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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–354–AD; Amendment 39–12279; AD 2001–12–23]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–200, 747–300, 747SP, and 747SR Series Airplanes Powered by Pratt & Whitney JT9D–3 and JT9D–7 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–100, 747–200, 747–300, 747SP, and 747SR series airplanes powered by Pratt & Whitney JT9D–3 or JT9D–7 series engines, that currently requires inspections of the vertical chords of the aft torque bulkhead of the outboard nacelle struts, and corrective action, if necessary. That AD also gives an optional modification of the vertical chords, which ends the inspections. This amendment requires the previously optional modification. The actions specified by this AD are intended to prevent cracking of the vertical chords adjacent to the lower spar fitting, which could result in separation of the diagonal brace load path. Continued operation with a separated diagonal brace load path increases loads on the upper link, midspar fitting, and dual side links, which could result in separation of the strut and engine from the airplane.

DATES: Effective July 27, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 747–54A2201, dated September 28, 2000, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 13, 2000 (65 FR 70781, November 28, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–23–25, amendment 39–11998 (65 FR 70781, November 28, 2000), which is applicable to certain Boeing Model 747–100, 747–200, 747–300, 747SP, and 747SR series airplanes powered by Pratt & Whitney JT9D–3 and JT9D–7 series engines, was published in the **Federal Register** on December 21, 2000 (65 FR 80388). The action proposed to continue to require inspections of the vertical chords of the aft torque bulkhead of the outboard nacelle struts, and corrective action, if necessary. The action also proposed to require a previously optional modification of the vertical chords, which would end the inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 366 airplanes of the affected design in the worldwide fleet. The FAA estimates that 115 airplanes of U.S. registry will be affected by this AD.

The detailed visual inspections that are currently required by AD 2000–23–25 take approximately 18 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the FAA estimates that the cost impact of these inspections on U.S. operators is $124,200, or $1,080 per airplane, per inspection cycle.

The ultrasonic and eddy current inspections that are currently required by AD 2000–23–25 take approximately 18 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the FAA estimates that the cost impact of these inspections on U.S. operators is $124,200, or $1,080 per airplane, per inspection cycle.

The new modification that is required by this AD will take approximately 48 work hours per airplane, at an average labor rate of $60 per work hour. Required parts will cost approximately $10,000 per airplane. Based on these figures, the FAA estimates that the cost impact of the new modification on U.S. operators is $1,481,200, or $12,880 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or new requirements of this AD, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this 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) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is

contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11998 (65 FR 70781, November 28, 2000), and by adding a new airworthiness directive (AD), amendment 39–12279, to read as follows:

2001–12–23 Boeing: Amendment 39–12279. Docket 2000–NM–354–AD. Supersedes AD 2000–23–25, Amendment 39–11998.

Applicability: Model 747–100, 747–200, 747–300, 747SP, and 747SR series airplanes powered by Pratt & Whitney JT9D–3 or JT9D–7 series engines; as listed in Boeing Alert Service Bulletin 747–54A2201, dated September 28, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the vertical chords adjacent to the lower spar fitting, which could result in separation of the diagonal brace load path and lead to separation of the strut and engine from the airplane, accomplish the following:

Restatement of Requirements of AD 2000–23–25: Inspections

(a) Except as provided by paragraph (b) of this AD, prior to the accumulation of 14,000 total flight cycles, or within 90 days after December 13, 2000 (the effective date of AD 2000–23–25), whichever occurs later: Accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Perform a detailed visual inspection to detect cracking of the vertical chords of the aft torque bulkhead of the outboard nacelle struts, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2201, dated September 28, 2000. Thereafter, repeat this inspection at intervals not to exceed 600 flight cycles until paragraph (d) of this AD is accomplished.

(2) Perform surface eddy current and ultrasonic inspections to detect cracking of the vertical chords of the aft torque bulkhead of the outboard nacelle struts, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2201, dated September 28, 2000. Thereafter, repeat these inspections at intervals not to exceed 1,200 flight cycles until paragraph (d) of this AD is accomplished.

