileges, and obligations as they would if they beneficially owned the underlying securities outside the TIRs program. Holders of the receipts have the right to instruct the trustee to vote their *pro rata* share of the underlying securities evidenced by the receipts. They will receive reports, proxy solicitations, and other information distributed by the issuers of the deposited securities to their security holders, and will receive their *pro rata* share of the dividends and other distributions declared and paid by the issuers to the trustee.

b. *Creation of the Trust.* TIRs will be issued by a trust created pursuant to a depositary trust agreement. After the initial offering, the trust may issue additional receipts on a continuous basis when an investor deposits the requisite securities in the trust. An investor will be permitted to withdraw the underlying securities upon delivery to the trustee of one or more round lots of 100 TIRs. Conversely, an investor may deposit the necessary securities and receive TIRs in return.

c. *The Trust Issued Receipts Portfolio.* The companies represented by securities in the portfolio underlying the TIRs must meet the following minimum criteria: (1) The companies' common stock must be registered under section 12 of the Act;[11] (2) the minimum public float of each company included in the portfolio must be at least $150 million; (3) each security must either be listed on a national securities exchange or traded through the facilities of Nasdaq as a reported national market system security; (4) the average daily trading volume for each security must be at least 100,000 shares during the preceding sixty-day trading period; (5) the average daily dollar value of the shares traded during the preceding sixty-day trading period must be at least $1 million; and (6) the most heavily weighted security in the TIR cannot initially represent more than 20% of the overall value of the TIR.

d. *Criteria for Initial and Continued Listing.* The Exchange intends to list or trade pursuant to UTP, specified series of TIRs that currently are listed on other exchanges and that are developed from time to time. Under the proposed rules, the Exchange may list or trade pursuant to Rule 19b–4(e),[12] a series of TIRs that meet the specified criteria and such series has the requisite level of TIRs outstanding at the time of commencement of trading on the PCXE.[13] The minimum number of receipts that must be outstanding at commencement of trading on PCXE will be included in any required submission under Rule 19b–4(e).

The Exchange believes that the proposed initial listing requirements will ensure that no security underlying a TIR will be readily susceptible to manipulation, while permitting sufficient flexibility in the construction of various TIRs to meet investors' needs. The Exchange also believes that these criteria will ensure sufficient liquidity for those investors seeking to purchase and deposit the underlying securities with the trustee to create a new TIR.

In connection with continued listing, the Exchange will consider the suspension of trading in, or removal from listing of, a series of TIRs when any of the following circumstances arise: (1) The trust has more than sixty days remaining until termination and there are fewer than 50 record and/or beneficial holders of TIRs for 30 or more consecutive trading days; (2) the trust has fewer than 50, 000 receipts issued and outstanding; (3) the market value of all receipts issued and outstanding is less than $1 million; (4) such other event occurs or conditions exists which, in the opinion of the Exchange, makes further dealings on PCXE inadvisable.

These flexible criteria will allow the Exchange to avoid delisting TIRs (and possibly terminating the trust) due to relatively brief fluctuations in market conditions that may cause the numbers of holders to vary. The Exchange will not, however, apply these delisting criteria for the initial 12-month period following the formation of a trust and commencement of trading on the PCXE. In addition, if the number of companies represented by the deposited securities drops to fewer than nine, and each time the number of companies is reduced thereafter, the Exchange will consult with the Commission to confirm the appropriateness of the continued listing of the TIRs.

e. *PCXE Rules Applicable to Trading of TIRs.* Dealings in TIRs on the PCXE will be conducted pursuant to the PCXE's equity trading rules. PCXE's general dealing and settlement rules will apply, including its rules on clearance and settlement of securities transactions and its equity margin rules. Other generally applicable PCXE equity rules and procedures will also apply, including, among others, rules governing the Intermarket Trading System, priority of orders, operational

[4] 17 CFR 240.19b–4(e).

[5] 17 CFR 240.19b–4(c)(1).

[6] 15 U.S.C. 78s(b).

[7] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[8] 15 U.S.C. 78s(b).

[9] *See* Securities Exchange Act Release No. 43496 (September 29, 2000), 65 FR 60230 (October 10, 2000).

[10] *See* Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999).

[11] 15 U.S.C. 78(1).

[12] 17 CFR 240.19b–4(e).

[13] The Exchange anticipates requiring a minimum of 150,000 outstanding receipts before trading can commence.

and regulatory trading halts, and responsibilities of specialists.[14]

The Exchange's surveillance procedures for TIRs will be similar to the procedures for portfolio depository receipts and will incorporate and rely upon existing surveillance systems.

f. *Disclosure and Dissemination of Information.* The Exchange will distribute an information circular to its members in connection with the trading of TIRs. It will discuss the special characteristics and risks of trading this type of security, including the fact that TIRs are not individually redeemable. Specifically, the circular, among other issues, will discuss what TIRs are, how they are created, the requirement that member and member firms deliver a prospectus to investors purchasing TIRs prior to or concurrently with the confirmation of a TIRs transaction, applicable PCXE rules, dissemination information, trading information, and the applicability of suitability rules. In addition, the circular will inform members of specific PCXE policies, such as trading halts and market conditions particular to such securities.

2. Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[15] in general, and furthers the objectives of section 6(b)(5),[16] in particular, in that it is designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–01 and should be submitted by May 22, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act[17] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposal to provide standards to permit listing and trading of trust issued receipts pursuant to Rule 19b–4(e)[18] furthers the intent of that rule by facilitating commencement of trading in these securities without the need for notice and comment and Commission approval. By establishing listing standards, the proposals should reduce PCX's regulatory burden, as well as benefit the public interest, by enabling PCX to bring qualifying products to the market more quickly. Accordingly, the Commission finds that PCX's proposal 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.[19]

As described above, the Commission has previously approved similar Amex and CHX rules that permit the listing and trading of individual trust issued receipts.[20] In approving these securities for trading, the Commission considered their structure, their usefulness to investors and the markets, and the Exchanges' rules and surveillance programs that govern their trading. The Commission concluded then that securities approved for listing under those rules would allow investors to: (1) Respond quickly to changes in the overall securities markets generally and for the industry represented by a particular trust; (2) trade, at a price disseminated on a continuous basis, a single security representing a portfolio of securities that the investor owns beneficially; (3) engage in hedging strategies similar to those used by institutional investors; (4) reduce transactions costs for trading a portfolio of securities; and (5) retain beneficial ownership of the securities underlying the trust issued receipts. The Commission notes that PCX's proposed standards are substantially similar to the Amex and CHX standards. The Commission therefore believes that trust issued receipts that satisfy PCX's proposed standards should produce the same benefits to PCX and to investors.

The Commission further believes that adopting listing standards for these securities and applying Rule 19b–4(e) should fulfill the intended objective of that rule by allowing those products that satisfy the listing standards to start trading without the need for notice and comment and Commission approval. PCX's ability to rely on Rule 19b–4(e) potentially reduces the time frame for bringing these securities to the market, or for permitting the trading of these securities pursuant to UTP, and thus enhances investors' opportunities. The Commission notes that it maintains regulatory oversight over any products listed under the generic standards through regular inspection oversight.

The Commission finds that PCX's proposal contains adequate rules and procedures to govern the listing and trading of trust issued receipts pursuant to Rule 19b–4(e) on the PCX, or pursuant to UTP. All trust issued receipt products listed under the standards will be subject to the full panoply of PCX rules and procedures that now govern both the trading of trust issued receipts and the trading of equity securities on the Amex and CHX, including, among

[14] PCXE's rules relating to odd lot executions will not apply because the trust issued receipts will be traded only in round lots or round lot multiples. In addition, the Exchange understands that the Commission has provided an exemption from the short sale rule, Rule 10a–1 under the Act (17 CFR 240.10a–1) for transactions in securities issued under the TIRs program. *See* S.E.C. Exemption Letter, 1999 WL 1038048 (S.E.C.). the Exchange will issue a notice to its members detailing the terms of the exemption.

[15] 15 U.S.C. 78f(b).

[16] 15. U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(5).

[18] 17 CFR 240.19b–4(e).

[19] 15 U.S.C. 78f(b)(5). In approving these rules, the Commission has considered their impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] *See e.g,* Securities Exchange Act Release No. 42056 (October 22, 1999), 64 FR 58870 (November 1, 1999) (CHX); Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999) (Amex).

others, rules and procedures governing trading halts, disclosures to members, responsibilities of the specialist, account opening and customer suitability requirements, the election of a stop or limit order, and margin.

The Commission further finds that: (1) By requiring that the underlying securities in a trust issued receipt be registered under Section 12 of the Act and listed on a national securities exchange or Nasdaq, and (2) by establishing minimum values for the number of outstanding receipts, average daily trading volume, average daily dollar volume, and public float, the Exchange's proposed listing criteria will help to ensure that a minimum level of liquidity will exist to allow for the maintenance of fair and orderly markets for those trust issued receipts listed and traded pursuant to Rule 19b–4(e). The Commission believes that these listing criteria will help to ensure that no security underlying a trust issued receipt will be readily susceptible to manipulation, while permitting sufficient flexibility in the construction of various trust issued receipts to meet investors' needs. The Commission further believes that these criteria should serve to ensure that the underlying securities of such trust issued receipts are well capitalized and actively traded, which will help to ensure that U.S. securities markets are not adversely affected by the listing and trading of new trust issued receipts under Rule 19b–4(e). Accordingly, the Commission finds that these criteria are consistent with section 6(b)(5) of the Act,[21] because they serve to prevent fraudulent or manipulative acts; promote just and equitable principles of trade; remove impediments to and perfect the mechanism of a free and open market and a national market system; and protect investors and the public interest.

Additionally, as the Commission noted in its previous review and approval of CHX and Amex Rules, the Exchange's delisting criteria allows it to consider the suspension of trading and the delisting of a trust issued receipt if an event occurs that makes further dealings in such securities inadvisable. This will give the Exchange flexibility to delist trust issued receipts if circumstances warrant.

The Commission notes that, in connection with its previous review and approval of CHX and Amex Rules, it approved similar applicable minimum price increments, surveillance procedures, and disclosure and prospectus delivery requirements for trust issued receipts.[22] In accord with these previous findings, the Commission believes that PCX's proposed rules will provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest. Further, the Commission believes that the proposal will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risk of trading trust issued receipts.

Finally, PCX will file Form 19b–4(e) with the Commission within five business days of commencement of trading a trust issued receipt under the listing standards and will comply with all Rule 19b–4(e) recordkeeping requirements.

The Commission finds good cause for approving the proposed rule change (SR–PCX–2001–01) prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the proposed rule change is similar to rules previously approved by the Commission for Amex and CHX, and that is concerns issues that previously have been the subject of a full comment period pursuant to section 19(b) of the Act.[23] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the previous filings. Moreover, the Commission believes that approving the listing and trading of TIRs on the PCX will increase industry competitiveness by providing an additional venue for the trading of such issues, to the benefit of the investor. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[24] to approve the proposal on an accelerated basis, and before expiration of the period for filing comments.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (SR–PCX–2001–01) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–10746 Filed 4–30–01; 8:45 am]

BILLING CODE 8010–01–M

[21] 15 U.S.C. 78f(b)(5).

[22] *See note 22, supra.*

[23] 15 U.S.C. 78s(b).

[24] 15 U.S.C. 78f(b)(6).

[25] 15 U.S.C. 78s(6)(2).

[26] 17 CFR 200.30–3(a)(12)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44216; File No. SR–PCX–00–48]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Auto-Ex Between-the-Quotes

April 24, 2001.

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 December 13, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. Amendment Nos. 1 and 2 to the proposed rule change were filed on January 3, and April 2, 2001, respectively.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve it on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to effect a change to its Automatic Execution System (''Auto-Ex'') that will allow small-sized customer option orders that improve the PCX best bid or offer (''BBO'') to be automatically executed by the Auto-Ex System. Below is the text of the proposed rule change. New text is in *italics.*

Pacific Exchange, Inc. Constitution and Rules

* * * * *

Rule 6 Options Trading Automatic Execution System

¶ 5231

Rule 6.87(a)–(1)—No change.

(m) Auto-Ex-Between-the Quotes. Lead Market Makers may, at their discretion, employ the Auto-Ex-Between-the-Quotes

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the PCX re-designated the filing as a submission pursuant to section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), rather than section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A). In Amendment No. 2, the PCX added rule text to provide that the Auto-Ex-Between-the-Quotes feature would not permit execution of orders at prices that trade through other markets. *See* letters from Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated January 2, 2001 (''Amendment No. 1''), and March 29, 2001 (''Amendment No. 2'').

feature of POETS. This feature will permit the automatic execution of limit orders entered into POETS that are: (i) to buy or sell five option contracts or less; and(ii) have limit prices that are between, but not equal to, the best bid or offering price then being disseminated on the PCX. Lead Market Makers must provide the members of the trading crowd with at least five minutes notice before activating this feature. If the feature is on, Market Makers are exempt from the mandatory log-on requirements of Rule 6.87(e)(4). This feature does not allow the execution of orders at prices that trade-through other markets.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. THe PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposal would allow for the automatic execution (by the Auto-Ex feature of POETS [4]) of small-sized customer limit orders that improve the PCX's disseminated best bid or offer. This feature will be employed at the discretion of the designated Lead Market Maker (''LMM'') in the relevant option issue.

The new feature would operate in the following manner. Assume that the PCX best bid or offer (''BBO'') is 5 bid, 5¼ asked. Next, assume that a customer limit order to purchase one option contract at 5⅛ is entered electronically on the PCX. If the new feature is *not* operating, the incoming order would be placed in the limit order book and displayed automatically, so that the new PCX BBO would be 5⅛ bid, 5¼ offered. However, if the new feature *is* operating, the incoming order would be executed by the Auto-Ex System before having an opportunity to be placed in the limit order book. Consequently, the customer's limit order would be immediately executed at its limit price and the PCX BBO would remain unchanged from 5 bid, 5¼ asked.

The PCX guarantees that customers will receive an execution on Auto-Ex, at the PCX's disseminated price, for all customer orders for up to 20 contracts (and in certain option issues, up to 75 contracts).[5] In addition, all customer orders entered electronically on the PCX are immediately displayed if they improve the PCX BBO, regardless of the size of the order. If a customer limit order to purchase one option contract is entered on the PCX and disseminated over the Options Price Reporting Authority the price (*e.g.,* 5⅛ but not the size (one contract) will be disseminated to the public. Thus, for example, if the PCX (and national) best bid in a series is 5⅛ based solely upon a customer order to buy one contract, and a market order to sell 20 contracts is then entered on the PCX for automatic execution, the market order will be executed at 5⅛ (the PCX's disseminated price), with one contract trading against the customer limit order and 19 contracts trading against the members of the trading crowd who are logged on to Auto-Ex—even though they may be bidding 5 for that particular series.[6]

Currently, on the PCX, if a small customer limit order changes the PCX BBO, market-makers may manually execute that order to reduce their risk of having to trade additional contracts through Auto-Ex at the price of the customer limit order. This is a difficult process, however, in option issues and series that are so thinly-traded that the markets are not displayed on overhead screens on the trading floor, but are displayed on ''buried'' screens that have to be called up manually. The traders of such issues therefore may not be aware of an order to buy one contract at 5⅛, for example, that has just been entered. Before the traders realize it, another order, to sell 20 contracts at 5⅛, may have just been automatically executed on Auto-Ex, with 19 of those contracts being sold against those traders' accounts. However, if the new feature had been in operation, the order for one contract would have been immediately executed and the market-makers would not have been required to buy those 19 option contracts at 5⅛ when their quote was 5 bid.

The proposed rule change provides that Lead Market Makers may, at their discretion, employ the Auto-Ex-Between-the-Quotes feature of POETS. It further provides that this feature would permit the automatic execution of limit orders entered into POETS that: (i) Are to buy or sell five option contracts or less; and (ii) have limit prices that are between, but not equal to, the best bid or offering price then being disseminated on the PCX. It further states that Lead Market Makers would be required to provide the members of the trading crowd with at least five minutes notice before activating this feature. If the feature is on, market-makers would be exempt from the mandatory log-on-requirements of PCX Rule 6.87(e)(4).[7] The rule change would allow the LMM to set the number of contracts (from between one to five) that may be automatically executed if the new feature is in operation.

The Exchange believes that the proposal would facilitate transactions in securities by eliminating the need to execute certain very small customer limit orders manually (as in currently the case). The Exchange also believes that the proposal would remove opportunities for manipulative acts and practices involving small customer orders that are entered for the sole purpose of changing the PCX BBO and/or the national best bid and offer (''NBBO'').

2. Statutory Basis

The Exchange believes that this proposal is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(5),[9] in particular, in that it is designated to facilitate transactions in securities, to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[4] Pacific Option Exchange Trading System.

[5] The PCX provides such guarantees in all option series in order to remain competitive with the other options exchanges. *See* PCX Rules 6.86, 6.87.

[6] Likewise, if the PCX offered a guaranteed size of 75 contracts and the inbound order was an order to sell 75 contracts, then one contract would trade against the customer limit order and 74 contracts would trade against the members of the trading crowd.

[7] PCX Rule 6.87(e)(4) provides, in part, that a market maker who has been logged on to Auto-Ex in an option issue at any time during an expiration month must continue to be logged on to Auto-Ex in that issue whenever present in that trading crowd, until the close of business on the next Expiration Friday.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–48 and should be submitted by May 22, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission believes that the proposal is consistent with sections 6(b)(5) of the Act,[11] which requires, among other things, that the rules of an Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

The Commission notes that, under current PCX Rules 6.86 and 6.87, market-makers taking part in Auto-Ex are required to be firm for a minimum of twenty or more contracts at the bid or offer displayed as the disseminated market quote. By the operation of these rules, therefore, a limit order for a small number of contracts, priced better than the disseminated quote, would establish the best bid or offer on the Exchange, and thereby commit the Exchange's market-makers to electronically execute large numbers of contracts at prices better than those at which they are willing to trade.

The proposed rule change would alter this situation by permitting certain small limit orders (those for five or fewer contracts) to be automatically executed through operation of the PCX's Auto-Ex system. Under the proposal, LMMs would be permitted, at their discretion, and upon giving five minutes notice to the crowd, to activate this function. While the function is active, market-makers logged on to the Auto-Ex system would be excused from compliance with Exchange Rule 6.87(e)(4) and, therefore, permitted to log off the system. Small limit orders that improve the best bid or offer would then be executed, at their limit prices, against those market-makers who opt to remain logged on to Auto-Ex, or against the lead LMM. The intended effect would be to execute a small limit order rather than to display it, which potentially would allow a larger contra-side order to enter the POETS system, execute against it, and trigger the execution of multiple contracts by market-makers at prices they did not quote.

The Commission believes that the proposed feature should foster a fair and orderly market by preserving booked order priority, allowing for efficient Auto-Ex executions, and limiting the opportunity for ''small order baiting.''[12] The Commission notes that, according to PCX,[13] the proposed rule change would continue to permit limit orders in the Exchange's limit order book to trade against orders in the POETS/Auto-Ex system, thereby preserving the priority of booked orders.

The Commission finds good cause for approving the proposed rule change (SR–PCX–00–48) prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.** The proposed rule change is designed to automatically execute small customer orders at prices better than the disseminated quote in certain circumstances. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[14] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change, as amended, (SR–PCX–00–48) is hereby approved on an accelereated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–10747 Filed 4–30–01; 8:45 am]

BILLING CODE 8010–01–M

[10] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] ''Small order baiting'' occurs when a customer limit order for a minimal number of contracts is entered on one side of the market at a better price than the disseminated quote, thereby improving the quote. A large customer order on the other side of the market is then sent to the Auto-Ex to obtain the better price set by the small limit order.

[13] Telephone conversation between Cindy L. Sink, Senior Attorney, Regulatory Policy, PCX, and Andrew Shipe, Attorney, Division of Market Regulation, SEC, April 24, 2001.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44218; File No. SR–SCCP–00–06]

Self-Regulatory Organization; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Stock Clearing Corporation of Philadelphia Relating to Proposed Fees for Processing of Units of Beneficial Interest in the Nasdaq 100 Trust, Series 1

April 25, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 8, 2000, Stock Clearing Corporation of Philadelphia (''SCCP'') filed with the Securities and Exchange Commission (''Commission'') and on December 15, 2000, amended, the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

SCCP proposes to institute a fee for the processing of Units of Beneficial Interest in the Nasdaq 100 Trust, Series 1 (''Nasdaq-100 Index Tracking Stock'').

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP 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

[1] 15 U.S.C. 78s(b)(1).

in Item IV below. SCCP has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to enable SCCP to charge fees that will apply to trading of Units of Beneficial Interest in the Nasdaq-100 Index Tracking Stock. On December 13, 2000, the Commission granted accelerated approval of a proposed rule change submitted by the Philadelphia Stock Exchange, Inc. (''Phlx'') that, among other things, amended Phlx's rules to permit the trading, pursuant to unlisted trading privileges (''UTP''), of the Nasdaq-100 Index Tracking Stock.[3] In addition, Phlx has obtained a license to use the Nasdaq-100 Index in connection with the trading of the Nasdaq-100 Index Tracking Stock.

Specifically, SCCP will charge a fee of $0.30 per trade for all participants while specialists will pay a $0.50 fee per trade for the first 1,000 trades and $0.25 for all subsequent trades. No other SCCP transaction fees will apply to trades in the Nasdaq-100 Index Tracking Stock. Upon initiation of trading, SCCP participants will be notified by means of a circular of the new fees applicable to trading in the Nasdaq-100 Index Tracking Stock.

The proposed fees for transactions in the Nasdaq-100 Index Tracking Stock are lower than the fees charged for other equities already processed through SCCP. It is SCCP's belief that the proposed lower fees should encourage trading of this new product while ensuring that the amounts collected will still cover SCCP's costs of processing Nasdaq-100 Index Tracking Stock.

SCCP believes that the proposed rule change is consistent with Section 17A of the Act[4] because it equitably allocates reasonable fees among SCCP participants as the fees apply equally to all participants that trade Nasdaq-100 Index Tracking Stock.

B. Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[5] and Rule 19b–4(f)(2)[6] thereunder because the proposed rule change establishes a fee. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at Phlx's principal office. All submissions should refer to File No. SR–SCCP–00–06 and should be submitted by May 22, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–10749 Filed 4–30–01; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified the text of the summaries prepared by SCCP.

[3] Securities Exchange Act Release No. 43717 (Dec. 13, 2000), 65 FR 80976 (Dec. 22, 2000) (File No. SR–Phlx–00–54).

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Committee Re–Establishment

Re–establishment of Advisory Committees

We publish this notice following the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) to re-establish Small Business Administration (SBA) discretionary advisory committees. The General Services Administration's Committee Management Secretariat has determined that re-establishment is in the public interest.

1. National Advisory Council

The Council will provide advice, ideas and opinions on SBA programs and small business issues. The Council's scope of activities includes reviewing SBA programs and informing SBA of current small business issues. Its members provide an essential connection between SBA, SBA program participants, and the small business community nationwide.

2. District Advisory Councils

The District Advisory Councils provide advice and recommendations to the SBA regarding the effectiveness of and need for SBA programs, particularly within the local districts. Official designations include:

1. Alabama District Advisory Council (formerly Birmingham District Advisory Council).
2. Buffalo District Advisory Council.
3. Columbus District Advisory Council.
4. Connecticut District Advisory Council (formerly Hartford District Advisory Council).
5. Georgia District Advisory Council (formerly Atlanta District Advisory Council).
6. Hawaii District Advisory Council (formerly Honolulu District Advisory Council).
7. Houston District Advisory Council.
8. Indiana District Advisory Council (formerly Indianapolis District Advisory Council).
9. Louisiana District Advisory Council (formerly New Orleans District Advisory Council).
10. Maine District Advisory Council (formerly Augusta District Advisory Council).
11. Minnesota District Advisory Council (formerly Minneapolis District Advisory Council).
12. Montana District Advisory Council (formerly Helena District Advisory Council).
13. North Florida District Advisory Council.

14. Oregon District Advisory Council (formerly Portland District Advisory Council).

15. Pittsburgh District Advisory Council.

16. Rhode Island District Advisory Council (formerly Providence District Advisory Council).

17. Richmond District Advisory Council.

18. Santa Ana District Advisory Council.

19. Utah District Advisory Council (formerly Salt Lake City District Advisory Council).

20. Vermont District Advisory Council (formerly Montpelier District Advisory Council).

21. Washington, DC District Advisory Council.

22. West Virginia District Advisory Council (formerly Clarksburg District Advisory Council).

23. Wisconsin District Advisory Council (formerly Madison District Advisory Council).

FOR FURTHER INFORMATION CONTACT: For additional information, contact Nancyellen Gentile, Committee Management Officer, 409 Third Street, NW., Washington, DC 20416; telephone (202) 205–2469.

Nancyellen Gentile,

Committee Management Officer.

[FR Doc. 01–10805 Filed 4–30–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. Disability Hearing Officer's Report of Disability Hearing (DC)—0960–0507. The information collected on form SSA–1204–BK is used by the Disability Hearing Officer (DHO) to conduct and document disability hearings, and to provide a structured format that concerns all conceivable issues relating to SSI claims for disabled children. The completed form SSA–1204–BK will aid the DHO in preparing the disability decision and will provide a record of what transpired at the hearing. The respondents are DHO's in the State Disability Determination Services.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 100,000 hours.