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

Optional Compliance Time

(b) If Boeing Service Letter 747–54–055, dated April 24, 1998, was accomplished on the airplane during the modification of the nacelle strut in accordance with AD 95–10–16, amendment 39–9233: Accomplishment of the initial inspection in paragraph (a) of this AD may be deferred until 3,000 flight cycles after accomplishment of the service letter.

Repair

(c) If any cracking is detected during any inspection or modification required by this AD: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company 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.

New Requirements of this AD: Modification (Terminating Action)

(d) Within 4 years after the effective date of this AD, do the modification of the vertical chords of the aft torque bulkhead of the outboard nacelle struts according to Part 4 of Boeing Alert Service Bulletin 747–54A2201, dated September 28, 2000. After this modification, stop the repetitive inspections required by paragraph (a) of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. 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 Permits

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

Incorporation by Reference

(g) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–54A2201, dated September 28, 2000. The incorporation by reference of that document was approved previously by the Director of the Federal Register as of December 13, 2000 (65 FR 70781, November 28, 2000). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on July 27, 2001.

Issued in Renton, Washington, on June 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–15572 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–322–AD; Amendment 39–12278; AD 2001–12–22]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and MD–88 airplanes, that requires revising the wiring of the selective calling (SELCAL) system. The actions specified by this AD are intended to prevent inadvertent very high frequency transmissions and subsequent loss of radio communications for airplane and/or airport operations; and to prevent inadvertent high frequency transmissions and subsequent electrical shock to ground service personnel and/or damage to the airplane during fueling operations or fuel tank maintenance. This action is intended to address the identified unsafe condition.

DATES: Effective July 27, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 27, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and MD–88 airplanes was published in the **Federal Register** on March 20, 2001 (66 FR 15666). That action proposed to require revising the wiring of the selective calling (SELCAL) system.

Comments

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

The Air Transport Association, on behalf of its members, states that it has no objection to the proposed rule.

Conclusion

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

Cost Impact

There are approximately 208 Model DC–9–81, –82, –83, and –87 series airplanes, and MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 157 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $22 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $22,294, or $142 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–12–22 McDonnell Douglas: Amendment 39–12278. Docket 2000–NM–322–AD.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and MD–88 airplanes, as listed in Boeing Alert Service Bulletin MD80–23A100, Revision 02, dated February 8, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent very high frequency transmissions and subsequent loss of radio communications for airplane and/or airport operations; and to prevent inadvertent high frequency transmissions and subsequent electrical shock to ground service personnel and/or damage to the airplane during fueling operations or fuel tank maintenance; accomplish the following:

Revise Wiring

(a) Within 6 months after the effective date of this AD, revise the wiring of the selective calling (SELCAL) system (including

installing up to five diodes and reidentifying existing wires with sleeving), per Boeing Alert Service Bulletin MD80–23A100, Revision 02, dated February 8, 2001.

Note 2: Revision of the wiring of the SELCAL done before the effective date of this AD, per Boeing Alert Service Bulletin MD80–23A100, Revision 01, dated August 24, 2000, is considered acceptable for compliance with the requirements of paragraph (a) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (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, Los Angeles ACO.

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

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin MD80–23A100, Revision 02, dated February 8, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on July 27, 2001.

Issued in Renton, Washington, on June 14, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–15570 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 000510129–1157–03]

RIN 0648–A018

Florida Keys National Marine Sanctuary Regulations; Announcement of Effective Date in Florida State Waters

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; announcement of effective date.

SUMMARY: This notice announces that the Revised Designation Document and the final regulations that were published in the **Federal Register** on January 17, 2001 (66 FR 4267), and state fishing regulations adopted by the Florida Fish and Wildlife Conservation Commission for the Tortugas Ecological Reserve, will become effective in Florida State waters on July 1, 2001. The Revised Designation Document expands the boundary of the Sanctuary and the regulations implement the expansion, establish and implement the Tortugas Ecological Reserve, and make other revisions to the Sanctuary regulations.

DATES: The final regulations published at 66 FR 4267 (January 17, 2001) will become effective on July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Billy Causey, (305) 743–2437.