2. Report of Student Beneficiary About to Attain Age 19—0960–0274. The information collected on form SSA–1390 is used by SSA to determine a student's eligibility for Child's Social Security benefits for those turning age 19. The respondents are student Title II beneficiaries about to attain age 19.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 4,167 hours.

3. Disability Hearing Officer's Report of Disability Hearing—0960–0440. The information on Form SSA–1205–BK is used by the Disability Hearing Officers (DHOs) at the Social Security Administration (SSA) as a guide to conducting and recording disability hearings. It ensures that all of the pertinent issues are considered. The respondents are DHOs in the State Disability Determination Services and Federal DHOs.

Number of Respondents: 100,000.

Frequency of Response:

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 100,000 hours.

4. Application For Benefits Under The Italy-U.S. International Social Security Agreement—0960–0445. The information collected on Form SSA–2528 is required by SSA in order to determine entitlement to benefits. The respondents are applicants for old-age, survivors or disability benefits that reside in Italy.

Number of Respondents: 200.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 67 hours.

5. Request for Claimant Conference—0960–0608. The information collected on form SSA–378 is used by the Disability Adjudicator to complete processing of a claimant's disability claim. Depending on the response, the Disability Adjudicator schedules/conducts the Claimant Conference, awaits the receipt of additional evidence, requests additional evidence from the source, or finalizes the determination on the case. The respondents are applicants for Social Security disability and Supplemental Security Income benefits whose initial determination of disability will be less than fully favorable.

Number of Respondents: 210,500.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 10,525 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. Waiver of Your Right to Personal Appearance Before an Administrative Law Judge, HA–4608—0960–0284. Each claimant has a statutory right to appear in person (or through a representative) and present evidence about his/her claim at a hearing before an Administrative Law Judge (ALJ). If a claimant wishes to waive his/her statutory right to appear before an ALJ, he/she must complete a written request. The claimant may use form HA–4608

for this request. The information collected is used to document an individual's claim to show that an oral hearing is not preferred in the appellate process. The respondents are applicants for Social Security and Supplemental Security Income benefits who request a hearing.

Number of Respondents: 12,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 400 hours.

2. Request for SSI Benefit Estimate—0960–0492. SSA uses Form SSA–3716 for Supplemental Security Income (SSI) beneficiaries who wish to request a 5-month estimate of what their benefits would be if they should return to work in the future. The respondents are SSI Recipients or Applicants for SSI Benefits.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 4,167 hours.

3. Supplemental Statement Regarding Farming Activities Of Person Living Outside The U.S.A.—0960–0103. Form SSA–7163A–F4 is used by SSA to collect needed information whenever a Social Security beneficiary or claimant reports work on a farm outside the U.S. The information is used to make a determination for work deduction purposes. The respondents are Social Security beneficiaries or claimants who are engaged in farming activities outside the U.S.

Number of Respondents: 1,000.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 1,000 hours.

Dated: April 24, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–10632 Filed 4–30–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3648]

Designation of Countries of Particular Concern Under the International Religious Freedom Act

Pursuant to section 408(a) of the International Religious Freedom Act of 1998, notice is hereby given that the Secretary of State, under authority delegated by the President, has re-designated the following countries as ''countries of particular concern'' under section 402(b) of the Act for having engaged in or tolerated particularly severe violations of religious freedom: Burma, China, Iran, Iraq, Sudan.

Dated: April 16, 2001.

Thomas F. Farr,

Office Director for International Religious Freedom, Bureau of Democracy, Human Rights and Labor U.S. Department of State.

[FR Doc. 01–10833 Filed 4–30–01; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF STATE

[Public Notice 3652]

Privacy Act of 1974: Creation of a New System of Records

Notice is hereby given that the Department of State proposes to create a new system of records, STATE–55, pursuant to the provisions of the Privacy Act of 1974, as amended [5 U.S.C. 522a (r)], and the Office of Management and Budget Circular No. A–130, Appendix I. STATE–55 was created to accommodate the transfer of records from the former Arms Control and Disarmament Agency (ACDA) as a result of the consolidation of ACDA with the Department as mandated by the Foreign Affairs Agencies Consolidation Act of 1998 (Pub. L. 105–277). The Department's report was filed with the Office of Management and Budget on April 23, 2001.

This system of records is being implemented by the Department of State to facilitate its responsibility for providing individuals with copies of its publication ''*World Military Expenditures and Arms Transfers.*''

Any persons interested in commenting on the new system of records may do so by submitting comments in writing to Margaret Peppe, Chief; Programs and Policies Division; Office of IRM Programs and Services; A/RPS/IPS/PP; U.S. Department of State, SA–2; Washington, DC 20522–6001. This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The new system description, ''World Military Expenditures and Arms Transfers Mailing List, STATE–55'' will read as set forth below.

State–55

SYSTEM NAME:

World Military Expenditures and Arms Transfers Mailing List.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; 2201 C Street, NW; Washington, DC 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Requesters of the publication ''World Military Expenditures and Arms Transfers'' (WMEAT).

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and addresses of requestors of the publication ''World Military Expenditures and Arms Transfers.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2581 (Arms Control and Disarmament); 22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of service); 5 U.S.C. 301 (Management of the Department of State); and Pub. L. 105–277 (Foreign Affairs Agencies Consolidation Act of 1998).

PURPOSE(S):

The information in this system of records is collected and maintained by the Bureau of Verification and Compliance to facilitate its responsibility for providing individuals with copies of WMEAT as requested.

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

The information in this system is used to disseminate current editions of the publication WMEAT to individuals who have submitted a request for current and subsequent editions.

Also see the ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register**.

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

STORAGE:

Electronic media.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published records schedules of the Department of State and as approved by the NationalArchives and Records Administration. More specific information may be obtained by writing to the Director; Office of IRM Programs and Services; SA–2; Department of State; 515 22nd Street, NW; Washington, DC 20522–6001.

SYSTEM MANAGER AND ADDRESS:

Project Officer for WMEAT; Bureau of Verification and Compliance; Department of State; 2201 C Street, NW; Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals wanting to request information about themselves and having reason to believe that the Bureau of Verification and Compliance might have records pertaining to them should write to the Director; Office of IRMPrograms and Services; SA–2; Department of State; 515 22ndStreet, NW; Washington, DC 20522–6001. The individual must specify that he/she wishes the ''World Military Expenditures and Arms Transfers'' Mailing List to be checked. At a minimum, the individual should include: name; date and place of birth; current mailing address and zip code; signature and preferably his/her social security number.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of IRM Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: April 23, 2001.

Patrick F. Kennedy,

Assistant Secretary for the Bureau of Administration, Department of State.

[FR Doc. 01–10831 Filed 4–30–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–8737]

Potential Approaches To Setting Ballast Water Treatment Standards

AGENCY: Coast Guard, DOT.

ACTION: Notice and request for public comments.

SUMMARY: To reduce the potential of introducing nonindigenous species (NIS) to the waters of the United States, the Coast Guard seeks comments on four approaches to setting standards for Ballast Water Treatment and on several specific questions related to setting, implementing, and enforcing such standards. NIS can alter the fundamental characteristics and processes of ecosystems in which they become established, with subsequent adverse impacts to biodiversity, the economy, and human health. Therefore, the Coast Guard is currently gathering information on four potential approaches to setting ballast water treatment (BWT) standards. The Coast Guard, and other relevant Federal agencies, will use information obtained from this notice to develop a comprehensive program of standards and regulations to protect U.S. waters from introductions of NIS due to ballast water discharges and other ship-related mechanisms.

DATES: Comments and related material must reach the Docket Management Facility on or before July 2, 2001.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2001–8737) U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

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

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Dr. Richard Everett, Project Manager, Office of Operating and Environmental Standards (G–MSO), Coast Guard, telephone 202–267–0214. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: The Coast Guard is in the process of developing standards for the treatment of water discharged from ships' ballast tanks. One venue for this activity has been the Ballast Water and Shipping Committee (BWSC) of the Federal Aquatic Nuisance Species Task Force. The members of the BWSC represent Federal, state, industry, academic and non-governmental interests. It was originally hoped that the BWSC would be able to develop a draft standard, but during the committee's deliberations it became clear that this would not be possible without additional information. To further the process of reaching a standard, the BWSC identified four approaches to setting BWT standards and several issues related to such standards that require further discussion. As the federal agency with authority to approve ballast water treatment technology and practices, and as a member of the BWSC, the Coast Guard seeks comments on four potential approaches (outlined in this notice) to setting standards for Ballast Water Treatment and on several specific questions related to setting, implementing, and enforcing such standards.

How May I Comment on the Optional Approaches to Setting BWT Standards?

You may submit comments and related material on the options and questions to the Docket Management Facility as indicated previously in the **ADDRESSES** section of this notice. If you submit written comments please include—

- Your name and address;
- The docket number for this notice (USCG–2001–8737);
- The specific section of this notice to which each comment applies; and
- The reason for each comment.

We invite you to provide your views on the various options and questions presented, possible approaches not

identified in this publication, the potential impacts of the various options (including possible unintended or unanticipated consequences), and any supporting or relevant data or information that you would like the Coast Guard to consider during the development of standards and an associated regulatory program. Please explain your views as clearly as possible; describe any assumptions used; and provide copies of data or technical information used to support your views.

You may mail, hand deliver, fax, or electronically submit your comments and attachments to the Docket Management Facility, using the address or fax number listed in the **ADDRESSES** section of this notice. Please do not submit the same comment or attachment more than once. Do not submit any information electronically that you consider confidential business information (CBI). You may claim information that you submit to the Coast Guard in response to this notice as CBI by marking ''CBI'' on any or all of that information. If you mail or hand deliver your comments, they must be on 8½ by 11 inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments and would like to know if the Docket Management Facility received them, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the comment period.

Why Is the Coast Guard Soliciting Comments on the Optional Approaches to Setting BWT Standards?

The problem of how to reduce the threat of introducing foreign organisms to U.S. waters via ballast water discharged from ships is complex. A number of factors contribute to the complexity of this issue, including: the relative volumes and pumping rates involved in ballasting operations; the great variability in voyage durations and routes; and the great variability in the physical, chemical, and biological characteristics of the ballast water carried by the vessels that operate in U.S. waters.

Under Section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act, as amended by the National Invasive Species Act of 1996 (NISA), Congress directed the Coast Guard to issue regulations and guidelines on ballast water management practices to prevent the introduction of NIS to U.S. waters via the discharge of foreign water from ships' ballast tanks. Under these regulations, mid-ocean ballast water exchange (BWE) or environmentally sound alternative BWT methods, determined by the U.S. Coast Guard to be as effective as BWE in preventing and controlling infestations of aquatic nuisance species, are required for the Great Lakes and Hudson River north of the George Washington Bridge, and recommended for the remainder of U.S. waters.

Therefore, a need exists to develop standards for BWT technology and a regulatory process by which proposed alternative BWT technologies can be evaluated and approved. NISA explicitly directs that such alternative technologies must be ''as effective as BWE.'' Currently, the actual ''effectiveness'' of BWE in reducing the threat of introductions is not well resolved. Furthermore, concerns have been voiced that mid-ocean BWE as a practice will be inherently difficult to quantify, can not be safely performed on all transoceanic voyages, and is not possible during coastal voyages. Because current understanding of BWE is limited and a range of opinions exists concerning the basis for BWT standards, further discussion is necessary.

We will use the information and perspectives provided in response to this notice to further define the technical and policy issues that will be incorporated in the eventual standards and regulations.

The options and questions in this notice were drafted by the BWSC of the Aquatic Nuisance Species Task Force. The ''Summary and Recommendations * * *'' developed by the BWSC are available in the docket and may be accessed on the Internet at *http://dms.dot.gov.*

Proposed Options for Ballast Water Treatment Standards

Following discussions within the BWSC, the following options (in no order of preference) were identified:

Approaches based on BWE as currently specified by Congress under NISA:

(a) Standard based on the theoretical effectiveness of BWE in replacing water [100 percent for empty-refill exchange (ERE) and 95 percent for flow-through exchange (FTE)].

(b) Standard set as equivalent to the measured effectiveness of BWE. This effectiveness could be expressed as an average across all vessel types and all taxa, as a specific profile across taxonomic groups within vessel types, or as some intermediate combination of these.

Approaches not related to BWE but used in other standard-setting efforts:

(c) Standard based on the measured capabilities of the best available technology. As in (b), this level of treatment could be determined as an overall average, or within discrete groupings of vessels and taxa.

(d) Standard based on the biological requirements, as empirically estimated or modeled, of receiving systems.

Quantification of the Standard

Basing a BWT standard on the theoretical effectiveness of BWE in replacing the water in ballast tanks allows an immediate determination of the quantitative level of treatment: 95 percent reduction in abundance, as theoretically possible using the flow-through process to exchange three full-tank volumes, and assuming that organisms are uniformly distributed and behave in the same fashion as water molecules. The other options would require varying amounts of additional effort to determine the quantitative degree of treatment.

For standards based on the measured effectiveness of BWE, the use of a coarse average could conceivably be accomplished using existing data and the results of a limited number of studies now in progress. The more finely resolved approach based on effectiveness profiles across taxonomic groups for major types of vessels would require an as yet undeveloped data set on BWE effectiveness across major ship classes and biotic groups. This approach would require a focused research effort to identify the data gaps and conduct the necessary experiments. This work would generate an operative percent removal profile for BWE in each ship class and characterize effectiveness in terms of major taxonomic groupings and life stages (i.e., viruses, bacteria, unicellular heterotrophicand autotrophic organisms, and macrozooplankton). A hypothetical example of such a profile could be as follows: For oil tankers, exchange (as defined operationally by regulations) achieves a minimum removal of 85 percent of original zooplankton, 75 percent of original phytoplankton, 25 percent of toxic dinoflagellate cysts, and 25 percent of original bacteria. Standards based on the capabilities of the best available technology will also require a significant amount of additional work, as most existing systems are still in preliminary phases of development. Significantly, for standards based on either BWE or best available technology, important decisions will need to be made concerning the specifics of standardized testing protocols.

Questions Related To Setting and Implementing Standards for BWT

The range of potential options indicates a significant need for further discussion about the basis upon which to formulate a standard or set of standards for use in evaluating BWT technologies intended to reduce the introduction of organisms in ballast water discharges. Further, a regulatory program will be required to enforce the eventual BWT standard. Selection of a specific option for a standard will influence or even determine many aspects of the program. Important components of the regulatory program will include (but are not restricted to): The criteria to determine the performance of BWT technology, the timing and details of phase-in periods and grandfathering provisions, the nature of exemptions, and provisions for the review and revision of the standard.

In addition to general views on the approach used to set standards for BWT, the Coast Guard is also interested in viewpoints on the following specific questions:

a. Questions related to setting the standard are as follows:

1. Should a standard be based on BWE, best available technology, or the biological capacity of the receiving ecosystem? What are the arguments for, or against, each option?

2. If BWE is the basis for a standard, what criterion should be used to quantify effectiveness: the theoretical effectiveness of exchange, the water volume exchanged (as estimated with physical/chemical markers), the effectiveness in removing or killing all or specific groups of organisms, or something else; and why?

3. How specifically should the effectiveness of either BWE or best available technology be determined (i.e., for each vessel, vessel class, or across all vessels) before setting a standard based on the capabilities of these processes?

4. What are the advantages and disadvantages of considering the probability of conducting a safe and effective BWE on every voyage when estimating the overall effectiveness of BWE?

5. What are the advantages and disadvantages of expressing a BWT standard in terms of absolute concentrations of organisms versus the percent of inactivation or removal of organisms?

b. Issues related to implementing the standard are as follows:

1. Should there be different initial standards or regulatory requirements for existing and yet-to-be-built vessels, and what might be the nature of such differences? Should there be incremental refinements (quantitative level or taxonomic breadth) in the standard over time, and if so, what should be the period of approvals and the timing of revisions?

2. If best available technology is the basis for standards, how should ''best'' and ''available'' be defined?

3. Should indicators be used to characterize or monitor effectiveness, and if so, what indicators should be used? Some possible indicators are:

—A single organism type (like dinoflagellate cysts) that serves as a lone indicator of effectiveness.

—A limited set of indicators representative of near-coastal zooplankton, phytoplankton, and bacteria that provide a profile of effectiveness across broad taxonomic groupings.

—Physical surrogates for organisms, such as microspheres, that mimic the passive entrainment of organisms in water.

—The percent of reduction in all organisms regardless of type (as measured through ATP [Adenosine Triphosphate] reduction, for example), providing a blanket estimate of system effectiveness.

—Other methods for characterizing the effectiveness of BWT measures that could be alternatives to the above list.

Dated: January 19, 2001.

R.C. North,

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

[FR Doc. 01–10837 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9526]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Hazardous Substances Response Standards Subcommittee of the Chemical Transportation Advisory Committee (CTAC) will meet to review the draft document for national marine emergency chemical response guidance. This document addresses safety protocols for personnel, training requirements, and equipment specifics. It also categorizes response teams based on their ability to bring equipment to the scene of a hazardous substance incident. As a result of this meeting, and subsequent meetings as deemed necessary by the Chairman, this Subcommittee will develop recommendations for a national standard that will provide direction to the chemical response industry. This meeting will be open to the public.

DATES: The Subcommittee will meet on Thursday, May 17, 2001, from 8:30 a.m. to 5 p.m. and on Friday, May 18, 2001, from 8:30 a.m. to 12 p.m. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before May 15, 2001. Requests to have a copy of your material distributed to each member of the Subcommittee should reach the Coast Guard on or before May 15, 2001.

ADDRESSES: The Subcommittee will meet at the Marathon Ashland Headquarters, 5500 San Felipe St., Houston, Texas. Send written material and requests to make oral presentations to Lieutenant Susan Klein, Coast Guard Technical Representative for the Subcommittee, Commandant (G–MOR–2), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Lieutenant Susan Klein, Coast Guard Technical Representative for the Subcommittee, telephone 202–267–0417, fax 202–267–4065.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda of the CTAC Subcommittee on Hazardous Substance Response Standards includes the following:

(1) Introduction of Subcommittee members and attendees.

(2) Brief overview of Subcommittee tasking and desired outcome.

(3) Review of current status of draft document.

(4) Open discussion of further document improvements.

(5) Discussion of final product format and plan for future work.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. All attendees at the meeting are encouraged to fully review the Subcommittee's task statement prior to the meeting. Copies of the Subcommittee's task statement can be obtained from Lieutenant Susan Klein, telephone 202–267–0417, fax 202–267–4065. It is also available from the CTAC Internet Website at: *www.uscg.mil/hq/g-m/advisory/ctac.* At

the discretion of the Subcommittee Chair, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Coast Guard Technical Representative to the Subcommittee and submit written material on or before May 15, 2001. If you would like a copy of your material distributed to each member of the Subcommittee in advance of a meeting, please submit 25 copies to the Coast Guard Technical Representative to the Subcommittee no later than May 15, 2001.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact the Coast Guard Technical Representative to the Subcommittee as soon as possible.

Dated: April 25, 2001.

Howard L. Hime,

Acting Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–10836 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Manassas Regional Airport, Manassas, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of proposed release of 12.27 acres of excess land at the Manassas Regional Airport; Manassas, Virginia. There are no impacts to the Airport and the land is not needed for airport development as shown on the Airport Layout Plan. The excess surplus property is located beyond the Runway Protection Zone for Runway 16L and appropriate restrictions will encumber the released property to ensure compatible land use.

DATES: Comments must be received on or before May 31, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Terry J. Page, Manager, FAA Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Juan E. Rivera, Airport Director, Manassas Regional Airport, at the following address; Mr. Juan E. Rivera, Airport Director, P.O. Box 560, Manassas Regional Airport, Manassas, Virginia 20108.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166; telephone (703) 661–1354, fax (703) 661–1370, email Terry.Page@faa.gov.

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30-day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Chantilly, Virginia on April 23, 2001.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region.

[FR Doc. 01–10843 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Orlando International Airport, Orlando, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Greater Orlando Aviation Authority for Orlando International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Orlando International Airport under part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before October 22, 2001.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is April 23, 2001. The public comment period ends June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Reynolds, Jr., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 16. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Orlando International Airport are in compliance with applicable requirements of part 150, effective April 23, 2001. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before October 22, 2001. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Greater Orlando Aviation Authority submitted to the FAA on April 3, 2001 noise exposure maps, descriptions and other documentation which were produced during the Orlando International Airport FAR part 150 Study, Noise Exposure Maps and Compatibility Plan conducted between July 7, 1997 and March 30, 2001. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures,

to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Greater Orlando Aviation Authority. The specific maps under consideration are ''1999 DNL NOISE CONTOURS'' and ''2004 DNL NOISE CONTOURS'' in the submission. The FAA has determined that these maps for Orlando International Airport are in compliance with applicable requirements. This determination is effective on April 23, 2001. FAA's determination on the airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Orlando International Airport, also effective on April 23, 2001. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 22, 2001.

The FAA's detailed evaluation will be concluded under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations: Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Orlando, Florida, April 23, 2001.

John W. Reynolds, Jr.,

Assistant Manager, Orlando Airports District Office.

[FR Doc. 01–10842 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2001–9473]

Notice of Safety Advisory

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Safety Advisory.

SUMMARY: FRA is issuing Safety Advisory 2001–03 addressing the in-service failures of railroad airbrake system trainline angle cocks manufactured by Ellcon-National. The manufacturer notified the Association of American Railroads (AAR) of failures of Model 7000 Thread-to-Thread and Model 7270 Thread-to-Flange Angle Cocks. To date, no derailments, collisions, or injuries have resulted from these failures; however, closed angle cocks occurring en route may lead to insufficient braking and in the worst case could result in runaway trains on grades. FRA recommends that all railroads and private car owners obtain a copy of AAR's Early Warning EW–177 (C–9296) issued on March 29, 2001, and review the document's extensive listing of cars that had the subject angle cocks installed as original equipment. FRA also recommends that cars found with the original angle cocks still installed have the angle cocks replaced, at both ends, or be retrofitted with a handle assembly torque kit in accordance with AAR's guidance. AAR has applied Severity Code ''MG,'' which means ''See Early Warning Letter for Instructions.''

FOR FURTHER INFORMATION CONTACT: Gary Fairbanks, Mechanical Engineer, Motive Power and Equipment Division, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, SW, RRS–14, Mail Stop 25, Washington, DC 20590 (Telephone 202–493–6322/ Fax 202–493–6230)

SUPPLEMENTARY INFORMATION: Recently, FRA was informed by the Association of American Railroads (AAR) of several in-service failures of certain Ellcon-National angle cocks, *Model 7000 Thread-to-Thread,* and *Model 7270 Thread-to-Flange*. No injuries or fatalities resulted from these incidents which involved several car types, but some of the subject angle cocks have been found to have rotated partially or completely closed due to en route vibrations of the train. This undesired rotation of the angle cock has been identified by crew members in several instances on trains while operating en route and in one case, necessitated the need to activate an emergency brake application from the two-way end-of-train (EOT) device.

The AAR issued Maintenance Advisory MA–65 on September 13, 2000, regarding these angle cocks, and then upgraded its concern by issuing Early Warning EW–177 on March 29, 2001. The AAR's Braking Systems and Equipment Engineering Committees have determined that the angle cocks without the latest friction disc, which is a ¼-inch thick stop plate and handle assembly, must either be replaced or have the handle assembly retrofitted on non-register version. A number of conditions have been found on samples of the subject angle cocks that cause concern, such as roll pins protruding from the handles, worn leger lock tangs, bent lock tangs, and bent or distorted handle assemblies.

The subject angle cocks were applied to new cars and furnished as replacement stock beginning in January of 1993. The AAR recommended that

the first priority would be to replace or retrofit those angle cocks manufactured between 1993 and 1996, as those are without friction discs and modified handle assemblies. Ellcon-National has accounted for approximately 16,700 angle cocks applied during this period as original equipment on new freight cars. However, Ellcon-National notified the AAR that between January 1993 and March 2000 approximately 97,000 angle cocks that have a potential for failure were applied to cars.

Ellcon-National is offering handle assembly torque kits upon request, as well as field service support. For more information, contact Mr. Brian Driggers or Inside Sales Department personnel at Ellcon-National at 864–277–5000 or E-mail: *sales@ellcon-national.com*. The AAR requests that each removed part be tagged with the car's initials and number, and that Ellcon-National be contacted to arrange for disposition or return of accumulated angle cocks or handle assemblies.

Action Recommended by FRA

- FRA recommends that all railroads and private car owners obtain a copy of AAR's Early Warning EW–177 (C–9296) issued on March 29, 2001, and review the document's extensive listing of cars that had the subject angle cocks installed as original equipment.
- FRA also recommends that cars found with the original angle cocks still installed have the angle cocks replaced, at both ends, or be retrofitted with a handle assembly torque kit in accordance with AAR's guidance. AAR has applied Severity Code ''MG,'' which means ''See Early Warning Letter for Instructions.''

It should be noted that the AAR in conjunction with railroads, private car owners, and Ellcon-National has also developed an action plan to focus on and accelerate the angle cock modifications on the cars equipped with the above noted angle cocks. For more information, FRA recommends that railroads and private car owners contact Mr. Patrick T. Ameen, Assistant Vice President Technical Services, Association of American Railroads, 50 F street, NW., Washington, DC 20001–1564, (202) 639–2141.

FRA may modify Safety Advisory 2001–03, issue additional safety advisories, or take other appropriate action to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC on April 26, 2001.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 01–10978 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)/Joint Planning Advisory Group (JPAG)

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Synopsis of April 19, 2001 meeting with VISA participants.

On April 19, 2001, the Maritime Administration (MARAD) and the United States Transportation Command (USTRANSCOM) co-hosted a meeting of the VISA JPAG at MARAD headquarters, Washington, DC.

Meeting attendance was by invitation only, due to the nature of the information discussed and the need for a government-issued security clearance. Of the 55 U.S.-flag carrier corporate participants currently enrolled in VISA, 23 VISA carrier representative companies participated in the JPAG. In addition, JPAG attendance included representatives from the Department of Defense (DOD), the Military Traffic Management Command, Military Sealift Command, USTRANSCOM and MARAD.

Following opening remarks by Acting Deputy Maritime Administrator Bruce J. Carlton and Mr. Daniel F. McMillin, Deputy Director, Plans and Policy Directorate (TCJ5) USTRANSCOM, Government representatives provided participants with an overview of expected outcomes. The JPAG objectives included: (1) Familiarization of VISA participants with the specific procedures to be used during a VISA activation; (2) validation of DOD planning assumptions for VISA carrier liner routes; (3) an examination of VISA carriers ability to fulfill potential contingency requirements as well as identification of equipment capabilities and/or shortfalls; and (4) an update on progress made toward training U.S. civilian mariners to operate in a chemical/biological warfare environment.

During the JPAG, VISA participants convened in separate work groups with Government analysts to offer solutions and recommendations to satisfy DOD requirements. Afterwards, the groups met together to discuss the results. The VISA participants were also briefed on the USTRANSCOM sponsored Exercise ''Turbo Challenge 2001''.

The full text of the VISA program is published in 66 FR 10938–10947, dated February 20, 2001. One of the program requirements is that MARAD periodically publish a list of VISA participants in the **Federal Register**. As of April 19, 2001, the following commercial U.S.-flag vessel operators were enrolled in VISA with MARAD: Alaska Cargo Transport Inc., American Automar, Inc., American President Lines, Ltd., American Roll-On Roll-Off Carrier, LLC, American Ship Management, L.L.C., Automar International Car Carrier, Inc., Beyel Brothers Inc., Central Gulf Lines, Inc., Cook Inlet Marine, Crowley Liner Services, Inc., Crowley Marine Services, Inc., CSX Lines, LLC, Donjon Marine Co., Double Eagle Marine, LLC, E-Ships, Inc., Farrell Lines Incorporated, First American Bulk Carrier Corp., First Ocean Bulk Carrier-I, LLC, First Ocean Bulk Carrier-II, LLC, First Ocean Bulk Carrier-III, LLC, Foss Maritime Company, Gimrock Maritime, Inc., Lockwood Brothers, Inc., Liberty Shipping Group Limited Partnership, Lykes Lines Limited, LLC., Lynden Incorporated, Maersk Line, Limited, Matson Navigation Company, Inc., Maybank Navigation Company, LLC, McAllister Towing & Transportation Company, Inc., Moby Marine Corporation, Moran Towing Corporation, NPR, Inc., Ocean Marine Shipping, Inc., Odyssea Shipping Line LLC, OSG Car Carriers, Inc., Resolve Towing & Salvage, Inc., Samson Tug & Barge Company, Inc., Sea Star Line, LLC, Seacor Marine International Inc., Sealift Inc., Signet Maritime Corporation, Smith Maritime, STEA Corporation, Stevens Towing Co., Inc., Superior Marine Services, Inc., Totem Ocean Trailer Express, Inc., Trailer Bridge, Inc., TransAtlantic Lines LLC, Trico Marine Operators, Inc., Troika International, Ltd., U.S. Ship Management, Inc., Van Ommeren Shipping (USA) LLC, Waterman Steamship Corporation, and Weeks Marine, Inc.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Trost, Acting Director, Office of Sealift Support, (202) 366–2323.

Dated: April 25, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 01–10801 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9477]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information, contact Edward Jettner, NHTSA, 400 Seventh Street, SW., Room 5320, NPS–11,Washington, DC 20590. Mr. Jettner's telephone number is (202) 366–4917. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Consolidated Vehicle Owner's Manual Requirements for Motor Vehicles and Motor Vehicle Equipment.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2127–0541.

Affected Public: Individuals, households, business, other for-profit, not-for-profit, farms, Federal Government and State, Local or Tribal Government.

Abstract: 49 U.S.C. 30117 authorizes the Secretary to require that manufacturers provide technical information, as for example information directed for publication in a vehicle owner's manual, related to the performance and safety specified in the Federal motor vehicle safety standards for the purposes of educating the consumer and providing safeguards against improper use. Using this authority, the agency issued the following FMVSS and regulations, specifying that certain safety precautions regarding items of motor vehicle equipment appear in the vehicle owner's manual to aid the agency in achieving many of its safety goals.

FMVSS No. 108—Lamps, Reflective Devices, and Associated Equipment. This standard requires that certain lamps and reflective devices with certain performance levels be installed on motor vehicles to assure that the roadway is properly illuminated, that vehicles can be readily seen, and the signals can be transmitted to other drivers sharing the road, during day, night and inclement weather. Since the specific manner in which headlamp aim is to be performed is not regulated (only the performance of the device is), aiming devices manufactured or installed by different vehicle and headlamp manufacturers may work in significantly different ways. As a consequence, to assure that headlamps can be correctly aimed, instructions for proper use must be part of the vehicle as a label, or optionally, in the vehicle owner's manual.

FMVSS No. 205—Glazing Materials. This standard specifies requirement for all glazing material used in windshields, windows, and interior partitions of motor vehicles. Its purpose is to reduce the likelihood of lacerations and to minimize the possibility of occupants penetrating the windshield in a crash. More detailed information regarding the care and maintenance of such glazing items, as the glass-plastic windshield is required to be placed in the vehicle owner's manual.

FMVSS No. 208—Occupant Crash Protection. This standard specifies requirements for both active and passive occupant crash protection systems for passenger cars, multipurpose passenger vehicles, trucks and small buses. Certain safety features, such as air bags, or the care and maintenance of air bag systems, are required to be explained to the owner by means of the owner's manual. For example, the owner's manual must describe the vehicle's air bag system and provide precautionary information about the proper positioning of the occupants, including children. The owner's manual must also warn that no objects, such as shotguns carried in police cars, should be placed over or near the air bag covers.

FMVSS No. 210—Seat Belt Assembly Anchorages. This standard specifies requirements for seat belt assembly anchorages to ensure effective occupant restraint and to reduce the likelihood of failure in a crash. The standard requires that manufacturers place the following information in the vehicle owner's manual:

a. an explanation that child restraints are designed to be secured by means of the vehicle's seat belts, and,

b. a statement alerting vehicle owners that children are always safer in the rear seat.

FMVSS No. 213—Child Restraint Systems. This standard specifies requirements for child restraint systems and requires that manufacturers provide consumers with detailed information relating to child safety in air bag-equipped vehicles. The vehicle owner's manual must include information about the operation and do's and don'ts of built-in child seats.

Part 575 Section 103—Camper Loading. This standard requires that

manufacturers of slide-in campers designed to fit into the cargo bed of pickup trucks affix a label to each camper that contains information relating to certification, identification and proper loading, and to provide more detailed loading information in the owner's manual of the truck.

Part 575 Section 105—Utility Vehicles. This regulation requires manufacturers of utility vehicles to alert drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when these vehicles are operated on paved roads. For example, the vehicle owner's manual is required to contain a discussion of vehicle design features that cause this type of vehicle to be more likely to roll over, and to include a discussion of driving practices that can reduce the risk of roll over. A statement is provided in the regulation that manufacturers shall include, in its entirety or equivalent form, in the vehicle owner's manual.

Estimated Annual Burden: 1371 hours.

Number of Respondents: 21.

Issued on: April 26, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–10795 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–2001–9443]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on an extension of a currently approved collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Deborah Mazyck, NHTSA 400 Seventh Street, SW., Room 5320, NPS–32,Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Procedures for Selecting Lines to be Covered by the Theft Prevention Standard (49 CFR 542).

OMB Control Number: 2127–0539.

Affected Public: Business or other for-profit.

Form Number: This collection of information uses no standard forms.

Abstract: The Anti Car Theft Act of 1992 amended the Motor Vehicle Theft Law Enforcement Act of 1984 (Pub. L. 98–547) and requires this collection of information. One component of the theft prevention legislation required the Secretary of Transportation (delegated to the National Highway Traffic Safety Administration (NHTSA)) to promulgate a theft prevention standard for the designation of high-theft vehicle lines. Provisions delineating the information collection requirements include section 33104, which requires NHTSA to promulgate a rule for the identification of major component parts for vehicles having or expected to have a theft rate above the median rate for all new passenger motor vehicles (cars, MPV's, and light-duty trucks) sold in the United States, as well as with major component parts that are interchangeable with those having high-theft rates.

The specific lines and parts to be identified are to be selected by agreement between the manufacturer and the agency. If there is a disagreement of the selection, the statute states that the agency shall select such lines and parts, after notice to the manufacturer and an opportunity for written comment.

The procedures, contained in §§ 542.1 and 542.2 will be applied to those lines introduced before or after the 1997 model year (MY).

Estimated Annual Burden: 1,920 hours.

Number of Respondents: 24.

Issued on April 26, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–10796 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9434]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seekOMB approval.

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information, contact Dr. WilliamFan, NHTSA, 400 Seventh Street, SW., Room 5320, NPS–11,Washington, DC 20590. Dr. Fan's telephone number is (202) 366–4922. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Part 589—Upper Interior Component Head Impact Protection Phase-in Requirements.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2127–0581

Requested Expiration Date: Three years from the date of approval.

Affected Public: Business or for-profit.

Form Number: No standard form.

Summary of the Collection of Information: Manufacturers of passenger cars, trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 4,536 kilograms or less and buses with a gross vehicle weight rating of 3,860 kilograms or less are required to respond to NHTSA inquiries, to submit a report, concerning the number of such vehicles that meet the upper interior component head impact protection requirements of Standard No. 201, Occupant Protection in Interior Impact (49 CFR 571.201).

Description of the Need for the Information: Title 49, Chapter 30115 of the U.S. Code specifies that the Secretary of Transportation shall require every manufacturer or distributor of a motor vehicle or motor vehicle equipment to furnish the distributor or dealer at the time of delivery certification that each item of motor vehicle equipment conforms to all applicable Federal Motor Vehicle Safety Standards (FMVSS).

Using this authority, the agency issued FMVSS No. 201, ''Occupant Protection in InteriorImpact,'' specifying test procedures and requirements for passenger cars, multipurpose passenger vehicles, trucks, and buses. The standard specifies four optional implementation plans. There are two four-year phase-in implementation Plans starting on September 1, 1998 and with a full implementation on September 1, 2002. Vehicle manufacturers who choose these phase-in plans are required to report achievement of annual production quotas for the first four years during the phase-in period. The report is due within 60 days after August 31 of each production year. After the report is received, requirements will cease and no further report will be required.

Estimated Annual Reporting and Record-keeping Hour Burden: It was estimated in the original request that these phase-in requirements would apply to 35 vehicle manufacturers and that the average hour burden for each manufacturer would be about 36 hours. The estimates are still valid. The estimated total annual hour burden is, therefore, 1,260 hours.

Issued on: April 26, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–10799 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–01–9468]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on an extension of a currently approved collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seekOMB approval.

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW.,Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Deborah Mazyck, NHTSA 400 Seventh Street, SW., Room 5320, NPS–32,Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Petitions for Exemption from the Vehicle Theft Prevention Standard.

OMB Control Number: 2127–0542.

Affected Public: Business or other for-profit.

Form Number: This collection of information uses no standard forms.

Abstract: 49 U.S.C. Chapter 331 requires the Secretary of Transportation to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. 49 U.S.C. 33106 provides for an exemption to this identification process by petitions from manufacturers who equip covered vehicles with standard original equipment antitheft devices, which the Secretary determines are likely to be as effective in reducing or deterring theft as the identification system.

Estimated Annual Burden: 32 hours.

Number of Respondents: 4.

Issued on: April 26, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety, Performance Standards.

[FR Doc. 01–10800 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA–2001–9356]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on an extension of a currently approved collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before July 2, 2001.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Deborah Mazyck, NHTSA 400 Seventh Street, SW., Room 5320, NPS–32,Washington, DC 20590. Ms. Deborah Mazyck's telephone number is (202) 366–0846. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Consolidated Vehicle Identification Number Requirements and Motor Vehicle Theft Prevention Standards (49 CFR 571.115, and Parts 565, 541 and 567).

OMB Control Number: 2127–0510.

Affected Public: Business or other for-profit.

Form Number: This collection of information uses no standard forms.

Abstract: 49 CFR Parts 571.115 and 565.

NHTSA's statute at 15 U.S.C. 1392, 1397, 1401, 1407, and 1412 of the National Traffic and Motor Vehicle Safety Act of 1966 authorizes the issuance of Federal Motor Vehicle Safety Standard (FMVSS) and the collection of data which support their implementation. The agency, in prescribing an FMVSS, is to consider available relevant motor vehicle safety

data and to consult with other agencies as it deems appropriate. Further, the Act mandates, that in issuing any FMVSS, the agency should consider whether the standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed, and whether such standards will contribute to carrying out the purpose of the Act. The Secretary is authorized to revoke such rules and regulations as deemed necessary to carry out this subchapter. Using this authority, the agency issued the initial FMVSS No. 115, Vehicle Identification Number, specifying requirements for vehicle identification numbers to aid the agency in achieving many of its safety goals.

The standard was amended in August 1978 by extending its applicability to additional classes of motor vehicles and by specifying the use of a 30-year, 17-character Vehicle Identification Number (VIN) for worldwide use. The standard was amended in May 1983 by deleting portions of FMVSS No. 115 and reissuing those portions as a general agency regulation, Part 565. Subsequently, the standard was amended again in June 1996 transferring the text of the FMVSS No. 115 to Part 565, without making any substantive changes to the VIN requirements as a result of the proposed consolidation. The provision of the Part 565 (amended) regulation requires vehicle manufacturers to assign a unique VIN to each new vehicle and to inform NHTSA of the code used in forming the VIN. These regulations apply to all vehicles: passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles.

Part 541

The Motor Vehicle Information and Cost Savings Act was amended by the Anti-Car Theft Act of 1992 (Pub. L. 102–519.) The enacted Theft Act states that passenger motor vehicles, multipurpose passenger vehicles, and light-duty trucks with a gross vehicle weight rating of 6,000 pounds or less be covered under the Theft Prevention Standard. Each major component part must be either labeled or affixed with the VIN and its replacement component part must be marked with the DOT symbol, the letter (R) and the manufacturers' logo.

Part 567

This part specifies the content and location of, and other requirements for, the certification label or tag to be affixed to motor vehicles and motor vehicle equipment. Specifically, the VIN is required to appear on the certification label. Additionally, this certificate will provide the consumer with information to assist him or her in determining which of the Federal Motor Vehicle Safety Standards are applicable to the vehicle or equipment, and its date of manufacturer.

Estimated Annual Burden: 456,212.
Number of Respondents: 1,000.

Issued on: April 26, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety, Performance Standards.

[FR Doc. 01–10844 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements To Support Seat Belt Enforcement With State Associations of Chiefs of Police

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT

ACTION: Announcement of Cooperative Agreements in conjunction with the Buckle Up America Campaign to increase seat belt enforcement with the State Associations of Chiefs of Police.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a cooperative agreement program to solicit support for the Buckle Up America (BUA) campaign. NHTSA solicits applications from the State Associations of Chiefs of Police to participate in the BUA campaign, by mobilizing law enforcement agencies to increase the use of seat belts and child safety seats, the most effective safety devices for reducing injuries and fatalities in traffic crashes. Only applications submitted by the State Associations of Chiefs of Police will be considered. The State Associations of Chiefs of Police will take a leadership role in involving the law enforcement agencies in their state in increasing enforcement of seat belt and child safety seat laws by participating in the mobilization periods, high visibility enforcement, training officers and public information and education.

DATES: Applications must be received no later than June 1, 2001, at 2 p.m., Eastern Standard Time.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Ross S. Jeffries, 400 7th Street, SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–01–R–05143.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to, Ross S. Jeffries, Office of Contracts and Procurement at (202) 366–6283. Programmatic questions should be directed to Sandy Richardson, Traffic Law Enforcement Division, NTS–13, NHTSA, 400 7th Street, SW., Washington DC 20590 by e-mail *srichardson@nhtsa.dot.gov* or by phone (202) 366–4294. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

It's a fact: On America's roads, someone is killed every 13 minutes and someone is injured every nine seconds in traffic crashes. It takes only a few seconds to fasten a seat belt. Yet this simple action, repeated every time you get into a motor vehicle, may be the most significant driving-related behavior change you can make to extend your life. Wearing a seat belt dramatically increases your chance of surviving a crash.

Each year, approximately 41,000 Americans die in traffic crashes and another three million are injured. Sadly, many of these deaths and injuries could have been prevented if the victims had been wearing seat belts or were properly restrained in child safety seats.

Research has found that lap/shoulder safety belts, when used, reduce the risk of fatal injury to front seat passenger car occupants by 45 percent and the risk of moderate to critical-injury by 50 percent. For light truck occupants, safety belts reduce the risk of fatal injury by 60 percent and moderate to critical-injury by 65 percent. No other safety device has as much potential for immediately preventing deaths and injuries in motor vehicle crashes. From 1975 through 1999, an estimated 123,213 lives were saved by seat belts.

But, seat belt use rates and the resulting savings could be much higher. In June 2000, the average observed use rate reported by states with secondary enforcement laws was 63 percent, compared to 77 percent in states with primary enforcement laws. Many States in the U.S. are still well below the goal of 85 percent for the year 2000 and thirteen States had use rates below 60 percent in 2000. On the other hand, use rates of 85–90 percent are a reality in most developed nations with seat belt use laws, and seven States achieved use rates greater than 80 percent in 1999. A

national use rate of 90 percent, among front seat occupants of all passenger vehicles, would result in prevention of an additional 5,500 deaths and 121,000 injuries annually. This would translate into an $8.8 billion reduction in societal costs, including 356 million for Medicare and Medicaid.

In April 1997, the Buckle Up America (BUA) campaign established ambitious national goals: (a) to increase seat belt use to 85 percent and reduce child fatalities (0–4 years) by 15 percent by the year 2000; and (b) to increase seat belt use to 90 percent and reduce child fatalities by 25 percent by the year 2005. This campaign advocates a four part strategy: (1) Building public-private partnerships; (2) enacting strong legislation; (3) maintaining high visibility law enforcement; and (4) conducting effective public education. Central to this Campaign's success is the implementation of two major enforcement mobilizations each year (Memorial Day and Thanksgiving holidays).

Objectives: To help achieve the new national seat belt goals, NHTSA seeks to establish cooperative efforts between NHTSA and State Associations of Chiefs of Police to increase the use of seat belts and child safety seats. Specific objectives for this cooperative agreement program will be to support the Buckle Up America campaign by increasing periodic waves of high visibility enforcement and by promoting participation in Operation ABC's national mobilizations (May and November).

1. *Periodic ''Waves'' of High Visibility Enforcement:* The history of efforts to increase seat belt use in the U.S. and Canada suggests that highly visible enforcement of seat belt laws must be the core of any successful program to increase seat belt use. No State has ever achieved a high seat belt use rate without such a component.

Canada currently has a national seat belt use rate above 90 percent. Nearly every province first attempted to increase seat belt use through voluntary approaches involving public information and education. These efforts were effective in achieving only very modest usage rates (no higher than 30 percent). By 1985, it became obvious to Canadian and provincial officials that additional efforts would be needed to achieve levels of 80 percent or greater. These efforts, mounted from 1985 to 1995, centered around highly publicized ''waves'' of enforcement, a technique that had already been shown to increase seat belt use in Elmira, New York. When these procedures were implemented in the Canadian provinces, seat belt use generally increased from about 60 percent to well over 80 percent, within a period of 3–5 years.

The Canadian successes using periodic, highly visible ''waves'' of enforcement, as well as successes of such efforts implemented in local jurisdictions in the U.S., prompted NHTSA to implement Operation Buckle Down (also called the ''70 by ''92'' Program) in 1991. This two-year program focused on Special Traffic Enforcement Programs (sTEPs) to increase seat belt use. It was followed by a national usage rate increase from about 53 percent in 1990 to 62 percent by the end of 1992 (as measured by a weighted aggregate of State surveys). Neither the level of enforcement nor its public visibility was uniform in every State. Had these ''waves'' of enforcement been implemented in a more uniform fashion in every state, the impact would likely have been much greater.

Several states have experienced considerable success in reaching higher levels of occupant protection usage rates though campaigns which focus on high visibility enforcement combined with a targeted public information and education campaign which highlights the zero tolerance message of the enforcement component. In order to demonstrate the potential of periodic, highly visible enforcement in a more controlled environment, the State of North Carolina implemented its Click-It or Ticket program in 1993. In this program, waves of coordinated and highly publicized enforcement efforts (*i.e.*, checkpoints) were implemented in every county. As a result, seat belt use increased statewide, from 65 percent to over 80 percent, in just a few months. This program provided the clearest possible evidence to demonstrate the potential of highly visible enforcement to increase seat belt use in a large jurisdiction. South Carolina has recently achieved similar successes. NHTSA now seeks to replicate this program throughout its various Regions. High consideration will be given to those applicants that develop an approach that is compatible or consistent with this strategy.

2. *National Mobilizations:* National law enforcement mobilizations have also proven effective in increasing seat belt use. The *BUA* campaign supports two national mobilizations each year (Memorial Day and Thanksgiving holidays). During the November 2000 mobilization period conducted throughout the week surrounding Thanksgiving, over 10,000 law enforcement agencies participated in Operation ABC. Their efforts were covered by several hundred national and local television organizations in all major media markets. More than 1,500 print articles were written in response to the mobilization.

Period of Support

Cooperative agreements may be awarded for a period of support of (1) year. The application should address what is proposed and can be accomplished during the funding period (12 months). Subject to the availability of funds, the agency anticipates awarding up to 3 cooperative agreements in the amount of $50,000 each, totaling $150,000. Federal funds should be viewed as seed money to assist the Associations in working with local law enforcement agencies in the development of traffic safety initiatives. NHTSA may choose to extend the period of performance under this agreement for an additional 12 months, subject to the availability of funds. If NHTSA elects to do so, it will notify the recipients within 60 days prior to the expiration of this agreement and the recipients will submit a proposal for an additional 12 months of performance.

Eligibility Requirements

In order to be eligible to participate in this cooperative agreement program, an applicant must be a State Association of Chiefs of Police, and must meet the following requirements:

—Have the ability to provide funding to law enforcement agencies in the state.
—Have written support and approval from the applicant's chief executive officer to conduct seat belt enforcement programs to participate in and encourage local law enforcement participation in the Operation ABC Campaign and in other seat belt enforcement programs. (Include copy with proposal.)
—Obtain written support from the Governor's Representative or his/her designee in the State Highway Safety Office (SHSO) demonstrating that the applicant's proposal is partnered with the State's program. (Include copy with proposal.)

Application Procedure

Each applicant must submit one original and two copies of their application package to: NHTSA, Office of Contracts and Procurement (NAD–30), ATTN: Ross S. Jeffries, 400 7th Street, SW., Room 5301, Washington, DC 20590. Only complete application packages received by the due date will be considered. Submission of four additional copies will expedite processing, but is not required. Applications must be typed on one side

of the page only. Applications must include a reference to NHTSA Program No. DTNH22–01–R–05143 . The applicant shall specifically identify any information in the application for which confidential treatment is requested, in accordance with the procedures of 49 CFR Part 512, Confidential Business Information.

Only complete packages received on or before June 1, 2001, 2 p.m. Eastern Standard Time will be considered.

Application Contents

The application package must be submitted with OMB Standard Form 424 (Rev. 4–88, including 424A and 424B), Application for Federal Assistance, with the required information filled in and the certifications and assurances included. While the Form 424–A deals with budget information, and section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed breakdown of the proposed costs, as well as any costs which the applicant proposes to contribute in support of this effort. The budget should be a 1-year plan. Also included shall be a program narrative statement which addresses the following:

1. A description of the project to be pursued which provides:

a. A detailed explanation of the proposed strategy to support the enforcement efforts, including methods for gaining support (both within the community and law enforcement leadership) for ''waves'' of highly publicized seat belt enforcement and for mobilization efforts. In addition, an explanation of the strategies to fund local law enforcement agencies to participate in the national mobilizations, and to conduct ''waves'' of highly publicized seat belt enforcement. A description of efforts to address training needs (e.g., differential enforcement or diversity sensitivity) of law enforcement jurisdictions and how training will be marketed to these jurisdictions.

b. The goals, objectives, and the anticipated results and benefits of the project (supporting documentation from concerned interests other than the applicant can be used.)

c. Written evidence of approval by the applicant's Chief Executive Officer.

d. An explanation demonstrating the need for assistance.

e. Description of any extraordinary social/community involvement.

f. A discussion of the criteria to be used to evaluate the results (e.g. number of citations, number of officers trained, seat belt use surveys, level of earned media coverage, etc.).