SUPPLEMENTARY INFORMATION: This document announces the effective date in Florida State waters for the Revised Designation Document expanding the boundary of the Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) and the final regulations that implement the boundary expansion, establish and implement the Tortugas Ecological Reserve, and that make certain revisions to the Sanctuary regulations. The expansion of the Sanctuary boundary encompasses an area of the State of Florida waters and Federal waters at the far western end of the Florida Keys, and the submerged lands thereunder. The **Federal Register** document publishing those regulations also contained the Revised Designation Document and summarized the final supplemental management plan for the Sanctuary. The Revised Designation Document sets forth the geographic area included within the Sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the type of activities subject to regulation. The supplemental management plan details the goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement activities of the area. The Revised Designation Document and the final regulations became effective in Federal waters on March 8, 2001 and notice of the effective date was published in the **Federal Register** on March 23, 2001 (66 FR 16120).

On March 6, 2001, the Governor of the State of Florida certified to the Secretary of Commerce that the revised designation, the supplemental management plan, and the regulations implementing the Tortugas Ecological Reserve were unacceptable unless and until approved by the Governor and Cabinet, acting as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. On April 24, 2001, the Board of Trustees voted unanimously to approve the boundary expansion, the supplemental management plan and the final regulations implementing the Tortugas Ecological Reserve in state waters. On May 14, 2001, the State of Florida notified the Secretary of Commerce of the Board's approval. The revised designation, supplemental management plan, and the revised regulations, and the fishing regulations approved by the Florida Fish and Wildlife Conservation Commission implementing the Reserve in state waters will take effect on July 1, 2001.

This **Federal Register** document announces that July 1, 2001 is the effective date in state waters of the Revised Designation Document, the final regulations and state fishing regulations.

Authority: 16 U.S.C. Section 1431 *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: June 19, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 01–15806 Filed 6–20–01; 10:06 am]

BILLING CODE 3510–08–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8950]

RIN 1545–AY58

Guidance on Filing an Application for a Tentative Carryback Adjustment in a Consolidated Return Context

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the filing of an application for a tentative carryback adjustment. These regulations provide guidance as to the time for filing such application by a consolidated group and by certain corporations for the separate return year created by their becoming a member of a consolidated group. These final regulations may affect all consolidated groups.

DATES: *Effective Date:* June 22, 2001.

Applicability Date: For dates of applicability, see § 1.1502–78(e)(2)(v) of these regulations.

FOR FURTHER INFORMATION CONTACT: Christopher M. Bass or Frances L. Kelly, (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 1502 of the Internal Revenue Code of 1986 (Code), relating to the filing of an application for a tentative carryback adjustment. The amendments provide guidance as to the time for filing an application for a tentative carryback adjustment by a consolidated group. The amendments also extend the time for filing an application for a tentative carryback adjustment by certain corporations for the separate return year created by their becoming new members of a consolidated group.

On January 4, 2001, a temporary regulation (TD 8919, 2001–6 I.R.B. 505) was published in the **Federal Register** (66 FR 713). On this same day, a notice of proposed rulemaking (REG–119352–00, 2001–6 I.R.B. 525) cross-referencing the temporary regulation and a notice of public hearing were published in the **Federal Register** (66 FR 747). No comments or requests to speak were received from the public in response to the notice of proposed rulemaking. Accordingly, the public hearing scheduled for April 26, 2001 was canceled in the **Federal Register** (66 FR 19104) on April 13, 2001. The proposed regulation is adopted as amended by this Treasury Decision, and the corresponding temporary regulation is removed.

Explanation of Provisions

The amendments adopted by this Treasury Decision provide a general rule for all corporations filing consolidated returns stating that the provisions of section 6411(a) shall apply to determine the time for filing an application for a tentative carryback adjustment by a consolidated group. In addition, the amendments provide a special rule for applications filed by certain corporations that become new members of a consolidated group, extending the period of time for filing an application for a tentative carryback adjustment resulting from losses or credits arising in the new member's last separate return year. For these purposes, the separate return year is treated as ending on the same date as the end of the current taxable year of the consolidated group.

Until Form 1139 (Application for a Tentative Carryback Adjustment) is modified to reflect the changes made by this regulation, an application for a tentative carryback adjustment filed under the special rule must include additional information in the form of a statement, ''Filed pursuant to Treas. Reg. section 1.1502–78(e)(2),'' in red, at the top of the current Form 1139. In addition, the Form 1139 must state, in red, the ''year end'' of the consolidated group that the new member joins. In response to the changes made by this regulation, IRS Service Centers developed a procedure to assist in processing applications filed under § 1.1502–78(e)(2). This procedure requires that the additional information, as set forth above, be included on the Form 1139. This procedure supplements existing guidelines for filing and processing Form 1139.

The proposed regulation (66 FR 747) was issued as § 1.1502–78T(g). This final regulation adopts the substance of the proposed regulation and renumbers such provision as § 1.1502–78(e).

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that this regulation will not impose a significant economic impact on a substantial number of small entities because it affects a relatively small number of corporations and few, if any, of those corporations are likely to be small businesses. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Christopher M. Bass and Frances L. Kelly, Office of the Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entries for Sections 1.1502–78(b) and 1.1502–78T and by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–78 also issued under 26 U.S.C. 1502, 6402(k), and 6411(c). * * *

Par. 2. Section 1.1502–78 is amended by adding paragraph (e) to read as follows:

§ 1.1502–78 Tentative carryback adjustments.

* * * * *

(e) *Time for filing application*—(1) *General rule.* The provisions of section 6411(a) apply to the filing of an application for a tentative carryback adjustment by a consolidated group.

(2) *Special rule for new members*—(i) *New member.* A new member is a corporation that, in the preceding taxable year, did not qualify as a member, as defined in § 1.1502–1(b), of the consolidated group that it now joins.

(ii) *End of taxable year.* Solely for the purpose of complying with the twelve-month requirement for making an application for a tentative carryback adjustment under section 6411(a), the separate return year of a qualified new member shall be treated as ending on the same date as the end of the current taxable year of the consolidated group that the qualified new member joins.

(iii) *Qualified new member.* A new member of a consolidated group

qualifies for purposes of the provisions of this paragraph (e)(2) if, immediately prior to becoming a new member, either—

(A) It was the common parent of a consolidated group; or

(B) It was not required to join in the filing of a consolidated return.

(iv) *Examples.* The provisions of this paragraph (e)(2) may be illustrated by the following examples:

Example 1. Individual A owns 100 percent of the stock of X, a corporation that is not a member of a consolidated group and files separate tax returns on a calendar year basis. On January 31 of year 1, X becomes a member of the Y consolidated group, which also files returns on a calendar year basis. X is a qualified new member as defined in paragraph (e)(2)(iii)(B) of this section because, immediately prior to becoming a new member of the Y consolidated group, X was not required to join in the filing of a consolidated return. As a result of its becoming a new member of Group Y, X's separate return for the short taxable year (January 1 of year 1 through January 31 of year 1) is due September 15 of year 2 (with extensions). See § 1.1502–76(c). Group Y's consolidated return is also due September 15 of year 2 (with extensions). See § 1.1502–76(c). Solely for the purpose of complying with the twelve-month requirement for making an application for a tentative carryback adjustment under section 6411(a), X's taxable year for the separate return year is treated as ending on December 31 of year 1. X's application for a tentative carryback adjustment is therefore due on or before December 31 of year 2.

Example 2. Assume the same facts as in *Example 1* except that immediately prior to becoming a new member of Group Y, X was a member of the Z consolidated group. Because X was required to join in the filing of the consolidated return for Group Z, X is not a qualified new member as defined in paragraph (e)(2)(iii) of this section. X's items for the one-month period will be included in the consolidated return for Group Z. Group Z's application for a tentative carryback adjustment, if any, continues to be due within 12 months of the end of its taxable year, which is not affected by X's change in status as a new member of Group Y.

(v) *Effective date.* The provisions of this paragraph (e)(2) apply for applications by new members of consolidated groups for tentative carryback adjustments resulting from net operating losses, net capital losses, or unused business credits arising in separate return years of new members that begin on or after January 1, 2001.