2. A list of the proposed activities in chronological order to show the schedule of accomplishments and their target dates.

3. Identification of the proposed program coordinator for participation in the proposed project effort.

4. A description of the applicant's previous experience related to this proposed program effort (i.e. past participation in highly publicized enforcement or participation in the Operation ABC national seat belt mobilizations).

5. A statement of any technical assistance which the applicant may require of NHTSA in order to successfully complete the proposed project.

Application Review Process and Evaluation Factors

Initially, each application will be reviewed to confirm that the applicant meets the eligibility requirements and that the application contains all of the information required by the Application Contents section of this notice. Each complete application from an eligible recipient will then be evaluated by a Technical Evaluation Committee. The applications will be evaluated using the following criteria:

1. The potential of the proposed project effort to increase seat belt use. (40%)

The likeliness and feasibility of the applicant's projects to increase enforcement by law enforcement jurisdictions of proper seat belt and child safety seat use. The degree to which the applicant has identified jurisdictions that might benefit from training opportunities concerning proper seat belt and child safety seat use, and effectiveness of the applicant's plan for providing that training. The overall soundness and feasibility of the applicant's approach to participating and successfully seeking law enforcement participation in mobilization efforts, public information campaigns concerning seat belt and child safety seat use, and child safety seat clinics.

2. The applicant's proposed strategy for participating and seeking the participation of local law enforcement agencies in the Buckle Up America National seat belt mobilizations. (40%)

The likeliness and feasibility of the Association's proposal, as described in its innovative project plan, to assist smaller law enforcement agencies in participating in the *Buckle Up America* National seat belt mobilizations. The degree to which the applicant has demonstrated a complete understanding of the requirements for successful participation in the Operation ABC national seat belt mobilizations. The overall soundness and feasibility of the applicant's proposed strategy and demonstrated ability to involve and coordinate this project with smaller law enforcement agencies.

3. The applicant's ability to demonstrate support and coordination with local government and the State Highway Safety Office. (15%)

The degree to which the proposal describes efforts and commitment to obtain the support from local government officials throughout the State. The likeliness and feasibility of the applicant's proposal for reaching local and state government executives throughout the state, including suggested methods for generating interest, making initial contacts and reasons for taking this approach as opposed to others.

4. The adequacy of the organizational plan for accomplishing the proposed project effort through the experience and technical expertise of the proposed personnel. (5%)

Program management and technical expertise will be estimated by reviewing the qualifications and experience of the proposed personnel, and the relative level of effort of the staff. Consideration will be given to the adequacy of the organizational plan for accomplishing the proposed project effort. Consideration will also be given to the Association's resources and how it will provide the program management capability and personnel expertise to successfully perform the activities in its plan.

NHTSA Involvement

The NHTSA will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of the cooperative agreement and to coordinate activities between the selected State Associations of Chiefs of Police and NHTSA;

2. Provide information and technical assistance from government sources, within available resources and as determined appropriate by the COTR;

3. Provide liaison between the selected State Associations of Chiefs of Police and other government and private agencies as appropriate; and

4. Stimulate the exchange of ideas and information among cooperative agreement recipients through periodic meetings.

Terms and Conditions of Award

1. Prior to award, the recipient must comply with the certification requirements of 49 CFR Part 29—Department of Transportation Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

2. During the effective period of the cooperative agreement(s) awarded as a result of this notice, the agreement(s) shall be subject to NHTSA's General Provisions for Assistance Agreements (7–95).

Reporting Requirements

1. The recipient shall submit brief quarterly reports documenting the project effort to date, which will include information on accomplishments, obstacles and problems encountered, and noteworthy activities. Quarterly reports shall be due 15 days after the end of each quarter, and a final report summarizing the project effort shall be due within 30 days after the completion of the project. An original and three copies of each of these reports shall be submitted to the COTR.

2. The recipient may be requested to conduct an oral presentation of project activities for the COTR and other interested NHTSA personnel. For planning purposes, assume that these presentations will be conducted at the NHTSA Office of Traffic and Injury Control Programs, Washington, D.C or at a conference identified by the COTR. An original and three copies of briefing materials shall be submitted to the COTR.

Rose A. McMurray,

Associate Administrator for Traffic, Safety Programs.

[FR Doc. 01–10818 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–9036; Notice 1]

Mazda Motor Corporation, Receipt of Application for Decision of Inconsequential Noncompliance

Mazda Motors Corporation has determined that certain 1994 model Mazda Navajos and 1994 through 2000 model Mazda B-Series trucks do not meet the labeling requirements of paragraphs 5.2(a) and 5.2(c) of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, ''Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars''. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Mazda has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Mazda states that approximately 218,000 vehicles were manufactured with tire rims that do not include the letter ''T'' identifying TRA as the source of the nominal dimensions of the rims. Also, the rims on these vehicles do not include the ''DOT'' symbol, indicating certification of compliance with the substantive requirements of the standard.

Mazda states that the noncompliances are inconsequential to motor vehicle safety because, with the exception of the cited missing markings, the noncomplying rims do comply with all other federal requirements. The missing markings identifying the source of the rim dimensions have no effect on the tire/rim performance. According to Mazda, the tires and rims on the affected vehicles are properly matched and are appropriate for the load carrying characteristics of these vehicles. Mazda indicates that selection of an incorrect replacement rim is possible, but not likely to result in a safety problem. Mazda states that a comparison of rim dimensions by several other designates listed in S5.2(a) indicated that dimensions for the size and type of the rims in question are essentially identical to the rims designed by TRA, the source for the noncompliant rims. Therefore, correctly sized rims with dimensions from other designates would be appropriate for these vehicles. With respect to the DOT symbol marking, Mazda states that the rims comply with all federal requirements that may have an impact on motor vehicle safety and therefore, it does not consider this noncompliance with S5.2(c) to be a safety problem.

Interested persons are invited to submit written data, views and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. After the Agency has determined that the application will be granted or denied, a notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: (30 days after Publication Date).

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and .501.8)

Issued on: April 26, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–10797 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001–9426; Notice 1]

Mazda Motor Corporation, Receipt of Application for Decision of Inconsequential Noncompliance

Mazda Motor Corporation has determined that certain 2000 Mazda MPVs do not meet the labeling requirements of paragraphs S5.1 and S5.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120 ''Tire Selection and Rims for Motor Vehicles Other than Passenger Cars''. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Mazda has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application. Mazda states that the noncompliance are inconsequential as related to motor vehicle safety and requests exemption from the notification and recall requirements.

Mazda manufactured 19,569 model year 2000 MPVs equipped with 15-inch tires with an incorrect maximum load rating marked on the sidewall. According to Mazda, the maximum load marked on the tires is 635 kg, whereas

the correct maximum load for the tires is 670 kg. The actual load marking of 635 kg. is noncompliant with FMVSS No. 120, S5.1.2, which requires that the maximum tire load capacity exceed the gross axle weight rating. The primary safety problem that may result from this noncompliance is the purchase of incorrect replacement tires for the original equipment tires. Mazda states that the noncompliance is inconsequential to motor vehicle safety because the owner's manual for the vehicle lists the correct maximum load rating for the MPV tires of 670 kg, and that tires rated at 635 kg maximum load have sufficient compliance margin to be appropriate for use on the 2000 Mazda MPV.

Mazda's petition stated that the company also produced 6,036 vehicles with 15-inch steel rims that are noncompliant with the requirements of FMVSS No. 120, S5.2. These rims do not contain a designation which indicates the source of the rim's published nominal dimensions as required by S5.2(a). Additionally, the rims do not contain the ''DOT'' symbol as required by S5.2(c). Mazda states that the noncompliance with S5.2(a) is inconsequential to motor vehicle safety because the dimensions for the 15X6JJ rim do not vary significantly among the different publication sources. Therefore, according to Mazda, any rim of the correct size designation should be appropriate for the 2000 Mazda MPV. With respect to the DOT symbol marking, Mazda states that the 15-inch steel rims comply with all federal requirements that may have an impact on motor vehicle safety and that it does not consider this noncompliance to be a safety problem.

Interested persons are invited to submit written data, views and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department to Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. After the Agency has determined that the application will be granted or denied, a notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: (30 days after Publication Date).

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and .501.8)

Issued on: April 26, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–10798 Filed 4–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34034]

The Cuyahoga Valley Railway Company—Trackage Rights Exemption—The Mahoning Valley Railway Company

The Mahoning Valley Railway Company (MVR), a Class III rail carrier, has agreed to grant limited, nonexclusive trackage rights to The Cuyahoga Valley Railway Company (CVR), a Class III rail carrier.[1] CVR will operate over the necessary portions of the MVR rail system in Youngstown to or from interchange with whichever connecting carriers exist at the time such rights are exercised.[2] The transaction was expected to be consummated on or after April 19, 2001.

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.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

[1] MVR is a wholly owned subsidiary of CVR, which is a wholly owned subsidiary of LTV Steel, Inc. (LTV). MVR provides rail service to certain LTV facilities in Youngstown, OH (Facilities). The trackage rights are part of a larger transaction in which CVR will sell and transfer to Summit View, Inc. all of MVR's issued and outstanding capital stock. CVR is being granted trackage rights to ensure that rail service continues to the Facilities in the event that MVR does not provide the Facilities with rail service at agreed-upon levels.

[2] CVR's trackage rights (i) will become effective, from time to time, only if and when MVR rail service falls below certain standards, (ii) will remain effective only for defined periods of time, and (iii) do not permit CVR to provide any rail services to any customer other than the Facilities.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34034, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 23, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–10671 Filed 4–30–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Investigator Integrity Questionnaire.

DATES: Written comments should be received on or before July 2, 2001 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Renee Reid, Office of Inspection, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7810.

SUPPLEMENTARY INFORMATION: Title: Investigator Integrity Questionnaire.

Form Number: ATF F 8620.7.

Abstract: Persons interviewed by contract investigators will be randomly selected to voluntarily complete ATF F 8620.7 regarding the investigator's degree of professionalism.

Current Actions: New information collection.

Type of Review: New.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 250.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Dated: April 24, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–10819 Filed 4–30–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0117]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Human Resources and Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Office of Human Resources and Administration (OHR&A), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 31, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0117'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Inquiry Concerning Application for Employment, VA Form Letter 5–127.

OMB Control Number: 2900–0117.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form letter is used to obtain information from individuals who have knowledge of the applicants' past work record, performance, and character. The information is used by VA personnel officials to verify qualifications and determine suitability of the applicant for VA employment.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 15, 2001, at page 10565.

Affected Public: Individuals or households—Business or other for-profit—State, Local or Tribal Government.

Estimated Annual Burden: 3,125 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 12,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0117'' in any correspondence.

Dated: April 17, 2001.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 01–10820 Filed 4–30–01; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Tuesday,
May 1, 2001

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1240

Honey Research, Promotion, and Consumer Information Order; Amendments; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

[FV–00–701 FR]

RIN 0581–AB84

Honey Research, Promotion, and Consumer Information Order; Amendments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the honey research and promotion program by: changing the size and composition of the National Honey Board (Board); changing nomination and eligibility requirements for handlers, importers, and representatives of cooperatives on the Board; changing the term of office for members of the Board and the National Honey Nominations Committee; authorizing the Board to develop a voluntary quality assurance program; removing the requirement for small companies to file for an exemption under the program in order to avoid paying assessments; requiring producers to submit reports to the Board and to maintain records; and adding statutory requirements for continuance referenda and evaluations. Amendments to the Honey Research, Promotion, and Consumer Information Act (Act) require that these changes be made to the program. The Act authorized additional changes, but they failed to receive the approval of the voters in a referendum held in September 2000.

EFFECTIVE DATE: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Kathie M. Birdsell, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535 South Building, Washington, DC 20250–0244; telephone (202) 720–9917 (toll free); facsimile (202) 205–2800.

SUPPLEMENTARY INFORMATION: The honey research and promotion program will be changed by amending the Honey Research, Promotion, and Consumer Information Order (Order) (7 CFR part 1240). The changes to the Order are being made as a result of changes made by Congress to the Honey Research, Promotion, and Consumer Information Act (Act) (Pub. L. 98–690; enacted October 30, 1984; 7 U.S.C. 4601–4613, as amended) on June 23, 1998 (Pub. L. 105–185). The honey program operates under the Act.

Prior documents. A proposed rule on amending the Order was published in the **Federal Register** on February 28, 2000 (65 FR 10600) with a 60-day comment period. The comment period ended on April 28, 2000. A second proposed rule and a referendum order were published in the **Federal Register** on August 7, 2000 (65 FR 48324).

In addition, USDA published a proposed rule on the referendum procedures which were used in the referendum on the votable amendments in the **Federal Register** on May 15, 2000 (65 FR 30924) with a 30-day comment period. The final rule on the referendum procedures was published in the August 7, 2000, issue of the **Federal Register** (65 FR 48318).

Question and Answer Overview

Why Is The Honey Program Being Changed?

The honey program is being changed because the Act which authorizes the program was amended in 1998. The amendments to the Act require the same changes to be made to the program.

What Are the Major Changes That Will be Made to the Honey Program?

The major changes affect: (1) The composition and size of the National Honey Board (Board); (2) nomination and eligibility requirements for handlers, importers, and representatives of cooperatives on the Board; (3) the term of office for members of the Board and the National Honey Nominations Committee (Committee); (4) authorization for the voluntary quality assurance program; (5) exemption, reporting, and recordkeeping procedures; and (6) requirements for referenda and evaluations.

How Would the Size and Composition of the Board Change?

The Board is currently composed of seven producers, two importers (or one importer and one exporter), two handlers, one representative of a cooperative, one public member, and their alternates.

This rule will change the importer-exporter position on the Board to another importer position to provide more importer input into Board deliberations. In addition, the public member position will be eliminated, and at least 50 percent of the Board members will have to be producers. In addition, the Board will be required to periodically review the producer regions and number of importer positions on the Board and recommend any appropriate changes to the U.S. Department of Agriculture (USDA or the Department).

How Will Nomination and Eligibility Procedures Change?

Currently, handlers, importers, and others submit the names of handlers and importers to the Committee for consideration as the official nominees to serve on the Board as handler members and alternates. This rule will allow handler and importer organizations to be certified to submit the names of handlers and importers to the Committee as well. In addition, national honey marketing cooperatives will be allowed to submit names to the Committee for consideration as the official nominees for the cooperative representative and alternate on the Board.

This rule also adds a new eligibility requirement for importer members and alternates. In order to be eligible to serve in these positions, importers must receive at least 75 percent of their gross honey business income from the sale of imported honey and honey products during any three of the preceding five years. Previously, any person who imported any amount of honey was eligible to serve on the Board as an importer member or alternate.

What Are the Changes in the Terms of Office for Committee and Board Members?

This rule will change the beginning of the term of office for Committee members from January 1 to July 1. This will facilitate more timely nomination and appointment of new members.

In addition, the amended Act authorized the Secretary to stagger the terms of office of Board members periodically to help ensure continuity of Board membership. For example, currently the term of office for the producer members and alternates from four of the seven producer regions end on December 31, 2001. This means that over 50 percent of the producer members on the Board could change in one year. This is not desirable. Therefore, the Secretary will work with the Board and the Committee to determine which of the regional producer positions should have a different term of office.

What Is a Voluntary Quality Assurance Program?

After this rule becomes effective, the Board will be allowed to develop rules and regulations for a voluntary quality assurance program for review by USDA. Under this type of program, the Board may develop an official seal of approval to be used only by producers, handlers, and importers who participate in the program. In order to participate in the

program, the products of the industry members would be required to meet certain purity standards. The goal of this type of program is to increase demand for honey and honey products by increasing consumer confidence in the honey and honey products on the market.

How Would Exemption and Recordkeeping Requirements Change?

Producers, producer-packers, and importers who sell (1) less than 6,000 pounds of honey annually and (2) the honey is sold through local retail outlets, such as roadside stands, farmers markets, or groceries will no longer have to request an exemption from the Board in order to avoid paying assessments under the program. In addition, producers would be required to keep records for a period of two years just like producer-packers, handlers, and importers. The Board and the Department need access to certain industry records in order to enforce the assessment and reporting provisions of the program.

What Are the Statutory Requirements on Continuance Referenda and Evaluations?

The Act requires the Secretary of Agriculture (Secretary) to conduct a continuance referendum on the honey program at least once every five years. When the Act was amended in 1998, it specified that continuance referenda be held no more than once every two years. Therefore this rule adds that limitation on the frequency of continuance referenda to the Order.

In 1996 [7 U.S.C. 7401], Congress required all national research and promotion boards to conduct independent evaluations of their programs at least once every five years. This rule will simply include that requirement in the Order.

What Happened to the Other Proposed Amendments?

The other proposed amendments (votable amendments) did not receive enough support from the industry in the September 2000 referendum. Therefore, they are not being implemented at this time. However, the amended Act authorizes the Secretary to conduct rulemaking and a referendum to implement one or more of the votable amendments at a later time, if recommended by the Board or the honey industry.

The votable amendments would have: (1) Required the Board to reserve 8 percent of its funds annually for beekeeping and production research; (2) authorized the Board to develop recommendations for purity standards and an inspection and monitoring system to enhance the image of honey and honey products; (3) added two handler-importer members and alternates to the Board; (4) reduced the producer assessment from 1 cent per pound to 0.75 cents per pound; (5) added a new assessment on handlers of 0.75 cents per pound on the domestic honey that they handle; and (6) increased the importer assessment from 1 cent per pound to 1.5 cents per pound on imported honey and honey products.

Executive Orders 12866 and 12988

This rule has been determined to be ''not significant'' for purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In addition, this rule has been reviewed under E.O. 12988, Civil Justice Reform. The rule is not intended to have retroactive effect and would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act allows producers, producer-packers, importers, and handlers (if covered by the program) to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with law. In the petition, the person may request a modification of the Order or an exemption from the Order. Petitions must be filed not later than two years after: (1) The effective date of the Order, provision, or obligation challenged in the petition; or (2) the date on which the petitioner became subject to the Order, provision, or obligation challenged in the petition. The petitioner will have the opportunity for a hearing on the petition. Afterwards, the Secretary will issue a ruling on the petition.

If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

Regulatory Flexibility Act and Paperwork Reduction Act

Regulatory Flexibility Analysis. In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has examined the impact of changes to the honey program on small honey producers, producer-packers, and importers. The final regulatory flexibility analysis was included in the proposed rule that was published in the **Federal Register** on August 7, 2000.

However, that analysis included the impact of both the votable and non-votable amendments to the Order. This rule will implement only the non-votable amendments because the votable amendments were not approved in the September 2000 referendum. Accordingly, the applicable analysis is as follows.

The Small Business Administration (SBA) (13 CFR 121.201) defines small agricultural producers as those having annual receipts of no more than $500,000. Small producer-packers, handlers, and importers fit into the SBA definition for small agricultural service firms with annual receipts of less than $5 million.

According to National Honey Board (Board) records, 2,885 producers paid $1,864,590 in assessments in 1999. That represents $646 in assessments on 64,600 pounds of honey per producer. At the average wholesale price for honey in 1999 of 65.5 cents per pound, the average producer had $42,313 in receipts, well below the $500,000 threshold.

Similarly, Board records indicate that 348 importers paid $1,743,021 in assessments in 1999. That represents $5,008 in assessments on 500,800 pounds of honey per importer. At the average wholesale price for honey of 65.5 cents per pound, the average importer had $328,024 in receipts, well below the $5 million threshold.

Therefore, a majority of the producers, producer-packers, handlers, and importers who would be affected by the changes to the Order may be considered small entities. In addition, an estimated three handler-importer organizations whose membership includes these entities would be affected by the changes to the Order.

The changes in the nomination procedures for Board members would benefit handlers, importers, and marketing cooperatives by giving them increased input on the individuals who are nominated by the National Honey Nominations Committee (Committee). The new eligibility requirements for persons serving as importer members and alternates on the Board and the elimination of the authority for an exporter to serve in an importer position on the Board will also benefit importers by providing them more representation on the Board and, thus, more input into Board decisions on how their assessment dollars are spent.

The change in the term of office for Committee members will greatly facilitate the ability of state beekeeper associations to submit nominees to

serve on the Committee to USDA in a timely manner and help assure that the Secretary is able to appoint new members to the Committee prior to the beginning of the term of office. The new requirement that 50 percent of the members of the Board must be producers reflects the amended provisions of the Act.

In addition, producers, handlers, and importers would benefit from the changes on reconstituting the Board. Reconstitution of Board members will be based on changes in the geographical distribution of honey production in the United States and on changes in the proportion of assessments paid on domestic honey and on imported honey and honey products, and this should provide more equitable treatment and fairness of representation on the Board for producers, handlers, and importers alike.

All segments of the honey industry could benefit from the implementation of a quality assurance program and a related inspection and monitoring system because they have the potential to increase wholesale and retail confidence in the quality of the honey that is marketed. This means that consumers, food service operators, and manufacturers would be likely to have more confidence in the quality of honey and honey products available on the market. This, in turn, is expected to generate increased sales of honey in the United States and abroad, which would benefit producers, handlers, and importers alike. Handlers would also have confidence in the purity of the honey they are buying from producers or importers.

Adding reporting and recordkeeping requirements for producers will assist the Board in periodically collecting production information to help identify industry trends for use in program planning and evaluation. This information will help guide the Board in its decision making as well as be provided to industry members for their use in making individual marketing decisions. The amendment will also assist the Board in enforcing the assessment and reporting provisions of the Order which is expected to help ensure that everyone who is subject to assessments is paying assessments.

Elimination of the requirement for persons who are eligible to claim an exemption to file an application for an application will significantly reduce the paperwork burden on the industry as well as reduce the Board's costs in managing the program.

The new statutory guideline for the timing of referenda reduces the possibility that the operations of the Board will be disrupted so frequently that the effectiveness of the Board's programs would be compromised.

In addition, removing obsolete provisions from the Order and rewriting other provisions will make the Order more understandable to the public, the industry, and the Board and its staff.

We have also revised the paperwork and recordkeeping impact as described in the August 7, 2000, by eliminating references and information relating to the votable amendments that will not be implemented as a result of this final rule. Therefore, the remaining paperwork and recordkeeping impact is described below.

One amendment requires producers to maintain and make available to the Board and the Secretary books and records. Another requires producers to periodically report to the Board information pertaining to the quantity of honey produced and the total number of bee colonies maintained. Currently, only handlers, importers, and producer-packers are required to maintain records and provide reports to the Board or the Secretary. This information is necessary for enforcement of the Act. It is most likely that the information requested from producers would be obtained through periodic audits.

Based on this expanded reporting authority, there are also plans to collect production information periodically from producers. At this time, the Board's plans are tentative on how and when producers are to report the prescribed information due to mailing costs and certain other factors relating to the content and design of the information collection. The form or mailer for collecting the information will be submitted to OMB for approval prior to its use, and the industry will be notified.

The reporting burden for certain producers, producer-packers, handlers, and importers who qualify for exemption from assessment based on the quantity of honey or honey products produced, handled, or imported will be eliminated. Pursuant to the 1998 changes to the Act, the Order will no longer require individuals to file an application with the Board in order to attain exempt status.

The recordkeeping and reporting requirements related to the amendments to the Order are designed to minimize the burden on producers, producer-packers, handlers, and importers. In addition, any information collection that cannot occur through forms already in use will pose a minimal additional burden.

The estimated total annual cost of maintaining records and providing the information to the Board and USDA by an estimated 5,043 respondents would be $25,245 annually. The 5,043 respondents are as follows: 5,024 producers, 7 handlers, 7 importers, 2 cooperative representatives, and 3 organizations. The total cost for producers is $25,120 or $5.00 per producer per response. The total cost for handlers is $35 or $5.00 per handler. The total cost for importers is $35 or $5 per importer. The total cost for cooperative representatives is $10 or $5 per cooperative representative. The total cost for organizations is $45 or $15 per organization.

The impact of the recordkeeping requirement provided for in this rule on small entities will be minimal. This recordkeeping requirement is consistent with prudent business practices and is not expected to impose any undue costs or significant burdens on a vast majority of the small entities affected. It is anticipated that a significant number of these small entities currently keep these records for commercial and/or tax purposes.

The forms to be modified will require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act, as well as the amendments to the Order. The information required has been designed to coincide with normal industry business practices to minimize the burden on the industry.

With regard to alternatives, the provisions of the amendments to the Order in this rule have been carefully reviewed, and every effort has been made to minimize any unnecessary costs or requirements while maintaining consistency with the provisions of the Act, as amended.

There are no federal rules that duplicate, overlap, or conflict with this rule.

Paperwork Reduction Act. In accordance with the OMB regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by this rule have been approved by OMB under OMB Control Nos. 0581–0093 and 0505–0001.

This information differs from what was published in the August 7, 2000, proposed rule because the August 7, 2000, proposed rule included the burden associated with amendments that will not be implemented by this final rule. Following are the increases and decreases in burden that will become effective with this final rule.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093. *Expiration Date of Approval:* March 31, 2001.

OMB Number: 0505–0001. *Expiration Date of Approval:* July 31, 2002.

Type of Request: Revision of currently approved information collections for advisory committees and boards and for research and promotion programs.

Abstract: The recordkeeping and information collection requirements are essential to carry out the intent of the Act, as amended.

Producer recordkeeping and reporting (increase under OMB No. 0581–0093). The Order currently requires handlers, importers, and producer-packers to retain their books and records for at least two years beyond the marketing year of their applicability. This rule changes the Order to conform to the Act, as amended, by also requiring producers to maintain and retain books and records for two years. It is anticipated that producers already maintain and retain the books and records which contain this information for commercial and/or tax purposes. Therefore, this recordkeeping requirement is consistent with prudent business practices and is not expected to impose any undue costs or significant burdens on a vast majority of producers.

In addition, the Board will have the authority to require producers to report information pertaining to the quantity of honey produced and the total number of bee colonies maintained. Currently, the Board's authority to request reports extends only to handlers, importers, and producer-packers. It is most likely that this information will be obtained from producers through periodic audits.

Based on this expanded reporting authority, the Board also plans to collect the quantity of honey produced and number of bee colonies maintained periodically from producers. At this time, the Board's plans are tentative on how and when producers are to report this information due to mailing costs and certain other factors relating to the content and design of the possible information collection.

Candidate Profile form (increase under OMB No. 0581–0093). This rule also revises qualification requirements for serving on the Board. This information will be collected on the Board's Candidate Profile form and be used by the Board's staff and the Committee to determine the qualifications of candidates. It is anticipated that the basic background information to be collected would be readily accessible or otherwise obtained from records currently maintained by those persons who would be candidates to serve on the Board.

Nominee background form (decrease under OMB No. 0505–0001 and increase under OMB No. 0581–0093). Currently, nominees for positions on the Board or the Committee must submit a copy of a USDA background form (AD–755) under OMB No. 0505–0001 to the Secretary. In the future, nominees will be required to submit a copy of an AMS background form (AMS–755) under OMB No. 0581–0093. The information collected on the two forms is identical.

Report by honey handler and importer organizations and national honey marketing cooperatives (increase under OMB No. 0581–0093). This rule will allow handler and importer organizations and national honey marketing cooperatives to submit the names of handlers, importers, and cooperative representatives, respectively, to the Committee for nomination to the Board. However, the organizations must submit information in a report to the Secretary in order to be certified as eligible to submit the names.

In addition to increasing the burden under OMB No. 0581–0093, this rule also decreases the burden by 41.5 hours because it removes the requirement for producers, producer-packers, and importers to file an application with the Board in order to qualify for exemption from assessments.

The provisions of the amendments to the Order in this rule have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping or reporting costs or requirements.

Under this rule, the information required has been designed to coincide with normal industry business practices to minimize the burden on the industry. The information sought is not available from other sources because such information relates specifically to persons covered by the Act and Order. Therefore, there is no practical method for collecting the required information without the proposed recordkeeping requirements and use of forms described in this rule.

The estimated total annual cost of maintaining records and providing the information to the Board and USDA by an estimated 5,043 respondents would be $25,245 annually. The 5,043 respondents are as follows: 5,024 producers, 7 handlers, 7 importers, 2 cooperative representatives, and 3 organizations. The total cost for producers is $25,120 or $5.00 per producer per response. The total cost for handlers is $35 or $5.00 per handler. The total cost for importers is $35 or $5 per importer. The total cost for cooperative representatives is $10 or $5 per cooperative representative. The total cost for organizations is $45 or $15 per organization.

(1) *PRODUCER RECORDKEEPING AND REPORTING (NEW BURDEN UNDER OMB No. 0581–0093).*

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per recordkeeper maintaining such records.

Respondents (Recordkeepers): Producers and producer-packers (in their capacity as producers).

Estimated Number of Respondents (Recordkeepers): 5,000.

Estimated Number of Responses per Respondent (Recordkeeper): 1.

Estimated Total Annual Burden on Respondents (Recordkeepers): 2,500 hours.

(2) *CANDIDATE PROFILE (NEW BURDEN UNDER OMB No. 0581–0093).*

Estimate of Burden: Public reporting burden for this collection of information from candidates to the Board is estimated to average 0.50 hours per response.

Respondents: 15 Producers, 4 handlers, 4 importers, and 1 cooperative representative.

Estimated Number of Respondents: 24.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12 hours.

(3) *BACKGROUND INFORMATION FORM (DECREASE UNDER OMB No. 0505–001 AND NEW BURDEN UNDER OMB No. 0581–0093).*

Estimate of Burden: Public reporting burden for the collection of information from two nominees for each of the estimated four number and four alternate position openings annually is estimated to average 0.5 hours per response.

Respondents: 9 producers, 3 handlers, 3 importers, and 1 cooperative representative.

Estimated Number of Respondents: 16.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 8 hours.

(4) *A REPORT FROM HONEY HANDLER AND IMPORTER ORGANIZATIONS AND NATIONAL HONEY MARKETING COOPERATIVES (NEW BURDEN UNDER OMB No. 0581–0093).*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.5 hours per response for each organization.

Respondents: Honey handler and importer organizations.

Estimated Number of Respondents: 3.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 4.5 hours.

Comments on the regulatory and paperwork impact of the amendments to the Order were invited in the February 28, 2000, proposed rule. Three comments were submitted by the April 28, 2000, deadline, and were discussed in the August 7, 2000, proposed rule on these amendments.

Background

As explained above, the Act, which authorizes the honey research and promotion program, was amended in 1998. Subsequently, the U.S. Department of Agriculture (USDA or the Department) requested interested persons to submit proposals for making comparable changes to the program, which operates under the Honey Research, Promotion, and Consumer Information (Order).

The National Honey Board (Board)—with the support of three honey industry groups—submitted a proposal containing regulatory text for all of the changes authorized or required by the 1998 amendments to the Act. Proposals submitted by eight other organizations or persons did not include regulatory text. Therefore, the Department published the Board's proposal, with a few changes, as a proposed rule in the **Federal Register** on February 28, 2000 (65 FR 10600), with a 60-day comment period. The eight other submissions were made part of the rulemaking record and are considered comments on the proposed changes.

A total of 30 comments were received on the proposed amendments. These included the original eight comments that were received in response to USDA's request for proposals in 1999, some of which were resubmitted by the commenter. Seventeen commenters supported the amendments, 12 commenters opposed one or more of the amendments, and one commenter merely expressed an opinion on the direction the Board should take. As discussed in the August 7, 2000, rule, some changes were made to the proposed amendments as a result of comments received.

USDA held a national referendum on the votable amendments from September 5 through 29, 2000. In the referendum, only 30.33 percent of the voters, who represented 51.26 percent of the pounds of honey produced, handled, and imported by the voters in the referendum, approved the votable amendments. Therefore, only the non-votable amendments will be made effective by this final rule. In order to implement only the non-votable amendments, it has been necessary to delete language related to the votable amendments and to rewrite some paragraphs as a result of the deletions. Some renumbering of sections and paragraphs has also occurred.

This rule will amend the Order by: (1) Changing the size and composition of the Board; (2) changing nomination and eligibility requirements for handlers, importers, and representatives of cooperatives on the Board; (3) changing the term of office for members of the Board and the National Honey Nominations Committee (Committee); (4) authorizing the Board to develop a voluntary quality assurance program; (5) removing the requirement for small companies to file for an exemption under the program in order to avoid paying assessments; (6) requiring producers to provide reports and maintain records; and (7) adding statutory requirements for continuance referenda and evaluations.

The amendments that appeared in the August 7, 2000, proposed rule that will not be made by this rule are: (1) A requirement for the Board to reserve 8 percent of its funds annually for beekeeping and production research; (2) authorization for the Board to develop recommendations for purity standards and an inspection and monitoring system to enhance the image of honey and honey products; (3) the addition of two handler-importer members and alternates to the Board; (4) a reduction in the producer assessment from 1 cent per pound to 0.75 cents per pound; (5) a new assessment on handlers of 0.75 cents per pound on the domestic honey that they handle; and (6) an increase in the importer assessment from 1 cent per pound to 1.5 cents per pound on imported honey and honey products.

Board size and composition. The Board is currently composed of seven producers, two importers (or one importer and one exporter), two handlers, one representative of a cooperative, one public member, and their alternates.

This rule will change the importer-exporter position on the Board to another importer position to provide more importer input into Board deliberations. In addition, the public member position will be eliminated, and at least 50 percent of the Board members will have to be producers.

Also, this rule will add a new section to the Order to provide for reconstitution of the Board every five years. The new section provides procedures for making changes in the boundaries of the domestic producer regions and for adding importer members if warranted. The representation of importers will not change unless the proportion of assessments owed by importers compared with the proportion of assessments owed by producers on domestic honey changes by more than 6 percent from the proportions determined by the Board for its 1996 fiscal period. The first review is required before the next continuance referendum on the program, which will be held in 2001.

Nominating and eligibility requirements. This rule will also change some of the nomination procedures under the Order. Currently, handlers, importers, and others submit the names of handlers and importers to the Committee for consideration as the official nominees to serve on the Board as handler members and alternates. This rule will allow handler and importer organizations to be certified to submit the names of handlers and importers to the Committee as well. In addition, national honey marketing cooperatives will be allowed to submit names to the Committee for consideration as the official nominees for the cooperative representative and alternate on the Board.

This rule also adds a new eligibility requirement for importer members and alternates. In order to be eligible to serve in these positions, importers must receive at least 75 percent of their gross honey business income from the sale of imported honey and honey products during any three of the preceding five years. Previously, any person who imported any amount of honey was eligible to serve on the Board as an importer member or alternate.

Terms of office. In addition, this rule will change the beginning of the term of office for Committee members from January 1 to July 1. This will facilitate more timely nomination and appointment of new members.

Also, the amended Act authorized the Secretary to stagger the terms of office of Board members periodically to help ensure continuity of Board membership. For example, currently the term of office for the producer members and alternates from four of the seven producer regions end on December 31, 2001. This means that over 50 percent of the producer members on the Board could change in one year. This is not desirable. Therefore, the Secretary will work with the Board and the Committee to determine which of the regional producer positions should have a different term of office.

Voluntary quality assurance program. After this rule is implemented the Board may develop rules and regulations for a voluntary quality assurance program for review by USDA. The voluntary quality assurance program may include the establishment of an official Board seal of approval to be displayed on honey and honey products or producers, handlers, and importers that participate in the voluntary program and are found to meet such standards of purity as are established under the program. It may also include actions to encourage the honey industry to participate in the program and to encourage consumers to purchase honey and honey products that bear the official seal of approval. In addition, the Department or other parties approved by the Department may perform periodic inspections of the participants in the voluntary program. Before a voluntary quality assurance program will be implemented, USDA will issue the proposed rules and regulations relating to the program for public comment.

Exemptions, reports, and recordkeeping. Producers, producer-packers, and importers who sell (1) less than 6,000 pounds of honey annually and (2) the honey is sold through local retail outlets, such as roadside stands, farmers markets, or groceries will no longer have to request an exemption from the Board in order to avoid paying assessments under the program. In addition, producers would be required to keep records for a period of two years just like producer-packers, handlers, and importers. The Board and the Department need access to certain industry records in order to enforce the assessment and reporting provisions of the program.

Continuance referenda. The Act requires the Secretary of Agriculture to conduct a continuance referendum on the honey program at least once every five years. When the Act was amended in 1998, it specified that continuance referenda be held no more than once every two years. Therefore, this rule adds the limitation on the frequency of continuance referenda to the Order.

Evaluations. This rule also includes a requirement for the Board to conduct an independent evaluation of the effectiveness of its programs at least once every five years. The requirement was imposed by Congress on all national research and promotion programs in 1996.

Miscellaneous changes. Finally, this rule removes obsolete and gender-specific language from the Order and makes a number of changes for syntax and for clarity. Most of these changes were in the August 7, 2000, proposed rule. Additional changes made by this rule include removing gender-specific language from §§ 1240.34(b), 1240.38(j), and 1240.62(a), expanding § 1240.5 *Department* to read *Department or USDA,* and adding the tenure limitation for Committee members back into paragraph (a)(3) of § 1240.32.

List of Subjects in 7 CFR Part 1240

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Honey promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1240 is amended as follows:

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION

1. Revise the authority citation for part 1240 to read as follows:

Authority: 7 U.S.C. 4601–4613; 7 U.S.C. 7401.

2. Revise the heading of part 1240 to read as set forth above.

3. Add a heading for a new subpart A, consisting of §§ 1240.1 through 1240.67, to read as follows:

Subpart A—Honey Research, Promotion, and Consumer Information Order

4. Remove § 1240.43.

4a. Redesignate §§ 1240.1 through 1240.14, 1240.16 through 1240.22, and 1240.44 as follows:

Old section	New section
1240.1	1240.26
1240.2	1240.1
1240.3	1240.18
1240.4	1240.10
1240.5	1240.12
1240.6	1240.20
1240.7	1240.8
1240.8	1240.9
1240.9	1240.21
1240.10	1240.13
1240.11	1240.6
1240.12	1240.22
1240.13	1240.25
1240.14	1240.4
1240.16	1240.3
1240.17	1240.28
1240.18	1240.2
1240.19	1240.27
1240.20	1240.7
1240.21	1240.19
1240.22	1240.17
1240.44	1240.43

5. Revise newly designated § 1240.2 to read as follows:

§ 1240.2 Board.

Board or *National Honey Board* means Honey Board, the administrative body established pursuant to § 1240.30.

6. Revise newly designated § 1240.3 to read as follows:

§ 1240.3 Committee.

Committee means the National Honey Nominations Committee established pursuant to § 1240.32.

7. Add a new § 1240.5 to read as follows:

§ 1240.5 Department or USDA.

Department or *USDA* means the United States Department of Agriculture.

8. Revise newly designated § 1240.8 to read as follows:

§ 1240.8 Handle.

Handle means to process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in the current of commerce. This term shall include selling unprocessed honey that will be consumed without further processing or packaging. This term shall not include the transportation of unprocessed honey by a producer to a handler or transportation by a commercial carrier of honey, whether processed or unprocessed, for the account of the handler or producer. This term shall not include the purchase of honey or a honey product by a consumer or other end-user of the honey or honey product.

9. Revise newly designated § 1240.10 to read as follows:

§ 1240.10 Honey.

Honey means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees, including comb honey.

10. Add a new § 1240.11 to read as follows:

§ 1240.11 Honey production.

Honey production means all beekeeping operations related to managing honey bee colonies to produce honey, harvesting honey from the colonies, extracting honey from the honeycombs, and preparing honey for sale and further processing.

11. Revise newly designated § 1240.13 to read as follows:

§ 1240.13 Importer.

Importer means any person who imports honey or honey products into the United States as principal or as an agent, broker, or consignee for any person who produces honey or honey products outside of the United States for sale in the United States, and who is

listed in the import records as the importer of record for such honey or honey products.

12. Add a new § 1240.14 to read as follows:

§ 1240.14 Industry information.

Industry information means information or a program that will lead to the development of new domestic and foreign markets, new marketing strategies, or increased efficiency for the honey industry, or an activity to enhance the image of honey and honey products and of the honey industry.

13. Add a new § 1240.16 to read as follows:

§ 1240.16 National honey marketing cooperative.

National honey marketing cooperative means a cooperative that markets its products in at least two of the following four regions of the United States, as determined by the Secretary:

(a) The Atlantic Coast, including the District of Columbia and the Commonwealth of Puerto Rico;

(b) The Mideast;

(c) The Midwest; and

(d) The Pacific, including the states of Alaska and Hawaii.

14. Revise newly designated § 1240.19 to read as follows:

§ 1240.19 Plans and projects.

Plans and *projects* means those research, promotion, industry information, and consumer education plans, studies, or projects established pursuant to §§ 1240.38 and 1240.39.

15. Add a new § 1240.23 to read as follows:

§ 1240.23 Qualified national organization representing handler interests.

Qualified national organization representing handler interests means an organization that the Secretary certifies as being eligible to recommend nominations to the Committee for handler and alternate handler members of the Board under § 1240.32.

16. Add a new § 1240.24 to read as follows:

§ 1240.24 Qualified national organization representing importer interests.

Qualified national organization representing importer interests means an organization that the Secretary certifies as being eligible to recommend nominations to the Committee for importer and alternate importer members of the Board under § 1240.32.

17. Revise newly designated § 1240.25 to read as follows:

§ 1240.25 Research.

Research means any type of systematic study or investigation, including studies testing the effectiveness of market development and promotion efforts, and/or the evaluation of any study or investigation designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products. Such term shall also include studies on bees to advance the cost effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees.

18. Revise § 1240.30 to read as follows:

§ 1240.30 Establishment and membership.

A Honey Board is established to administer the terms and provisions of this part. The Board shall consist of twelve (12) members, each of whom shall have an alternate. Seven members and seven alternates shall be honey producers; two members and two alternates shall be honey handlers; two members and two alternates shall be honey importers; and one member and one alternate shall be an officer, director, or employee of a national honey marketing cooperative. The Board shall be appointed by the Secretary from nominations submitted by the Committee, pursuant to § 1240.32. Notwithstanding any other provision of this part, at least 50 percent of the members of the Board shall be honey producers.

19. Revise § 1240.31 to read as follows:

§ 1240.31 Term of office.

The members of the Board and their alternates shall serve for terms of three years, except that terms may be staggered periodically as recommended by the Board and as determined by the Secretary or as determined by the Secretary alone. No member or alternate shall serve more than two consecutive three-year terms. The term of office shall begin on April 1. Each Board member and alternate member shall continue to serve until the member's or alternate's successor meets all qualifications and is appointed by the Secretary.

20. Amend § 1240.32 as follows:

a. By revising paragraphs (a)(1) and (a)(3), and (b)(1) and (b)(2) respectively;

b. Removing paragraph (b)(6);

c. Redesignating paragraphs (b)(7) and (b)(8) as (b)(6) and (b)(7) respectively;

d. Revising newly designated paragraphs (b)(6) and (b)(7); and

e. Adding paragraphs (b)(8), (b)(9), (b)(10), (b)(11), and (b)(12).

The revisions and additions to § 1240.32 read as follows:

§ 1240.32 Nominations.

* * * * *

(a) * * *

(1) There is established a National Honey Nominations Committee, which shall consist of not more than one member from each State, appointed by the Secretary from nominations submitted by each State beekeeper association. Wherever there is more than one eligible association within a State, the Secretary shall designate the association most representative of the honey producers, handlers, and importers not exempt under § 1240.42 (a) and (b) to make nominations for that State.

* * * * *

(3) Members of the Committee shall serve for three-year terms, except that the term of appointments to the Committee may be staggered periodically, as determined by the Secretary. No member shall serve more than two consecutive three-year terms. The term of office shall begin on July 1.

* * * * *

(b) * * *

(1) The Committee shall nominate the members and alternate members of the Board and submit such nominations promptly to the Secretary for approval.

(2) The Committee shall meet annually to make such nominations, or, at the determination of the Chairperson, the Committee may conduct its business by mail ballot in lieu of an annual meeting.

* * * * *

(6) In nominating producer members to the Board, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than the producer-packer produced shall be eligible for nomination or appointment to the Board as a producer or as an alternate to a producer.

(7) In nominating importer members to the Board, no importer who, during any three of the preceding five years, did not receive at least 75 percent of the gross income generated by the sale of honey and honey products from the sale of imported honey and honey products shall be eligible for nomination or appointment to the Board as an importer or as an alternate to an importer.

(8) Six months before the new Board term begins, the Committee shall submit to the Secretary nominations for positions on the Board. The number of nominations will directly correspond to the number of producer, handler, importer, and cooperative member positions due to become vacant. Selection of nominees by the Committee will be pursuant to the following:

(i) Nominations for producer members and alternate producer members will be from the regions in which one or more vacancies will occur;

(ii) Nominations for handler members and alternate handler members will be based on recommendations made by qualified national organizations representing handler interests, or, if the Secretary determines that there is not a qualified national organization representing handler interests, by individual handlers who have paid assessments to the Board on honey or honey products handled;

(iii) Nominations for importer members and alternate importer members will be based on recommendations made by qualified national organizations representing importer interests, or, if the Secretary determines that there is not a qualified national organization representing importer interests, by individual importers who have paid assessments to the Board on imported honey or honey products; and

(iv) Nominations for a member and alternate member who are officers, directors, or employees of national honey marketing cooperatives will be based on recommendations made by qualified national honey marketing cooperatives.

(9) *Qualified national organization representing handler interests.* To be certified by the Secretary as a qualified national organization representing handler interests, an association or organization must meet the following criteria, as evidenced in a factual report submitted by the association or organization to the Secretary:

(i) The organization's membership is comprised primarily of honey handlers;

(ii) The organization represents a substantial number of handlers who handle a substantial volume of honey in at least 20 states;

(iii) The organization has a history of stability and permanency;

(iv) A primary or overriding purpose of the organization is to promote the economic welfare of honey handlers;

(v) A portion of the operating funds of the organization are derived from handlers; and

(vi) The organization demonstrates the ability and willingness to further the purposes of the Act.

(10) *Qualified national organization representing importer interests.* To be certified as a qualified national organization representing importer interests, an association or organization must meet the following criteria, as evidenced in a factual report submitted by the association or organization to the Secretary:

(i) The organization's total paid membership is comprised of a significant number of importers or the organization's total paid membership represents at least a majority of the volume of honey imported into the United States;

(ii) The organization has a history of stability and permanency;

(iii) A primary or overriding purpose of the organization is to promote the economic welfare of honey importers;

(iv) Substantial geographic territory is covered by the active membership of the organization;

(v) A portion of the operating funds of the organization are derived from importers; and

(vi) The organization demonstrates the ability and willingness to further the purposes of the Act.

(11) As a condition of certification by the Secretary as a qualified national organization representing handler or importer interests, an organization shall agree to:

(i) Notify handlers and importers who are not members of the organization of Board nomination opportunities for which the organization is certified to make recommendations to the Committee; and

(ii) Consider the nomination of handlers and importers who are not members when making the nominations of the organization to the Committee, if nonmembers indicate an interest in serving on the Board.

(12) A certification determination by the Secretary of a qualified organization representing handler or importer interests shall be final.

21. Add a new § 1240.33 to read as follows:

§ 1240.33. Board reconstitution.

(a) Every five years, the Board shall review the geographic distribution of the quantities of domestically produced honey assessed under this subpart and the changes in the annual average percentage of assessments owed by importers under this subpart relative to assessments owed by producers of domestic honey. The Board shall conduct the initial review required by this paragraph prior to the first continuance referendum conducted after May 31, 2001.

(b)(1) If warranted as a result of this review, the Board shall recommend for the Secretary's approval:

(i) Changes in the regional representation of honey producers; and/or

(ii) The addition of Board members.

(2) If such allocations are necessary to reflect changes in the proportion of domestic and imported honey assessed under this subpart or the source of assessments on imported honey or honey products, the Board may not recommend the addition of members pursuant to paragraph (b)(1)(ii) of this section unless the proportion of assessments owed by importers compared with the proportion of assessments owed on domestic honey by producers changed by more than 6 percent from the base period proportion determined in accordance with paragraph (d) of this section.

(c) Except as provided in paragraph (d) of this section, recommendations made under paragraph (b) of this section shall be based on the 5-year average annual assessments, excluding the 2 years containing the highest and lowest disparity between the proportion of assessments owed from imported and domestic honey or honey products, determined pursuant to the review that is conducted under paragraph (a) of this section.

(d) The base period proportions for determining the magnitude of change under paragraph (c) of this section shall be the proportions determined during the prior review conducted under this section. In the case of the initial review, the base period proportions shall be the proportions determined by the Board for fiscal period 1996.

(e) Notwithstanding any other provision of this section, at least 50 percent of the members of the Board shall be honey producers.

(f) Any such reallocation or addition of members shall be made at least six months prior to the date on which terms of office of the Board begin each year and shall become effective at least 30 days prior to such date.

22. Amend § 1240.34 as follows:

a. By revising paragraphs (a) and (b); and

b. By removing ''Honey Nominations Committee and adding ''Committee'' in its place in paragraph (c).

The revisions of paragraphs (a) and (b) read as follows:

§ 1240.34 Vacancies.

(a) In the event any member of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall automatically become vacant: *Provided,* That if, as a result of Board reconstitution pursuant to § 1240.33, a producer member or alternate is no longer from the region from which such person was appointed, the affected member and/or alternate may serve out the term for which such person was appointed, or if a member, whose position is based on the member's status as an importer is

subject to reallocation by the Board, the affected member and/or alternate may serve out the term for which such person was appointed.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that the member be removed from office. If the Secretary finds the recommendation of the Board shows adequate cause, the Secretary shall remove such member from office.

* * * * *

23. Amend § 1240.35 by revising paragraph (a) to read as follows:

§ 1240.35 Procedure.

(a) A majority of members, of which at least 50 percent are producers, including alternates acting in place of members of the Board, shall constitute a quorum: *Provided*, That such alternates shall serve only whenever the member is absent from a meeting or is disqualified. Any action of the Board shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

* * * * *

24. Amend § 1240.38 by revising paragraphs (c), (d), (e), (j), (g),(k), (l) and (m) to read as follows:

§ 1240.38 Duties.

* * * * *

(c) To prepare and submit to the Secretary for approval 60 days in advance of the beginning of a fiscal period, a budget of its anticipated expenses in the administration of this part including the probable costs of all programs and plans and to recommend a rate of assessment with respect thereto;

(d) To investigate violations of this part and report the results of such investigations to the Secretary for appropriate action to enforce the provisions of this part;

(e) To develop programs and plans and to enter into contracts or agreements with the approval of the Secretary for the development and carrying out of programs and plans of research, promotion, advertising, consumer education, or industry information and the payment of the costs thereof with funds collected pursuant to this part;

* * * * *

(g) To periodically prepare and make public and to make available to producers, handlers, producer-packers, and importers, reports of its activities carried out and, at least once each fiscal period, to make public an accounting of funds received and expended;

* * * * *

(j) To submit to the Secretary such information pertaining to this subpart as the Secretary may request;

(k) To notify honey producers, producer-packers, handlers, and importers of all Board meetings through press releases or other means.