§ 1.1502–78T [Removed]

Par. 3. Section 1.1502–78T is removed.

Approved: June 13, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark A. Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01–15576 Filed 6–21–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8951]

RIN 1545–AV00

Withdrawal of Notice of Federal Tax Lien in Certain Circumstances

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations relating to the withdrawal of notices of federal tax liens in certain circumstances. The final regulations reflect changes made to section 6323 of the Internal Revenue Code of 1986 by the Taxpayer Bill of Rights 2. The final regulations affect all taxpayers seeking withdrawals of notices of federal tax liens.

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Kevin B. Connelly, (202) 622–3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Procedure and Administration Regulations (26 CFR part 301) relating to the withdrawal of notices of federal tax liens under section 6323 of the Internal Revenue Code (Code). Section 501(a) of the Taxpayer Bill of Rights 2 (TBOR2), Public Law 104–168, 110 Stat. 1452 (1996), amended section 6323 to authorize the Secretary to withdraw a notice of federal tax lien in certain limited circumstances. Section 501(a) also requires the Secretary to notify credit reporting agencies, financial institutions and creditors of the withdrawal upon the written request of the taxpayer. On June 30, 1999, a notice of proposed rulemaking reflecting these changes was published in the **Federal Register** (64 FR 35102). Several parties commented on the notice of proposed rulemaking and a hearing was held on November 30, 1999. The final regulations are adopted with minor changes.

Explanation of Provisions

Section 501(a) of TBOR2 amended section 6323 of the Code by authorizing the Secretary to withdraw a notice of federal tax lien under certain conditions and providing that upon written request of the taxpayer the Secretary will notify any credit reporting agency and any financial institution or creditor identified by the taxpayer. These regulations implement section 501(a).

The proposed regulations provided that the district director had the authority to withdraw a notice of federal tax lien if the district director determined that one of the four conditions enumerated in paragraph (b) of the regulations existed. Because of the reorganization of the Internal Revenue Service (IRS), which eliminated the district director position, the final regulations provide that the Commissioner or his delegate (Commissioner) may withdraw a notice of federal tax lien under the proper conditions.

The notice of federal tax lien is withdrawn by filing a notice of withdrawal in the office in which the notice of federal tax lien is filed and providing the taxpayer with a copy of the notice. Following the withdrawal of a notice of federal tax lien, chapter 64 of subtitle F, relating to collection, is applied as if the IRS had never filed a notice of federal tax lien. The withdrawal of a notice of federal tax lien does not affect the underlying tax lien. The withdrawal simply relinquishes any lien priority the IRS had obtained under section 6323 of the Code when the IRS filed the notice being withdrawn.

Paragraph (b) of the regulations provides that the Commissioner has the authority to withdraw a notice of federal tax lien if one of the following conditions exists: (1) The filing of the notice of federal tax lien was premature or otherwise not in accordance with the administrative procedures of the Secretary; (2) the taxpayer has entered into an agreement under section 6159 to satisfy the liability for which the lien was imposed by means of installment payments, unless the agreement by its terms provides that the notice will not be withdrawn; (3) the withdrawal of notice will facilitate collection of the tax liability for which the lien was imposed; or (4) the withdrawal of notice is in the best interests of the taxpayer and the United States.

A new example has been added (*Example 1*) that illustrates when the Commissioner may withdraw a notice of federal tax lien under paragraph (b)(1) because the IRS failed to follow administrative procedures when filing

notice. Each example now refers to just one of the four withdrawal criteria under paragraph (b)(1). In addition, the examples have been renumbered to correspond to the numbers of the criteria in paragraph (b) that the examples illustrate.

One of the commenting parties recommended that the final regulations define the terms ''facilitate collection'' and ''best interests of the taxpayer and the United States,'' found in paragraphs (b)(3) and (b)(4). The final regulations purposely do not define these terms. Congress intended ''to give the IRS discretion to withdraw a notice of lien'' in these circumstances. H.R. Rep. No. 506, 104the Cong., 2d Sess. 32 (Mar. 28, 1996). The circumstances under which a lien may be withdrawn are inherently factual. Further refinement of the statutory terms may unnecessarily limit the IRS's ability to withdraw a notice where appropriate.