(l) To appoint and convene, from time to time, working committees which may include producers, handlers, producer-packers, importers, exporters, members of wholesale or retail outlets for honey, or other members of the public to assist in the development of research, promotion, advertising, consumer education, and industry information programs for honey; and

(m) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of plans or activities to effectuate the declared purpose of the Act.

25. Revise the heading preceding § 1240.39 to read as follows:

RESEARCH, PROMOTION, CONSUMER EDUCATION, AND INDUSTRY INFORMATION

26. Revise § 1240.39 to read as follows:

§ 1240.39 Research, promotion, consumer education, and industry information.

(a) *Scope of activities.* The Board shall develop and submit to the Secretary for approval any plans, programs, or projects authorized in this section. Such plans, programs, and projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate plans, programs, or projects for consumer education, industry information, advertising, and promotion of honey and honey products designed to strengthen the position of the honey industry in the marketplace and to maintain, develop, and expand markets for honey and honey products;

(2) The establishment and conduct of marketing research and development plans to the end that the acquisition of knowledge pertaining to honey and honey products or their consumption and use may be encouraged or expanded, or to the end that the marketing and utilization of honey and honey products may be encouraged, expanded, improved, or made more efficient: *Provided*, That supply management programs or other programs that would otherwise limit the right of the individual honey producer to produce honey shall not be conducted under, or as a part of, this subpart;

(3) The development and expansion of honey and honey product sales in foreign markets;

(4) A prohibition on advertising or other promotion programs that make any false or unwarranted claims on behalf of honey or its products or false or unwarranted statements with respect to the attributes or use of any competing product;

(5) The sponsorship of research designed to advance the cost-effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees;

(6) The conduct of activities which may lead to the development of new markets or marketing strategies for honey or honey products. In addition, the Board may conduct activities designed to increase the efficiency of the honey industry or activities to enhance the image of honey and honey products and the honey industry;

(7) Periodic evaluation by the Board of each plan, program, or project authorized under this part to insure that each plan, program, or project contributes to an effective and coordinated program of research, promotion, consumer education, and industry information and submit such evaluation to the Secretary. If the Board or the Secretary finds that a plan, program, or project does not further the purposes of the Act, then the Board shall terminate such plan, program, or project; and

(8) The Board to enter into contracts or make agreements for the development and carrying out of research, promotion, consumer education, and industry information programs, and pay for the costs of such contracts or agreements with funds received by the Board.

(b) *Independent evaluation.* In addition to any evaluation that may be carried out pursuant to paragraph (a)(7) of this section, the Board shall, not less often than every five years, authorize and fund, from funds otherwise available to the Board, an independent evaluation of the effectiveness of this subpart and other plans, programs, and projects conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

27. Amend § 1240.40 by revising paragraphs (a) and (b) to read as follows:

§ 1240.40 Budget and expenses.

(a) Sixty days in advance of the beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including expenses of the Committee and probable costs of research, promotion, consumer education, and industry information.

(b) The Board is authorized to incur expenses for: research, promotion, consumer education, and industry information; such other expenses for the administration, maintenance, and functioning of the Board and the Committee as may be authorized by the Secretary; any operating reserve established pursuant to § 1240.43; and those administrative costs incurred by the Department specified in paragraph (d) of this section. The funds to cover such expenses shall be paid from assessments collected pursuant to § 1240.41, donations from any person not subject to assessments under this subpart, and other funds available to the Board including those collected pursuant to § 1240.67 and subject to the limitationscontained in that section.

* * * * *

28. Revise § 1240.41 to read as follows:

§ 1240.41 Assessments.

(a) *Domestic honey and honey products.* The assessment rate on honey produced in the United States and handled shall be 1 cent per pound of honey produced.

(b) *Imported honey and honey products.* The assessment rate on honey or honey products imported into the United States shall be 1 cent per pound of honey or honey products imported. The importer of imported honey and honey products shall pay the assessment to the Board through the U.S. Customs Service at the time of entry of such honey and honey products into the United States. Should the U.S. Customs Service fail to collect an assessment from an importer, the importer shall be responsible for the payment of the assessment to the Board.

(c) *General.* (1) Except as provided in § 1240.42 and in paragraphs (c)(2) and (e) of this section, the first handler shall be responsible for the collection of such assessment from the producer and payment thereof to the Board. The first handler shall maintain separate records for each producer's honey handled, including honey produced by said handler.

(2) Producer-packers shall pay to the Board the assessment on all honey or honey products for which they act as first handler, in addition to the assessment owed on honey they produce.

(3) Should a first handler fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board.

(4) Assessments shall be paid to the Board at such time and in such manner as the Board, with the Secretary's approval, directs pursuant to this part. Such regulations may provide for different handler, importer, producer, or producer-packer payment schedules so as to recognize differences in marketing or purchasing practices and procedures.

(d) *Late payment.* (1) There shall be a late-payment charge imposed on any importer, handler, or producer-packer who fails to remit to the Board the total amount for which any such importer, producer, or producer-packer is liable on or before the payment due date established by the Board. The amount of the late-payment charge shall be set by the Board subject to approval by the Secretary.

(2) There shall also be imposed on any importer, handler, or producer-packer subject to a late-payment charge, an additional charge in the form of interest on the outstanding portion of any amount for which the importer, handler, or producer-packer is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(3) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(e) *Honey under loan.* Whenever a loan is made on honey under an USDA loan program, the Secretary shall provide that the assessment be deducted from the proceeds of the loan or the loan deficiency payment, if applicable, and that the amount of such assessment shall be forwarded to the Board, except that the assessment shall not be deducted by the Secretary in the case of a honey marketing cooperative approved by the Department's Commodity Credit Corporation that deducts the assessment from its member producers. As soon as practicable after the assessment is deducted from the loan funds or loan deficiency payment, the Secretary shall provide the producer with proof of payment of the assessment.

(f) *Advance payment.* The Board is authorized to accept advance payment of assessments by handlers, importers, or producer-packers that shall be credited toward any amount for which the handlers, importers, or producer-packers may become liable. The Board is not obligated to pay interest on any advance payment.

29. Amend § 1240.42 as follows:

a. By revising paragraph (a);

b. By removing paragraphs (c) and (f);

c. By redesignating paragraphs (d) and (e) as (c) and (d), respectively; and

d. By revising newly designated paragraphs (c) and (d).

The revisions to § 1240.42 read as follows:

§ 1240.42 Exemption from assessment.

(a) A producer who produces less than 6,000 pounds of honey per year, a producer-packer who produces and handles less than 6,000 pounds of honey or honey products per year, or an importer who imports less than 6,000 pounds of honey or honey products per year shall be exempt from assessment: *Provided*, such honey or honey products are distributed directly through local retail outlets such as roadside stands, farmers markets, groceries, or other outlets as otherwise determined by the Secretary during such year.

* * * * *

(c) If, after a person has been exempt from paying assessments for any year under this section, and such person no longer meets the requirements of this section for an exemption, such person shall file a report with the Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey or honey products produced or imported by such person during the year for which the person claimed the exemption.

(d) The Board may recommend to the Secretary that honey exported from the United States be exempted from the provisions of this subpart and include procedures for the refund of assessments on such honey and such safeguards as may be necessary to prevent improper use of this exemption.

30. Add a new § 1240.44 to read as follows:

§ 1240.44 Voluntary quality assurance program.

(a) The Board is authorized to develop and carry out a voluntary quality assurance program concerning purity standards for honey and honey products. The Secretary shall have the authority to approve or disapprove such program.

(b) The program may include the following components:

(1) The establishment of an official Board seal of approval to be displayed on honey and honey products which meet such standards of purity as are established under the program;

(2) Actions to encourage producers, handlers, and importers to participate in the program;

(3) Actions to encourage consumers to purchase honey and honey products bearing the official seal of approval; and

(4) Periodic inspections by the Secretary, or other parties approved by the Secretary, of honey and honey products of persons who participate in the program.

(c) To be eligible to display the official seal of approval under paragraph (b)(1) of this section on a honey or honey product, a producer, handler, or importer shall participate in the voluntary program described in paragraph (a) of this section.

31. Revise § 1240.50 to read as follows:

§ 1240.50 Reports.

Each handler, importer, producer, or producer-packer subject to this part shall be required to report to the employees of the Board, at such time and in such manner as it may prescribe, such information as may be necessary for the Board to perform its duties. Such reports shall include, but shall not be limited to the following:

(a) For producers or producer-packers: the quantity of honey produced and the total number of bee colonies maintained.

(b) For handlers and producer-packers: the total quantity of honey acquired during the reporting period; the total quantity of honey and honey products handled during such period; the amount of honey acquired from each producer, giving the name and address of each producer; the assessments collected during the reporting period; the quantity of honey processed for sale from a producer-packer's own production; and a record of each transaction for honey on which assessments had already been paid, including a statement from the seller that the assessment had been paid.

(c) For importers: the total quantity of honey and honey products imported during the reporting period and a record of each importation of honey or honey products during such period, giving the quantity, date, country of origin, and port of entry.

(d) For persons who have an exemption from assessments under § 1240.42(a) and (b), such information as deemed necessary by the Board, and approved by the Secretary, concerning the exemption including disposition of exempted honey.

32. Revise § 1240.51 to read as follows:

§ 1240.51 Books and records.

Each handler, importer, producer, producer-packer, or any person who is exempt from assessments under this subpart shall maintain and during normal business hours make available for inspection by employees or agents of the Board or the Secretary, such books and records as are necessary to carry out the provisions of this part, including such records as are necessary to verify any required reports. A member or alternate member of the Board is prohibited from conducting such inspections. Such books and records shall be maintained for two years beyond the fiscal period of their applicability.

33. Revise § 1240.52 to read as follows:

§ 1240.52 Confidential treatment.

All information obtained from the books, records, or reports required to be maintained under §§ 1240.50 and 1240.51 shall be kept confidential by all employees and agents of the Board and all officers and employees of the Department and shall not be disclosed to the public. Only such information as the Secretary deems relevant shall be disclosed to the public and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart: Except that nothing in this subpart shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of a number of handlers or importers subject to this subpart, if such statements do not identify the information furnished by any person;

(b) The publication by direction of the Secretary of the name of any person convicted of violating this subpart, together with a statement of the particular provisions of this subpart violated by such person.

34. Revise § 1240.61 to read as follows:

§ 1240.61 Right of the Secretary.

All fiscal matters, programs or plans, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

35. Amend § 1240.62 as follows:

a. By removing ''he/she'' and adding ''the Secretary'' in its place in paragraph (a);

b. By removing paragraph (c);

c. By redesignating paragraph (d) as (c); and

d. By revising newly designated paragraph (c).

The revisions to § 1240.62 read as follows:

§ 1240.62 Suspension or termination.

* * * * *

(c) The Secretary shall hold a referendum on the request of the Board, or when petitioned by 10 percent or more of the honey producers and importers subject to assessment under this subpart to determine if the honey producers and importers favor termination or suspension of this subpart. A referendum under this paragraph may not be held more than once every two (2) years. If the Secretary determines, through a referendum conducted pursuant to this paragraph, that continuation of this subpart is approved, any referendum otherwise required to be conducted under paragraph (b) of this section shall not be held less than five (5) years after the date the referendum was conducted under this paragraph.

Dated: April 23, 2001.

Kenneth C. Clayton,

Acting Administor, Agricultural Marketing Service.

[FR Doc. 01–10602 Filed 4–30–01; 8:45 am]

BILLING CODE 3410–02–P

Federal Register

Tuesday,
May 1, 2001

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 930

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2000–2001 Crop Year for Tart Cherries; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV01–930–2 FR]

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2000–2001 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes final free and restricted percentages for the 2000–2001 crop year. The percentages are 50 percent free and 50 percent restricted and will establish the proportion of cherries from the 2000 crop which may be handled in normal commercial outlets. The percentages are intended to stabilize supplies and prices, and strengthen market conditions and were recommended by the Cherry Industry Administrative Board (Board), the body which locally administers the marketing order. This action will also authorize the release of reserve pool cherries to replace those purchased for government sales. The marketing order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

EFFECTIVE DATE: This final rule is effective May 2, 2001 through June 30, 2001.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Dawana R. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, MD 20737, telephone: (301) 734–5243, or Fax: (301) 734–5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, or Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under marketing agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, final free and restricted percentages may be established for tart cherries handled by handlers during the crop year. This rule will establish final free and restricted percentages for tart cherries for the 2000–2001 crop year, beginning July 1, 2000, through June 30, 2001. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempt therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The order prescribes procedures for computing an optimum supply and preliminary and final percentages that establish the amount of tart cherries that can be marketed throughout the season. The regulations apply to all handlers of tart cherries that are in the regulated districts. Tart cherries in the free percentage category may be shipped immediately to any market, while restricted percentage tart cherries must be held by handlers in a primary or secondary reserve, or be diverted in accordance with section 930.59 of the order and section 930.159 of the regulations, or used for exempt purposes (and obtaining diversion credit) under section 930.62 of the order and section 930.162 of the regulations. The regulated Districts for this season are: District one—Northern Michigan; District two—Central Michigan; District three—Southwest Michigan; and District seven—Utah. Districts four, five, six, eight, and nine (New York, Oregon, Pennsylvania, Washington, and Wisconsin, respectively) would not be regulated for the 2000–2001 season.

The order prescribes under section 930.52 that, upon adoption of the order, the districts to be regulated shall be those districts in which the average annual production of cherries over the prior three years has exceeded 15 million pounds. A district not meeting the 15 million-pound requirement shall not be regulated in such crop year. Because this requirement was not met in the districts of New York, Oregon, Pennsylvania, Washington, and Wisconsin, handlers in those districts will not be subject to volume regulation during the 2000–2001 crop year. Production from New York was regulated last year. Production from the other four States was not subject to regulation.

Demand for tart cherries at the farm level is derived from the demand for tart cherry products at retail. Demand for tart cherries and tart cherry products tends to be relatively stable from year to year. The supply of tart cherries, by contrast, varies greatly from crop year to crop year. The magnitude of annual fluctuations in tart cherry supplies is one of the most pronounced for any agricultural commodity in the United States. In addition, since tart cherries are processed either into cans or frozen, they can be stored and carried over from crop year to crop year. This creates substantial coordination and marketing problems. The supply and demand for tart cherries is rarely balanced. The primary purpose of setting free and restricted percentages is to balance supply with demand and reduce large surpluses that may occur.

Section 930.50(a) of the order describes procedures for computing an optimum supply for each crop year. The Board must meet on or about July 1 of each crop year, to review sales data, inventory data, current crop forecasts and market conditions. The optimum supply volume shall be calculated as 100 percent of the average sales of the prior three years to which is added a desirable carryout inventory not to exceed 20 million pounds or such other amount as may be established with the approval of the Secretary. The optimum supply represents the desirable volume

of tart cherries that should be available for sale in the coming crop year.

The order also provides that on or about July 1 of each crop year, the Board is required to establish preliminary free and restricted percentages. These percentages are computed by deducting the actual carryin inventory from the optimum supply figure (adjusted to raw product equivalent—the actual weight of cherries handled to process into cherry products) and subtracting that figure from the current year's USDA crop forecast. If the resulting number is positive, this represents the estimated over-production, which would be the restricted percentage tonnage. The restricted percentage tonnage is then divided by the sum of the USDA crop forecast for the regulated districts to obtain percentages for the regulated districts. The Board is required to establish a preliminary restricted percentage equal to the quotient, rounded to the nearest whole number, with the complement being the preliminary free tonnage percentage. If the tonnage requirements for the year are more than the USDA crop forecast, the Board is required to establish a preliminary free tonnage percentage of 100 percent and a preliminary restricted percentage of zero. The Board is required to announce the preliminary percentages in accordance with paragraph (h) of § 930.50.

The Board met on June 22, 2000, and computed, for the 2000–2001 crop year, an optimum supply of 275 million pounds. The Board recommended that the desirable carryout figure be zero pounds. Desirable carryout is the amount of fruit required to be carried into the succeeding crop year and is set by the Board after considering market circumstances and needs. This figure can range from zero to a maximum of 20 million pounds. The Board calculated preliminary free and restricted percentages as follows: The USDA estimate of the crop was 245 million pounds; an 88 million pound carryin added to that estimate results in a total available supply of 333 million pounds. The carryin figure reflects the amount of cherries that handlers actually have in inventory. Subtracting the optimum supply of 275 million pounds from the total estimated available supply results in a surplus of 58 million pounds of tart cherries. An adjustment for changed economic conditions of 35 million pounds was added to the surplus, pursuant to § 930.50 of the order. This adjustment is discussed later in this document. After the adjustment, the resulting total surplus is 93 million pounds of tart cherries. The surplus was divided by the production in the regulated districts (195 million pounds) and resulted in a restricted percentage of 48 percent for the 2000–2001 crop year.The free percentage was 52 percent (100 percent minus 48 percent). The Board unanimously established these percentages and announced them to the industry as required by the order.

The preliminary percentages were based on the USDA production estimate and the following supply and demand information available at the June meeting for the 2000–2001 year:

Optimum supply formula		Millions of pounds
(1) Average sales of the prior three years		275
(2) Plus desirable carryout		0
(3) Optimum supply calculated by the Board at the June meeting		275
Preliminary Percentages:		
(4) USDA crop estimate		245
(5) Plus carryin held by handlers as of July 1, 2000		88
(6) Total available supply for current crop year		333
(7) Surplus (item 6 minus item 3)		58
(8) Economic adjustment to surplus		35
(9) Adjusted surplus (item 7 plus item 8)		93
(10) USDA crop estimate for regulated districts		195
Percentages	Free	Restricted
(11) Preliminary percentages (item 9 divided by item 10 × 100 equals restricted percentage; 100 minus restricted percentage equals free percentage)	52	48

Between July 1 and September 15 of each crop year, the Board may modify the preliminary free and restricted percentages by announcing interim free and restricted percentages to adjust to the actual pack occurring in the industry.

Section 930.50(d) of the order requires the Board to meet no later than September 15 to recommend final free and restricted percentages to the Secretary for approval. The Board met on September 8, 2000, and recommended final free and restricted percentages of 50 percent. The Board recommended that the interim percentages and final percentages be the same. At that time, the Board had available actual production, sales, and carryin inventory amounts to review and made adjustments to the percentages.

The Secretary establishes final free and restricted percentages through the informal rulemaking process. These percentages will make available the tart cherries necessary to achieve the optimum supply figure calculated by the Board. The difference between any final free percentage designated by the Secretary and 100 percent is the final restricted percentage.

The Board used an updated optimum supply figure in determining the final free and restricted percentages. The revised optimum supply is 277 million pounds, instead of 275 million pounds used in June. The 3-year average sales figure computed in June included an estimate of June 2000 sales because actual June sales were not yet available. The 3-year average sales figure used in the final calculations reflects actual sales for each month of the 3-year period.

The actual production reported by the Board was 284 million pounds, which is a 39 million pound increase from the USDA crop estimate of 245 million pounds. The increase in production was due to higher yields in the major producing States (Michigan, New York, Utah, Washington, and Wisconsin). For 2000–2001, production in the regulated districts totaled 232 million pounds, 37 million pounds greater than the USDA estimate of 195 million pounds.

An 87 million pound carryin (actual carryin as opposed to the 88 million pounds originally estimated in June)

was added to the Board's reported production of 284 million pounds, yielding a total available supply for the current crop year of 371 million pounds. The optimum supply of 277 million pounds was subtracted from the total available supply which resulted in a 94 million pound surplus. An adjustment of 22 million pounds for changed economic conditions was added to the surplus, pursuant to § 930.50 of the order. This adjustment is discussed later in this document. After the adjustment, the resulting total surplus is 116 million pounds of tart cherries. The total surplus of 116 million pounds is divided by the 232 million-pound volume of tart cherries produced in the regulated districts. This results in a 50 percent restricted percentage and a corresponding 50 percent free percentage for the regulated districts.

The final percentages are based on the Board's reported production figures and the following supply and demand information available in September for the 2000–2001 crop year:

Optimum supply formula		Millions of pounds
(1) Average sales of the prior three years		277
(2) Plus desirable carryout		0
(3) Optimum supply calculated by the Board at the September meeting		277
Final Percentages:		
(4) Board reported production		284
(5) Plus carryin held by handlers as of July 1, 2000		87
(6) Tonnage available for current crop year		371
(7) Surplus (item 6 minus item 3)		94
(8) Economic adjustment to surplus		22
(9) Adjusted surplus (item 7 plus item 8)		116
(10) Production in regulated districts		232
Percentages	Free	Restricted
(11) Final Percentages (item 9 divided by item 10 × 100 equals restricted percentage; 100 minus restricted percentage equals free percentage)	50	50

As previously mentioned, the Board recommended an economic adjustment in computing both the preliminary and final percentages for the 2000–2001 crop year. This is authorized under § 930.50. These provisions provide that in its deliberations of volume regulation recommendations, the Board consider, among other things, the expected demand conditions for cherries in different market segments and an analysis of economic factors having a bearing on the marketing of cherries. Based on these considerations, the Board may modify its marketing policy calculations to reflect changes in economic conditions.

The order provides that the 3-year average of all sales be used in determining the optimum supply of cherries. The industry wants to export diversion cherries to foreign markets, excluding Canada and Mexico. Exports are used by handlers to meet their diversion requirements. Including this volume of sales in the optimum supply formula, however, results in an overestimate of the volume of tart cherries that can be profitably marketed in unrestricted markets. Thus, the Board recommended adjusting its estimate of surplus cherries by adding exempt export sales (all exports except those going to Canada and Mexico).

This season the Board also recommended that the adjustment reflect the impact that USDA purchases for school lunch and other purposes might have on the sales component of the optimum supply formula. Purchases by USDA are part of the average sales history for the industry. In recent years, USDA has purchased about 17 million pounds of tart cherry products and this has been factored into the optimum supply formula. During the 2000–2001 crop year, USDA expects to purchase about 10 million pounds of frozen and hot pack cherries, and 20 million pounds of dried cherries. The Board determined that the difference between the expected purchases (30 million pounds) during the 2000–2001 crop year and the average purchases of 17 million pounds should not be included in the optimum supply figure.

Therefore, the Board adjusted the expected surplus to 22 million pounds (35 million pounds of exports minus 13 million pounds of USDA purchases). Without this adjustment, the surplus for the 2000–2001 crop year would have been 129 million pounds. Dividing this figure by the Board reported production in the regulated districts (232 million pounds) would have resulted in a 56 percent restricted percentage. Hence, this adjustment resulted in a reduction in the restricted percentage from 56 percent to 50 percent. The 50 percent restricted percentage will allow growers to deliver more of their crop to handlers. This reduction should provide some benefits to growers in Michigan and Utah which are the only States restricted for the 2000–2001 crop year.

By recommending this marketing policy modification, the Board believes that it will provide stability to the marketplace and the industry will be in a better situation in future years. This modification is intended to further facilitate and encourage market expansion. Board members were of the opinion that, if this adjustment is not made, growers could be paid less than their production costs, because handlers would suffer financial losses that will probably be passed on to the growers. In addition, the value of cherries already in inventory could be depressed due to the overabundant supply of available cherries, a result inconsistent with the intent of the order and the Act.

The supplementary information section of the proposed rule stated that the Board also recommended that a like quantity of cherries be released from the reserve to replace cherries that the USDA and other governmental agencies offer to purchase for surplus removal purposes. Based on a comment filed on behalf of the Board, purchases by other government agencies will also be included. The comment, discussed in full later, clarifies that the Board intended that such releases only be made for surplus removal type purchases, and that all government purchases, not only USDA purchases for such purposes should trigger releases.

Simply put, the procurement process consists of three stages. The offer to buy stage, the invitation to bid stage, and the awarding of contracts stage. Such releases will be based on USDA and other government agency announced

offers to purchase tart cherries for surplus removal. The quantities purchased are sometimes less than the quantities mentioned in the announced offers. Actual purchases depend on the prices and quantities offered as well as possible adjustments in user requirements.

Because of the potential difference between the offer and the actual quantity purchased, and the timing of the offer and the invitation to bid and awarding of contracts by the government agency, the Board indicated, in its comment, that the quantity of reserve tonnage released on the basis of surplus removal offers should not be considered as carryover at the first stage of the procurement process. If at the second stage, the quantity for which bids are invited is less than the initial quantity offered, the difference between the two amounts will be considered carryover tonnage. If at the third stage the quantity for which contracts have been awarded and the quantity initially offered to be purchased is less, the difference between the two amounts will be considered carryover for the purpose of computing marketing percentages.

According to the Board, releasing a like quantity of tart cherries from the reserve to replace cherries that are offered to be purchased by USDA and other government agencies for surplus removal, together with the previously mentioned carryover adjustments, will remove the variability and irregularity of such purchases and thereby make the computation of volume regulation percentages more stable and predictable. The Board believes that such releases will equitably spread the benefit of these planned purchases throughout the industry because all handlers regulated under the order, and not just those handlers who successfully bid and sold product to USDA and other government agencies, will benefit from the surplus removal tart cherry purchases.

The Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal will be met by the establishment of a preliminary percentage which releases 100 percent of the optimum supply and the additional release of tart cherries provided under § 930.50(g). This release of tonnage, equal to 10 percent of the average sales of the prior three years sales, is made available to handlers each season. The Board recommended that such release should be made available to handlers the first week of December and the first week of May. Handlers can decide how much of the 10 percent release they would like to receive during the December and May release dates. Once released, such cherries are released for free use by such handler. Approximately 27 million pounds will be made available to handlers this season in accordance with Department Guidelines. This release will be made available to every handler and released to such handler in proportion to its percentage of the total regulated crop handled. If a handler does not take his/her proportionate amount, such amount shall remain in the inventory reserve.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this final regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) will allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opts for such certification, but rather performs regulatory flexibility analyses for any rulemaking that will generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Board and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members (including small business entities) and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 1995/96 through 1999/00, approximately 91 percent of the U.S. tart cherry crop, or 280.5 million pounds, was processed annually. Of the 280.5 million pounds of tart cherries processed, 62 percent was frozen, 29 percent was canned, and 9 percent was utilized for juice.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward. In the ten-year period, 1987/88 through 1997/98, the tart cherry area decreased from 50,050 acres, to less than 40,000 acres. In 1999/00, approximately 90 percent of domestic tart cherry acreage was located in four States: Michigan, New York, Utah and Wisconsin.

Michigan leads the nation in tart cherry acreage with 70 percent of the total. Michigan produces about 75 percent of the U.S. tart cherry crop each year. In 1999/00, tart cherry acreage in Michigan decreased to 28,100 acres from 28,400 acres the previous year.

In crop years' 1987/88 through 1999/00, tart cherry production ranged from a high of 359.0 million pounds in 1987/88 to a low of 189.9 million pounds in 1991/92. The price per pound received by tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuations in the tart cherry industry are national in scope and impact. Growers testified during the order promulgation process that the prices they received often did not come close to covering the costs of production.

They also testified that production costs for most growers range between 20 and 22 cents per pound, which is well above average prices received during the 1993–1995 seasons.

The industry demonstrated a need for an order during the promulgation process of the marketing order because large variations in annual tart cherry supplies tend to lead to fluctuations in prices and disorderly marketing. As a result of these fluctuations in supply

and price, growers realize less income. The industry chose a volume control marketing order to even out these wide variations in supply and improve returns to growers. During the promulgation process, proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because many such growers and handlers had been going out of business due to low tart cherry prices.

They also testified that, since an order would help increase grower returns, this should increase the buffer between business success and failure because small growers and handlers tend to be less capitalized than larger growers and handlers.

Aggregate demand for tart cherries and tart cherry products tends to be relatively stable from year-to-year. Similarly, prices at the retail level show minimal variation. Consumer prices in grocery stores, and particularly in food service markets, largely do not reflect fluctuations in cherry supplies. Retail demand is assumed to be highly inelastic which indicates that price reductions do not result in large increases in the quantity demanded. Most tart cherries are sold to food service outlets and to consumers as pie filling; frozen cherries are sold as an ingredient to manufacturers of pies and cherry desserts. Juice and dried cherries are expanding market outlets for tart cherries.

Demand for tart cherries at the farm level is derived from the demand for tart cherry products at retail. In general, the farm-level demand for a commodity consists of the demand at retail or food service outlets minus per-unit processing and distribution costs incurred in transforming the raw farm commodity into a product available to consumers. These costs comprise what is known as the ''marketing margin.''

The supply of tart cherries, by contrast, varies greatly. The magnitude of annual fluctuations in tart cherry supplies is one of the most pronounced for any agricultural commodity in the United States. In addition, since tart cherries are processed either into cans or frozen, they can be stored and carried over from year-to-year. This creates substantial coordination and marketing problems. The supply and demand for tart cherries is rarely in equilibrium. As a result, grower prices fluctuate widely, reflecting the large swings in annual supplies.

In an effort to stabilize prices, the tart cherry industry uses the volume control mechanisms under the authority of the Federal marketing order. This authority allows the industry to set free and restricted percentages. These restricted percentages are only applied to States or districts with a 3-year average of production greater than 15 million pounds. Currently, only the three districts in Michigan and Utah are subject to restricted percentages.

The primary purpose of setting restricted percentages is an attempt to bring supply and demand into balance. If the primary market is over-supplied with cherries, grower prices decline substantially. The tart cherry sector uses an industry-wide storage program as a supplemental coordinating mechanism under the Federal marketing order. The primary purpose of the storage program is to warehouse supplies in large crop years in order to supplement supplies in short crop years. The storage approach is feasible because the increase in price—when moving from a large crop to a short crop year—more than offsets the cost for storage, interest, and handling of the stored cherries.

The price that growers' receive for their crop is largely determined by the total production volume and carryin inventories. The Federal marketing order permits the industry to exercise supply control provisions, which allow for the establishment of free and restricted percentages for the primary market, and a storage program. The establishment of restricted percentages impacts the production to be marketed in the primary market, while the storage program has an impact on the volume of unsold inventories.

The volume control mechanism used by the cherry industry results in decreased shipments to primary markets. Without volume control the primary markets (domestic) would likely be over-supplied, resulting in low grower prices.

To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been estimated. The estimated model provides a way to see what impacts volume control may have on grower prices. The three districts in Michigan and Utah are the only restricted areas for this crop year and their combined total production is 232 million pounds. A 50 percent restriction means 116 million pounds is available to be shipped to primary markets from these two States. Production levels of 17 million pounds for New York, 4 million pounds for Oregon, 5 million pounds for Pennsylvania, 17 million pounds for Washington, and 10 million pounds for Wisconsin results in an additional 53 million pounds available for primary market shipments.

In addition, USDA requires a 10% release from reserves as a market growth factor. This results in an additional 28 million pounds being available for the primary market. The 116 million pounds from Michigan and Utah, the 53 million pounds from the other producing states, and the 28 million pound release gives a total of 197 million pounds being available for the primary markets. This results in 88 million pounds being restricted and an effective restricted percent of 30.8 percent.

The econometric model is used to estimate grower prices with and without regulation. Without the volume controls, the estimated grower price would be approximately $0.12 per pound. With volume controls, the estimated grower price would increase to approximately $0.20 per pound.

The use of volume controls is estimated to have a positive impact on growers' total revenues. Without regulation, growers' total revenues from processed cherries are estimated to be $34.2 million in 2000–2001. In this scenario, production is 284 million pounds and price, without regulation, is estimated to be $0.12 per pound. With regulation, growers' revenues from processed cherries are estimated to be $43.8 million. In this scenario, 197 million pounds are available for the primary markets with an estimated price of $0.20 per pound. Over the past several seasons, growers received approximately $0.05 per pound for restricted (diverted) cherries.

The results of econometric analysis are subject to some level of uncertainty. As long as the resulting grower prices are $0.15 per pound or greater, then growers' are better off with the regulation. If price with regulation is $0.15 per pound or less, the estimated revenues under no regulation would be similar to the revenues with a 50 percent regulation.

It is concluded that the 50 percent volume control would not unduly burden producers, particularly smaller growers. The 50 percent restriction is only applied to the growers in Michigan and Utah. The growers in the other 5 regulated States will benefit from this restriction. Michigan and Utah produced over 80 percent of the tart cherry crop during the 2000/01 crop year.

Recent grower prices have been as high as $0.20 per pound. At current production levels, the cost of production is reported to be $0.20 to $0.22 per pound. Thus, the estimated $0.20 per pound received by growers with regulation is close to the cost of production. The use of volume controls

is believed to have little or no effect on consumer prices and will not result in fewer retail sales or sales to food service outlets.

Without the use of volume controls, the industry could be expected to continue to build large amounts of unwanted inventories. These inventories have a depressing effect on grower prices. The econometric model shows for every 1 million-pound increase in carryin inventories, a decrease in grower prices of $0.0033 per pound occurs. The use of volume controls allows the industry to supply the primary markets while avoiding the disastrous results of over-supplying these markets. In addition, through volume control, the industry has an additional supply of cherries that can be used to develop secondary markets such as exports and the development of new products.

In discussing the possibility of marketing percentages for the 2000–2001 crop year, the Board considered the following factors contained in the marketing policy: (1) The estimated total production of tart cherries; (2) the estimated size of the crop to be handled; (3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

The Board's review of the factors resulted in the computation and announcement in September 2000 of the free and restricted percentages in this rule (50 percent free and 50 percent restricted).

A positive factor for the cherry industry this year is the unusually large USDA purchases of cherries during this crop year. These USDA sales include a significant amount of frozen cherries and large quantities of dried cherries. It also appears likely that the USDA will offer to buy more cherries later this year using Congressionally appropriated funds designated for purchases of specified commodities, including tart cherries.

A number of industry leaders have suggested that the Board should consider alternative approaches for dealing with this challenging situation which has developed with this year's crop because of (a) the considerably larger actual crop size, (b) the resulting high regulation percentage, and the prospect of a significant secondary reserve, (c) the unusually large USDA purchases, and (d) other factors.

The Board discussed two alternatives. The first alternative was an economic adjustment component for the large USDA purchases. The Board added a separate component for the economic adjustment in the supply regulation calculations for the large USDA purchases.

The average of USDA purchases during the last three years has been 17 million pounds. This year USDA has purchased 10 million pounds of frozen cherries to be delivered during the 2000 crop-marketing year. USDA has also currently offered to buy another approximately 20 million pounds as dried cherries. If all of this is successfully awarded after the bids, this will be a total of 30 million pounds to be delivered this year. This is 13 million pounds more than USDA tart cherry purchases in recent years. Those who support this type of economic adjustment for the USDA demand agree that the additional 17 million pounds over the average could be used as a partial balance to the 35 million pounds of the economic adjustment for the expected export diversion credit volume.

The second alternative is that no change be made in the economic adjustment (with a reserve release if needed). The Board might decide to make no changes in the economic adjustment with the expectation that, if cherries are needed from the reserve to meet the unusually large USDA purchases, a reserve release will be made by the Board when needed during the coming marketing year. Some in the industry stated that even though the crop turned out to be considerably larger than expected in June, and despite the large USDA purchases, it is best to keep the economic adjustment factor at 35 million pounds. With the larger crop size, this would result in a regulation of 57 percent in the regulated districts. With this alternative, if more open market cherries are needed because of the large USDA purchases to date (and/or an expected additional purchase later this year), some of the reserve can be used to replace the free tonnage tart cherries.

As mentioned earlier, the Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

The free and restricted percentages established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

While the benefits resulting from this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements have been previously approved by OMB and assigned OMB Number 0581–0177.

There are some reporting, recordkeeping, and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This rule does not change those requirements.

A proposed rule concerning this action was published in the **Federal Register** on January 10, 2001 (66 FR 1909). Copies of the rule were mailed or sent via facsimile to all Board members and handlers. Finally, the rule was made available through the Internet by the Office of the Federal Register. A 15-day comment period ending on January 25, 2001, was provided to allow

interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. One comment was received from a Michigan grower-handler who supported the Board's recommendation. A second comment was received on behalf of the Board, and recommended several clarifications to the proposal. The commenter stated that the Board intended that reserve releases should be made for USDA and other government intended purchases, not only USDA purchases. The commenter also stated that the intent of the Board was that reserve releases involving intended government purchases should be triggered only by bonus purchases (non-entitlement purchases) of surplus tart cherries; i.e., purchase offers intended to remove surplus supplies from the marketplace. The Board believes that the benefits of purchases to remove surpluses should be shared by each handler in proportion to the quantities of reserve cherries held by the handlers. Purchases by government agencies for other purposes (referred to as entitlement purchases) should continue to be supplied with free tonnage, not reserve tonnage.

The commenter also stated that any reserve inventory released based on surplus removal purchase offers should not adversely impact the Optimum Supply Formula and volume regulation percentages in the subsequent marketing season. If an offer to make a surplus removal purchase results in a reserve release in one crop year and an invitation to submit bids and an awarding of contracts the following year, the tonnage released during the previous year would be considered as carryover tonnage. This would increase the total available supply of cherries for the succeeding year even though most if not all of them will probably be purchased by the government agency, and make the volume regulation for the succeeding year more restrictive than needed. To prevent this from occurring, the commenter recommended various methods of handling the carryover during the procurement steps. If the tonnage offered and released is the same as the quantity purchased, none of the released tonnage should be considered as carryover. The same would be true if the offer had been made but the invitations to bid and the awarding of contracts had not been issued. If the offer to purchase and the amount released is more than the quantity for which contracts were awarded, the difference between the two amounts would not be considered as carryover tonnage. If the offer to purchase and the amount of tonnage released is more than the amount in the invitation to bid or the contracts awarded, the difference in the amounts would be considered carryover tonnage. This reflects how this aspect of the computation of volume regulations will be accomplished. They will help the Board properly administer the inventory releases and the volume control provisions of the marketing order. Supply management is a critical feature of the tart cherry marketing order and it is important that the percentages not be more restrictive than needed.

In summary, it was the Board's intent to limit the types of purchases that would trigger inventory reserve releases to bonus (non-entitlement) surplus removal purchases. Also, the Board did not intend to limit reserve releases to surplus removal purchases made by the USDA. It wanted all government purchases for such purposes to trigger releases of reserve cherries. These requested changes are made in the applicable provisions.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, and the comments received, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers have already received 2000–2001 crop tart cherries from growers. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule, and the comments received have been addressed.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR Part 930 is amended to read as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 930.154 is added to read as follows:

§ 930.154 Reserve release.

If USDA or any other governmental agency initiates an invitation to purchase product as a non-entitlement purchase, the Board shall release a like quantity of cherries from the reserve pool to each handler who has a proportionate share in the reserve.

3. Section 930.252 is added to read as follows:

§ 930.252 Final free and restricted percentages for the 2000–2001 crop year.

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2000, which shall be free and restricted, respectively, are designated as follows: Free percentage, 50 percent and restricted percentage, 50 percent.

Dated: April 24, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–10664 Filed 4–30–01; 8:45 am]

BILLING CODE 3410–02–U

Federal Register

Tuesday,
May 1, 2001

Part IV

Department of the Treasury

Internal Revenue Service
26 CFR Part 1

Community Development Financial Institutions Fund

New Markets Tax Credits and Guidance New Market Tax Credit Program; Proposed Rule and Notice

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–119436–01]

RIN 1545–AY87

New Markets Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document invites comments from the public on issues that the IRS may address in regulations relating to the new markets tax credit under section 45D. A taxpayer that makes a qualified equity investment in a qualified community development entity that has received a new markets tax credit allocation may claim a 5-percent credit for each of the first 3 years and a 6-percent tax credit for each of the next 4 years. All materials submitted will be available for public inspection and copying.

DATES: Written and electronic comments must be submitted by July 2, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–119436–01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–119436–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may send submissions electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/regslist.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions, the Regulations Unit, (202) 622–7180; concerning the proposals, Paul Handleman, (202) 622–3040 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: Section 121(a) of the Community Renewal Tax Relief Act of 2000 (Public Law 106–554) (Act), amended the Internal Revenue Code (Code) to add the new markets tax credit. Section 45D(a)(1) of the Code provides a new markets tax credit on a credit allowance date in an amount equal to the applicable percentage of the taxpayer's qualified equity investment in a qualified community development entity (CDE). The credit allowance date for any qualified equity investment is the date on which the investment is initially made and each of the 6 anniversary dates thereafter. The applicable percentage is 5 percent for the first 3 credit allowance dates and 6 percent for the remaining credit allowance dates.

In addition, section 121(f) of the Act provides that not later than 120 days after the date of the enactment of the Act (Dec. 21, 2000), Treasury will issue guidance specifying how entities will apply for an allocation under section 45D(f)(2); the competitive procedure through which the allocations are made; and the actions that Treasury will take to ensure that the allocations are properly made to appropriate entities. The Secretary of the Treasury has delegated authority for issuing this guidance to the Under Secretary (Domestic Finance), who in turn has delegated the authority to the Director of Treasury's Community Development Financial Institutions Fund (Fund). Simultaneously with the issuance of this advance notice of proposed rulemaking, the Fund is issuing separate guidance on how an entity may apply to become certified as a CDE; how a CDE may apply to receive an allocation of new markets tax credits; the competitive procedure through which the allocations will be made; and the actions that Treasury will take to ensure that the allocations are properly made to appropriate entities.

In developing guidance to assist taxpayers in applying the rules of section 45D, the IRS has identified certain issues that may be considered for guidance or other administrative pronouncements. The IRS invites comments from the public on the following issues and any other issues for which taxpayers believe guidance is needed.

1. The new markets tax credit may be claimed only with respect to qualified equity investments in a CDE. Section 45D(b)(1)(B) requires CDEs to use substantially all of the cash from a qualified equity investment to make qualified low-income community investments.

(a) How should ''substantially all'' be defined for purposes of section 45D(b)(1)(B)? For example, what percentage should constitute ''substantially all'' of the cash from a qualified equity investment?

(b) What amounts should be treated as used to make qualified low-income community investments? For example, how should issuance costs (including underwriter's compensation) and reserves be treated?

(c) How much time under section 45D(b)(1)(B) should a CDE have to invest the cash from a qualified equity investment in a qualified low-income community investment?

(d) How should repayments of equity or principal in respect of a qualified low-income community investment be treated for purposes of section 45D(b)(1)(B)? For example, are there circumstances when a CDE should not be required to reinvest any such amounts in another qualified low-income community investment during the 7-year credit period?

(e) How should the ''substantially all'' requirement under section 45D(b)(1)(B) be administered during the 7-year credit period?

2. Section 45D(b)(3) contains a safe harbor under which the ''substantially all'' requirement of section 45D(b)(1)(B) will be treated as met if at least 85 percent of the aggregate gross assets of the CDE are invested in qualified low-income community investments.

(a) How should ''aggregate gross assets'' be defined under section 45D(b)(3)? For example, are there any assets of a CDE that should not be taken into account for these purposes?

(b) How should the aggregate gross assets of a CDE be determined under section 45D(b)(3)?

(c) How should compliance with the 85 percent test of section 45D(b)(3) be determined? For example, should the CDE be required to satisfy the test throughout the entire 7-year credit period following the issuance of a qualified equity investment? Should any grace periods be provided? If so, what should those grace periods be?

3. As indicated previously, section 45D(b)(1)(B) requires CDEs to use substantially all of the cash with respect to a qualified equity investment to make qualified low-income community investments. Under section 45D(d)(1)(A), the term ''qualified low-income community investment'' includes any capital or equity investment in, or loan to, any qualified active low-income community business. Section 45D(d)(2)(A) provides that the term ''qualified active low-income community business'' means, with respect to any taxable year, any corporation (including a non-profit corporation) or partnership if for the year (i) at least 50 percent of the total gross income of the entity is derived from the active conduct of a qualified business (as defined in section 45D(d)(3)) within any low-income community, (ii) a substantial portion of the use of the tangible property of the entity is within any low-income community, (iii) a substantial portion of

the services performed for the entity by its employees is performed in any low-income community, (iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of the entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of the business, and (v) less than 5 percent of the average of the aggregate unadjusted bases of the property of the entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

(a) How should ''substantial portion'' be defined for purposes of section 45D(d)(2)(A)(ii) and (iii)?

(b) When should the determination be made regarding whether a trade or business constitutes a ''qualified active low-income community business:''? For example, should the determination be made at the time of the investment in the business based on reasonable expectations? Under what circumstances, if any, should an investment in a business lose its status as a ''qualified low-income community investment'' under section 45D(d)(1)(A) by reason of a failure of the business to satisfy the requirements for a qualified active low-income community business under section 45D(d)(2)? Should the degree of control of the CDE over the business be relevant to this determination?

(c) Should special rules be provided under section 45D(d)(2)(A) for determining whether a newly-formed entity meets the requirements for a qualified active low-income community business?

4. Section 45D(d)(1)(C) provides that the term ''qualified low-income community investment'' includes financial counseling and other services to businesses located in, and residents of, low-income communities. What types of services should constitute ''financial counseling and other services'' for these purposes?

5. Section 45D(d)(1)(D) provides that the term ''qualified low-income community investment'' includes any equity investment in, or loan, to a CDE.

(a) What restrictions, if any, should apply to the use by a CDE of the proceeds of a qualified low-income community investment received from another CDE?

(b) Under what circumstances, if any, should an investment by one CDE in another CDE lose its status as a ''qualified low-income community investment'' under section 45D(d)(1)(D)? Should the degree of control of the investing CDE over the other CDE be relevant to this determination?

6. Under section 45D(g)(3)(B), a recapture event (requiring an investor to recapture credits previously taken) may occur with respect to an equity investment in a CDE if substantially all of the proceeds of the investment cease to be used to make investment for qualified low-income community investments.

(a) What circumstances should constitute a change in use of the proceeds of a qualified equity investment that triggers a recapture event under section 45D(g)(3)(B)?

(b) What remedial action(s), if any, should a CDE be permitted to take to avoid recapture under section 45D(g)(3)(B)?

7. Section 45D(i)(1) provides that Treasury may prescribe regulations that limit the new markets tax credit for investments that are directly or indirectly subsidized by other Federal tax benefits (including the low-income housing tax credit under section 42 and the exclusion from gross income under section 103). Under what circumstances should investments be treated as directly or indirectly subsidized by other Federal tax benefits?

8. Section 45D(i)(2) and (4) provides that Treasury may prescribe regulations that prevent the abuse of the purposes of section 45D and that impose appropriate reporting requirements.

(a) What anti-abuse rules may be necessary for carrying out section 45D?

(b) What types of reporting requirements should be imposed for carrying out section 45D?

Marlene Gross,

Deputy Associate Chief Counsel (Passthroughs and Special Industries).

[FR Doc. 01–10544 Filed 4–30–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Guidance, New Markets Tax Credit Program

AGENCIES: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Guidance, New Markets Tax Credit Program.

SUMMARY: Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (the ''Act''), as enacted by section 1(a)(7) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554, December 21, 2000), amended the Internal Revenue Code (the ''IRC'') by adding IRC section 45D, New Markets Tax Credit. Section 45D requires the Secretary of the Treasury (''Treasury'') to establish a program that will provide an incentive to investors in the form of a tax credit over seven years, which is expected stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities. Section 45D, among other things, also requires the Secretary to issue guidance on (i) how entities may apply to receive allocations of New Markets Tax Credits (''NMTCs''); (ii) the competitive procedure through which such allocations will be made; and (iii) the actions that will be taken to ensure that proper allocations are made to appropriate entities. The Secretary has delegated such authority to the Under Secretary (Domestic Finance), who has in turn delegated such authority to the Director of the Community Development Financial Institutions Fund (the ''Fund''). Pursuant to section 121(f) of the Act, this document provides guidance on how an entity may apply to become certified as a ''qualified community development entity'' (''CDE''), how a CDE may apply to receive an allocation of NMTCs, the competitive procedure through which such allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities.

In addition, this Guidance seeks comment from the public as to certain application and allocation issues that the Fund may address in subsequent guidance (see Section VII, ''Pending Issues,'' for further detail). All material submitted in response to this Guidance will be available at the Fund for public inspection and copying.

As provided by IRC section 45D(i), Treasury is authorized to prescribe regulations relating to the NMTC Program as may be appropriate, including regulations that (i) limit NMTCs for investments that are directly or indirectly subsidized by other Federal tax benefits, including the Low-Income Housing Tax Credit under IRC section 42, and the exclusion from gross income for certain tax-exempt bond interest under IRC section 103; (ii) prevent abuse of the purposes of IRC section 45D; (iii) provide rules for determining whether the ''Substantially All Test'' found at IRC section 45D(b)(1)(B) is treated as met; (iv) impose appropriate reporting requirements; and (v) apply IRC section 45D to newly formed entities.

Simultaneously with the issuance of this Guidance, the Internal Revenue Service (''IRS'') is issuing an Advance Notice of Proposed Rulemaking (the ''ANPRM'') that invites comments from the public on certain issues that the IRS may address in regulations relating to the NMTC Program and IRC section 45D.

The Fund has the authority to allocate to CDEs the authority to issue to their investors, for calendar year 2001, up to the aggregate amount of $1 billion in equity as to which NMTCs may be claimed; for each of years 2002 and 2003, up to $1.5 billion in equity as to which NMTCs may be claimed; for each of years 2004 and 2005, up to $2 billion; and for each of years 2006 and 2007, up to $3.5 billion. Amounts not allocated in any calendar year may be carried over to succeeding years, to the extent provided in IRC § 45D(f)(3).

This Guidance does not solicit applications either for CDE certification or allocations of NMTCs. The Fund expects, in the future, to issue additional guidance that will solicit CDE certification applications and applications for NMTC allocations.

DATES: Written and electronic comments on the issues set forth below in Section VII, ''Pending Issues,'' must be submitted to the Fund by July 2, 2001.

ADDRESSES: Comments in response to the issues set forth below in Section VII, ''Pending Issues,'' should be sent by mail to: Acting Director, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; by e-mail to *cdfihelp@cdfi.treas.gov*; or by facsimile at (202) 622–8244. This is not a toll free number.

FOR FURTHER INFORMATION CONTACT: Information regarding the Fund and its programs may be downloaded from the Fund's web site at *http://www.treas.gov/cdfi.*

SUPPLEMENTARY INFORMATION:

I. Definitions

Allocation Agreement: means a formal agreement, by and between the Fund and a CDE that has been provided with a NMTC allocation, that specifies the terms and conditions of such NMTC allocation.

Community Development Entity or *CDE:* see Qualified Community Development Entity, below.

Community Development Financial Institution or *CDFI:* means an entity that has been certified by the Fund as meeting the criteria set forth in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702). For further details, refer to the CDFI Program regulations set forth at 12 CFR 1805.201.

Comprehensive Investment Plan: means a document, to be included in a CDE's application for an allocation of NMTCs, that provides historical information and a minimum five-year investment strategy that offers a detailed discussion of (a) the applicant's track record in making investments and promoting community development; (b) the applicant's financial and operational capacity, including its ability to track NMTC investment proceeds; (c) the capacity, skills, and experience of its management team; (d) an analysis of its target market; (e) its plan for raising capital with a NMTC allocation; and (f) its strategy for using the proceeds from such an allocation (including its financial and community development underwriting criteria).

Credit Allowance Period: means the seven-year period beginning on the date on which a Qualified Equity Investment, as hereinafter defined, is initially made.

Low-Income Community: means any population census tract in which (A) the poverty rate is at least 20 percent, or (B)(i) in the case of a tract not located within a Metropolitan Area (as hereinafter defined), the median family income for such tract does not exceed 80 percent of statewide median family income, or (ii) in the case of a tract located within a Metropolitan Area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the Metropolitan Area median family income. With respect to (B) in the preceding sentence, possession-wide median family income shall be used (in lieu of statewide income) in assessing the status of census tracts located within a possession of the United States. Upon application by an entity for certification as a CDE, the Fund may designate under IRC section 45D(e)(2) an area within a census tract

as a Low-Income Community if (A) the boundary of the area is continuous; (B) the area would otherwise meet the definition of a Low-Income Community if it were a census tract; and (C) there is inadequate access to investment capital in the area (as demonstrated by studies, surveys, or other analyses provided by the applicant). In the case of an area that is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of determining poverty areas) shall be used for purposes of defining poverty rates and median family incomes. For the purpose of determining whether a business meets the definition of Qualified Active Low-Income Community Business, as hereinafter defined, the CDE shall use the most recent census or other data that is available at the time of its investment in the business.

Low-Income Persons: means individuals residing in Low-Income Communities having an income, adjusted for family size, of not more than (i) for non-Metropolitan Areas, 80 percent of the statewide median family income; and (ii) for Metropolitan Areas, the greater of (A) 80 percent of the statewide median family income or (B) 80 percent of the Metropolitan Area median family income.

Metropolitan Area: means an area designated as such by the Office of Management and Budget pursuant to 44 U.S.C. 3504(e) and 31 U.S.C. 1104(d) and Executive Order 10253 (3 CFR 1949–1953 Comp., p. 758), as amended.

Qualified Active Low-Income Community Business: means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if, for such taxable year: (i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a Qualified Business within any Low-Income Community; (ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any Low-Income Community; (iii) a substantial portion of the services performed for such entity by its employees are performed in any Low-Income Community; (iv) less than five percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in IRC section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business; and (v) less than five percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in IRC section 1397C(e)). For this purpose, a proprietorship may be considered a Qualified Active Low-Income Community Business if the business would meet the requirements of the preceding sentence if it were incorporated. In addition, the term Qualified Active Low-Income Community Business includes any trade or business, including any program, department, or division of a business, that would qualify as a Qualified Active Low-Income Community Business if such trade or business were separately incorporated.

Qualified Business: means any business that meets the definition found at IRC section 1397C(d), except that (i) in lieu of applying IRC section 1397C(d)(2)(B), the rental to others of real property located in any Low-Income Community shall be treated as a Qualified Business if there are substantial improvements located on such property, and (ii) IRC section 1397C(d)(3) (relating to the rental of tangible personal property) shall not apply. The rental to others of residential rental property (as defined in IRC section 168(e)(2)(A)) is not a Qualified Business.

Qualified Community Development Entity or *CDE:* means any domestic corporation or partnership if (A) the primary mission of the entity is serving, or providing investment capital for, Low-Income Communities or Low-Income Persons; (B) the entity maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity; and (C) the entity is certified by the Fund as a CDE. A CDE may also be a limited liability company (''LLC'') that meets the above tests. SSBICs, as hereinafter defined, and CDFIs will be deemed to be CDEs in the manner hereinafter set forth.

Qualified Equity Investment: means any equity investment in a CDE if (A) such investment is acquired by the investor at its original issue (directly or through an underwriter) solely in exchange for cash; (B) substantially all of such cash is used by the CDE to make Qualified Low-Income Community Investments; and (C) the investment is designated by the CDE as a Qualified Equity Investment. Qualified Equity Investment also includes the purchase of a Qualified Equity Investment from a prior holder, to the extent provided in IRC section 45D(b)(4). Qualified Equity Investment does not include any equity investment issued by a CDE more than five years after the date the CDE receives a NMTC allocation. For purposes of this Guidance, ''equity investment'' means (A) any stock (other than nonqualified preferred stock as defined in IRC section 351(g)(2)) in a corporation and (B) any capital interest in a partnership. An LLC shall be deemed to be either a corporation or a partnership, according to the LLC's treatment under federal tax law.

Qualified Low-Income Community Investment: means (A) any capital or equity investment in, or loan to, any Qualified Active Low-Income Community Business; (B) the purchase from a CDE of any loan made by such entity that is a Qualified Low-Income Community Investment; (C) financial counseling and other services to businesses located in, and residents of, Low-Income Communities; and (D) any equity investment in, or loan to, any CDE.

Specialized Small Business Investment Company or *SSBIC:* is defined in IRC section 1044(c)(3). For further information, contact Austin Belton, Small Business Administration (''SBA''), at 202/205–7027.

II. The New Markets Tax Credit Program: How the Credit Works

By providing an incentive in the form of a tax credit over seven years, NMTCs are intended to stimulate the investment of $15 billion in new private capital in CDEs that, in turn, will make investments in eligible businesses in distressed urban, rural, and Native American communities, thus facilitating economic and community development.

Through the NMTC Program, an entity may apply to the Fund to be certified as a CDE (see Section IV, ''Eligibility,'' for further detail). Nonprofit entities and for-profit entities may be certified as CDEs by the Fund. Only CDEs that are for-profit entities are eligible to compete for, and receive, an allocation of authority to issue Qualified Equity Investments with respect to which investors will be entitled to claim NMTCs. A taxpayer (including, for example, individuals, corporations, partnerships, and investment funds) that makes a Qualified Equity Investment in a CDE that has received a NMTC allocation from the Fund may claim a five percent tax credit on the investment amount for each of the first three years and a six percent tax credit for each of the next four years. If the CDE fails to issue equity investments to use all or part of its NMTC allocation within five years from the date of the Allocation Agreement, the unused portion of the allocation will terminate.

IRC section 45D(b)(1)(B) requires that the CDE use ''substantially all'' of the cash raised as a result of its NMTC

allocation to make Qualified Low-Income Community Investments (the ''Substantially All Test''). The Substantially All Test will be treated as met if at least 85 percent of the aggregate gross assets of the CDE are invested in Qualified Low-Income Community Investments (the ''Safe Harbor Test,'' found at IRC section 45D(b)(3)). If the Safe Harbor Test is met, the CDE need not trace the use of cash from the particular stock issuance (or other equity investment) with respect to which the NMTCs are claimed. The IRS may address issues related to the Substantially All Test in subsequent regulations.

Under IRC section 45D(d)(1)(A), Qualified Low-Income Community Investment includes any capital or equity investment in, or loan to, any Qualified Active Low-Income Community Business. Please note, however, that under IRC section 45D(f)(2)(B), the Fund will give priority when evaluating whether to award a CDE with a NMTC allocation to any CDE that intends to satisfy the Substantially All Test by making Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to the CDE (within the meaning of IRC section 267(b) or section 707(b)(1)) hold the majority equity interest (see Section V, ''Evaluation,'' below).

If selected for an allocation of NMTCs, a CDE will receive a Notice of NMTC Allocation, which will set forth the amount of the CDE's NMTC allocation and describe the general terms and conditions that will govern said allocation. The general terms and conditions will include, among others, the requirement that the CDE enter into an Allocation Agreement with the Fund for the duration of the Credit Allowance Period and comply with certain reporting requirements so that the Fund can monitor the CDE's compliance with IRC section 45D, this Guidance, and subsequent guidance and/or regulations. The CDE may not issue Qualified Equity Investments to its investors until such time as the Fund and the CDE have executed the Allocation Agreement.

Under IRC section 45D(g)(3), the following constitute events of recapture: (i) the CDE ceases to qualify as a CDE; (ii) the CDE ceases to meet the Substantially All Test; or (iii) the CDE redeems Qualified Equity Investments during the Credit Allowance Period. The IRS may address recapture issues in subsequent regulations.

III. Applications

At a future date, the Fund will make available two application forms: (i) An application for CDE certification and (ii) an application for an allocation of NMTCs. An entity may submit these applications concurrently or separately (provided, however, that if they are submitted separately, the CDE certification application must be submitted prior to the submission of an allocation application). The CDE certification application form will require that the applicant provide, among other items, specific information relating to its primary mission and its accountability to residents of Low-Income Communities, as described below. The NMTC allocation application form will require that the applicant provide, among other items, a Comprehensive Investment Plan. Further details regarding eligibility and other program requirements will be set forth in the application packets, which will be made available at a future date.

IV. Eligibility

IRC section 45D(c) specifies the eligibility requirements that each entity must meet in order to be certified by the Fund as a CDE. At the time an entity submits its CDE certification application, the entity must be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. As described above, a CDE is any domestic corporation or partnership (including LLCs) if (A) the primary mission of the entity is serving, or providing investment capital for, Low-Income Communities or Low-Income Persons; (B) the entity maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity; and (C) the entity is certified by the Fund as a CDE.

SSBICs and CDFIs are automatically eligible to be designated as CDEs, but must complete abbreviated application materials in order to receive a CDE designation from the Fund. Any entity, regardless of tax status, may apply to the Fund for designation as a CDE; however, only for-profit CDEs are eligible to apply for allocations of NMTCs.

To comply with the primary mission requirement, an entity must (a) provide organizational documents that, in the opinion of the Fund, clearly evidence a mission of directly serving or providing investment capital for Low-Income Communities or Low-Income Persons; and (b) be able to demonstrate that at least 60 percent of its activities are dedicated to directly serving Low-Income Communities or Low-Income Persons. In order to be certified as a CDE, an entity must demonstrate that it maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity. In the case where a CDE is a limited partnership or an LLC, this accountability requirement may be met if residents of Low-Income Communities are represented on the governing or advisory board of the entity's managing general partner or other controlling entity (such as a nonprofit CDFI). A CDE may maintain accountability to residents of Low-Income Communities by having board members who are directly representative of the Low-Income Community (i.e., they are Low-Income Persons or other residents of the Low-Income Community).

A CDE is not limited in the number of Low-Income Communities that it may serve or propose to serve.

A CDE certification will last for a period of 15 years unless it is revoked or terminated by the Fund. To maintain its CDE certification, a CDE must certify annually during this period that the CDE has continued to meet CDE certification requirements.

Previous awardees under the Fund's Community Development Financial Institutions Program (the ''CDFI Program'') and/or the Bank Enterprise Award Program (the ''BEA Program'') are eligible to apply for allocations of NMTCs, but such applicants are not ensured NMTC allocations. Further, the Fund reserves the right, in its sole discretion, to declare a NMTC Program applicant to be ineligible for a NMTC allocation if the applicant is an awardee under the CDFI Program and/or the BEA Program and is out of compliance with the agreements governing said award(s). Similarly, the Fund reserves the right, in its sole discretion, after consultation with the SBA, to declare a NMTC applicant to be ineligible for a NMTC allocation if the applicant is no longer certified as a CDE by virtue of it no longer being deemed a SSBIC by the SBA.

A CDE that is an insured depository institution may not receive a BEA Program award for the provision of any financial assistance or services that are also Qualified Low-Income Community Investments if such assistance or services were provided with cash proceeds of a Qualified Equity Investment for which the investor received the benefits of NMTCs. A CDE that is an insured depository institution may not receive both a BEA Program award and a NMTC allocation for the same equity investment in a CDE.

V. Evaluation

All applications for allocations of NMTCs will be reviewed for eligibility and completeness. If determined to be eligible and complete, each application for a NMTC allocation will be evaluated by the Fund on a competitive basis to determine the applicant's ability and strategy for carrying out its Comprehensive Investment Plan and the extent to which the applicant will maximize the effective use of the NMTC allocation. The Fund will conduct the substantive review of said applications in accordance with the criteria and procedures described in this Guidance, and subsequent guidance or regulations that the Fund may issue, which will include a description of the scoring system to be used by the Fund in the evaluation of applications.

Phase One

In Phase One of the substantive review, each Fund reader will evaluate applications for NMTC allocations and award points to be distributed among the following categories of information (or others that the Fund deems appropriate):

(a) Institutional investment and community development track record;

(b) Financial and operational capacity;

(c) Capacity, skills and experience of the management team;

(d) Market analysis;

(e) Capitalization strategy;

(f) Investment strategy;

(g) Projected community development activities and projected impact.

In addition, as provided by IRC section 45D(f)(2), the Fund will give preference to any CDE that (i) has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or (ii) intends to satisfy the Substantially All Test by making Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to the CDE (within the meaning of IRC section 267(b) or section 707(b)(1)) hold the majority equity interest. For purposes of (i), the Fund will also consider the record of the entity controlling the CDE. A record of having successfully provided capital or technical assistance to disadvantaged businesses or communities may be demonstrated either by the past actions of the CDE itself or by an entity controlling the CDE (e.g., where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities, or where the new CDE is controlled by a CDFI or SSBIC).

Phase Two

Once the initial evaluation is completed, the Fund will determine which applications will receive further consideration for allocations based on application scores, written recommendations of individuals who performed initial reviews based on the above stated categories of information, and the amount of NMTCs available. Applicants that advance to Phase Two may receive a site visit and/or an interview (by telephone or in person) by a Fund reviewer for the purpose of obtaining clarifying or confirming information. At this point in the process, applicants may be required to submit additional information about their applications in order to assist the Fund with its final evaluation. After conducting such site visits and/or telephone interviews, the Fund reviewers will evaluate all applications in accordance with the evaluation criteria outlined above and prepare recommendation memoranda containing recommendations on the amount of the NMTC allocation, if any, that should be provided to each applicant.

A final review panel of Fund staff will consider the reviewers' recommendation memoranda and make final recommendations to the Fund's selecting official. In making its recommendations, the final review panel also may consider the institutional diversity (e.g., size, type, focus, affiliation), geographic diversity of applicants, and other factors that the Fund deems appropriate.

In the case of an applicant that has previously received financial or technical assistance awards from the Fund under the CDFI Program or the BEA Program, the Fund will consider the applicant's level of success in meeting its performance goals (if applicable), financial soundness covenants (if applicable), and other requirements contained in its existing award agreement(s) with the Fund.

The Fund's selecting official will make the final allocation determination based on the applicant's file, including, without limitation, reader and reviewer recommendations and the panel's recommendation, and the amount of NMTCs available.

In the case of regulated CDEs, the Fund's selecting official reserves the right to take into consideration the views of the appropriate Federal banking agencies. In the case of applicants that are also SSBICs, the Fund reserves the right to consult with the SBA.

The Fund reserves the right to change these evaluation procedures, upon public notice, if the Fund deems it appropriate.

VI. Monitoring

The Fund will collect information, on at least an annual basis, from each CDE that is a recipient of a NMTC allocation and/or a Qualified Low-Income Community Investment, including such audited financial statements and opinions of counsel as the Fund deems necessary or desirable, in its sole discretion. The Fund shall use such information to monitor each CDE's compliance with the Fund's requirements for certification as a CDE and the CDE's compliance with the provisions of its Allocation Agreement, and to determine, among other matters, whether substantially all of the CDE's equity raised through its NMTC allocation is used to make Qualified Low-Income Community Investments. The Fund will also use such information to assess the impact of the NMTC Program on Low-Income Communities. The Allocation Agreement shall include provisions setting forth the CDE's reporting requirements.

VII. Pending Issues

In developing guidance to assist potential applicants to the NMTC Program, the Fund has identified certain issues that may be addressed in additional guidance and/or regulations. The Fund invites comments from the public on these and any other issues on which the public believes guidance is particularly needed.

1. IRC section 45D(f)(2) requires that in making allocations of NMTCs, priority be given to: (a) any applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities or (b) any applicant which intends to satisfy the Substantially All Test by making Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to the CDE hold a majority equity interest.

(a) How should the Fund implement this policy? For instance, should the Fund incorporate preference points into the scoring? Should the Fund make awards to organizations that are deemed competitive and meet one or both of these criteria before providing an allocation to any other applicant?

(b) What specific factors should the Fund consider when evaluating whether an applicant meets the requirements for priority treatment?

(c) Should more weight be given to one priority category over the other and should an applicant be allowed to

receive preference points under both priority categories?

2. Should there be limits as to the amount of a NMTC allocation that may be awarded to an applicant in a calendar year?

3. During the evaluation process of NMTC applications, the Fund will request that applicants provide information on their track records for providing capital or technical assistance to Low-Income Communities and disadvantaged businesses and the effect that such investment/technical assistance has had on such Low-Income Communities or businesses. Applicants may also be required to describe the social underwriting criteria that they will use when deciding which companies to invest in. If an applicant receives a NMTC allocation, it will be required to report to the Fund on the ways in which the Qualified Equity Investments are used to benefit Low-Income Communities.

(a) What indicators should the Fund assess when evaluating the community development impact of an applicant's prior activities or the social underwriting criteria of its loan policies?

(b) On what basis should the Fund judge how ''successfully'' capital or technical assistance has been provided?

(c) What information should the Fund request from allocation recipients as indicators for evaluating the effectiveness of the NMTC Program (e.g., number of jobs created or retained, increases in revenues of businesses receiving Qualified Low-Income Community Investments, rates of return to investors from Qualified Equity Investments, or number of clients served at facilities that are developed)?

Authority: Consolidated Appropriations Act of 2001, Pub. L. 106–554.

Dated: April 20, 2001.

Jeffrey C. Berg,

Acting Director for the Community Development Financial Institutions Fund.

[FR Doc. 01–10545 Filed 4–30–01; 8:45 am]

BILLING CODE 4810–70–P

Reader Aids

Federal Register

Vol. 66, No. 84

Tuesday, May 1, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@listserv.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, MAY

21631–21850 1

CFR PARTS AFFECTED DURING MAY

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 MAY 1, 2001

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic coastal fisheries cooperative management—
American lobster; Federal moratorium on Rhode Island; published 3-6-01
Northeastern United States fisheries—
Northeast multispecies; published 3-21-01

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Missouri; published 5-1-01
Oklahoma; published 5-1-01

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
Ethics and conduct of agency employees; CFR part removed; published 5-1-01

PENSION BENEFIT GUARANTY CORPORATION
Single-employer plans:
Allocation of assets—
Interest assumptions for valuing and paying benefits; published 4-13-01

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
General Electric Co.; published 3-27-01
Learjet; published 4-16-01
MD Helicopters Inc.; published 4-16-01

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcoholic beverages:
Tax-free alcohol; distribution and use; published 3-2-01
Organization, functions, and authority delegations:
Appropriate ATF officers; published 5-1-01

TREASURY DEPARTMENT
Customs Service
Tariff-rate quotas:
Worsted wool fabrics; licenses; published 5-1-01
Uruguay Round Agreements Act (URAA):
Textile and apparel products; rules of origin; published 5-1-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Cotton classing, testing, and standards:
Classification services to growers; 2001 user fees; comments due by 5-8-01; published 4-23-01
Olives grown in—
California; comments due by 5-7-01; published 3-6-01
Spearmint oil produced in Far West; comments due by 5-9-01; published 4-24-01

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico fishery management plans; generic amendment; comments due by 5-7-01; published 3-7-01

CONSUMER PRODUCT SAFETY COMMISSION
Poison prevention packaging:
Child-resistant packaging requirements—
Household products containing low-viscosity hydrocarbons; comments due by 5-11-01; published 4-11-01

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Sterilization facilities; ethylene oxide; comments due by 5-7-01; published 3-6-01
Air pollution; standards of performance for new stationary sources:
Electric utility and industrial-commercial-institutional steam generating units; comments due by 5-10-01; published 4-10-01
Air quality implementation plans; approval and promulgation; various States:
Missouri; comments due by 5-7-01; published 4-6-01
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Chlorothalonil; comments due by 5-11-01; published 3-12-01
Radiation protection programs:
Rocky Flats Environmental Technology Site—
Transuranic radioactive waste for disposal at Waste Isolation Pilot Plant; waste characterization program documents availability; comments due by 5-7-01; published 4-5-01
Water supply:
National primary drinking water regulations—
Arsenic; maximum containment level goal, etc.; effective date delay; comments due by 5-7-01; published 4-23-01

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Americans with Disabilities Act; implementation—
Telecommunications relay services; coin sent-paid calls; comments due by 5-7-01; published 4-5-01
Radio stations; table of assignments:
Arizona and Louisiana; comments due by 5-7-01; published 4-4-01
Illinois; comments due by 5-7-01; published 3-28-01
Louisiana; comments due by 5-7-01; published 3-28-01
Television broadcasting:
Digital television broadcast signals; carriage of transmissions by cable operators; comments due by 5-10-01; published 3-26-01
Multipoint distribution service; two-way transmissions; Basic Trading Area authorization holders; five-year build-out requirement extension by two years; comments due by 5-9-01; published 4-30-01

FEDERAL ELECTION COMMISSION
Political committee; definition; comments due by 5-7-01; published 3-7-01

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Biological products:
Human cellular and tissue-based products manufacturers; current good tissue practice; inspection and enforcement; comments due by 5-8-01; published 1-8-01

INTERIOR DEPARTMENT
Land Management Bureau
Minerals management:
Mining claims under general mining laws; surface management; proposed suspension of rules; comments due by 5-7-01; published 3-23-01

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Hoover's woolly-star; delisting; comments due by 5-7-01; published 3-6-01

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Arkansas; comments due by 5-7-01; published 4-6-01

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
Wisconsin; comments due by 5-7-01; published 3-6-01
Uninspected vessels:
Towing vessels; fire suppression systems and voyage planning; comments due by 5-8-01; published 2-23-01

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 5-7-01; published 4-5-01
Bell; comments due by 5-7-01; published 3-8-01
Boeing; comments due by 5-7-01; published 3-6-01
Boeing; correction; comments due by 5-7-01; published 3-16-01
Construcciones Aeronauticas, S.A. (CASA); comments due by 5-10-01; published 4-10-01
General Electric Co.; comments due by 5-7-01; published 3-6-01
Honeywell International, Inc.; comments due by 5-11-01; published 3-12-01

McDonnell Douglas; comments due by 5-7-01; published 3-6-01
Sikorsky; comments due by 5-7-01; published 3-6-01
Airworthiness standards:
Special conditions—
Gulfstream Model GV airplanes; comments due by 5-7-01; published 4-6-01
Class E airspace; comments due by 5-7-01; published 3-23-01

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol, tobacco, and other excise taxes:
Tobacco products—
Tobacco products and cigarette papers and tubes shipped from Puerto Rico; on-site supervision and forms eliminated; cross reference; comments due by 5-7-01; published 3-8-01

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:
Veterans law judges; new title for Board members; comments due by 5-7-01; published 3-6-01
Medical benefits:
Compensated Work Therapy/Transitional Residence Program; comments due by 5-7-01; published 3-6-01

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 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 132/P.L. 107–6

To designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the ''Goro Hokama Post Office Building''. (Apr. 12, 2001; 115 Stat. 8)

H.R. 395/P.L. 107–7

To designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the ''Ronald W. Reagan Post Office of West Melbourne, Florida''. (Apr. 12, 2001; 115 Stat. 9)

Last List March 21, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to http://hydra.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 2001

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
May 1	May 16	May 31	June 15	July 2	July 30
May 2	May 17	June 1	June 18	July 2	July 31
May 3	May 18	June 4	June 18	July 2	August 1
May 4	May 21	June 4	June 18	July 3	August 2
May 7	May 22	June 6	June 21	July 6	August 6
May 8	May 23	June 7	June 22	July 9	August 6
May 9	May 24	June 8	June 25	July 9	August 7
May 10	May 25	June 11	June 25	July 9	August 8
May 11	May 29	June 11	June 25	July 10	August 9
May 14	May 29	June 13	June 28	July 13	August 13
May 15	May 30	June 14	June 29	July 16	August 13
May 16	May 31	June 15	July 2	July 16	August 14
May 17	June 1	June 18	July 2	July 16	August 15
May 18	June 4	June 18	July 2	July 17	August 16
May 21	June 5	June 20	July 5	July 20	August 20
May 22	June 6	June 21	July 6	July 23	August 20
May 23	June 7	June 22	July 9	July 23	August 21
May 24	June 8	June 25	July 9	July 23	August 22
May 25	June 11	June 25	July 9	July 24	August 23
May 29	June 13	June 28	July 13	July 30	August 27
May 30	June 14	June 29	July 16	July 30	August 28
May 31	June 15	July 2	July 16	July 30	August 29