A commenting party asked the IRS to add a paragraph providing that, if the National Taxpayer Advocate (or his delegate) determines that a taxpayer is suffering or about to suffer a significant hardship, the National Taxpayer Advocate (or his delegate) may, in appropriate cases, issue a taxpayer assistance order (TAO) requiring the Commissioner to withdraw a notice of federal tax lien. This issue, concerning whether the National Taxpayer Advocate (or his delegate) may issue a TAO ordering the withdrawal of a notice, involves an interpretation of section 7811, and the authority granted to the National Taxpayer Advocate, which are not pertinent to this regulation.

The final regulations provide that a person may request the withdrawal of a notice of federal tax lien by writing to the Commissioner. A written request for withdrawal must include: (1) The name, current address, and taxpayer identification number of the person requesting withdrawal of the notice of federal tax lien; (2) a copy of the notice of federal tax lien affecting the property, if available; (3) the grounds upon which the withdrawal of notice of federal tax lien is being requested; (4) a list of the names and addresses of any credit reporting agency and any financial institution or creditor that the taxpayer wishes the Commissioner to notify of the withdrawal of notice of federal tax lien; and (5) a request to disclose information relating to the withdrawal to the persons or entities listed.

The Commissioner must consider each taxpayer's request for withdrawal of notice of federal tax lien and determine whether any of the conditions authorizing withdrawal exist and whether to issue a withdrawal. The Commissioner also may issue a notice of withdrawal based on information received from a source other than the taxpayer.

If the Commissioner grants a request for the withdrawal of notice of federal tax lien, the taxpayer may supplement the list of credit reporting agencies and financial institutions or creditors provided with the request for withdrawal. If no list was submitted with the request for withdrawal, a list may be submitted after the notice is withdrawn. A request to supplement the list must be sent in writing to the Commissioner. The request must contain: (1) The name, current address, and taxpayer identification number of the person requesting the notification; (2) a copy of the notice of withdrawal; (3) the names and addresses of the persons or entities the taxpayer wishes the IRS to contact; and (4) a request to disclose the withdrawal to the persons or entities listed.

A commenting party suggested that the IRS send notification to credit agencies and financial institutions by certified mail. Certified mail generally is required where there is a statute of limitations dependent on service. This is not the case with respect to notification under section 6323(j)(2).

A commenting party also requested that language be added to the regulations stating that, upon receipt of notification that the IRS has withdrawn a notice of federal tax lien, a credit agency will be immune from any damage claim a taxpayer may have against it for its handling of the notice if the credit agency acts within reasonable time after receiving notice. The statute simply instructs the IRS to notify credit agencies of a notice of withdrawal upon request of the taxpayer. The IRS does not have the statutory authority to shield a credit agency from a taxpayer's claim for damages due to how the credit agency handled the notice.

The regulations will apply on or after June 22, 2001, with respect to withdrawals of any notice of federal tax lien occurring after such date regardless of when the notice was filed.

Special Analyses

It has been determined that this final regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the collection of information in the regulations is exempt pursuant to 5 U.S.C. 601(7)(B), the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Kevin B. Connelly, Office of Associate Chief Counsel (Procedure and Administration), Collection Bankruptcy & Summons Division, CC:PA:CBS, IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Final Amendments to the Regulations

Accordingly, the IRS amends 26 CFR part 301 as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6323(j)-1 is added to read as follows:

§ 301.6323(j)–1 Withdrawal of notice of federal tax lien in certain circumstances.

(a) *In general.* The Commissioner or his delegate (Commissioner) may withdraw a notice of federal tax lien filed under this section, if the Commissioner determines that any of the conditions in paragraph (b) of this section exist. A notice of federal tax lien is withdrawn by the filing by the Commissioner of a notice of withdrawal in the office in which the notice of federal tax lien is filed. If a notice of withdrawal is filed, chapter 64 of subtitle F, relating to collection, will be applied as if the withdrawn notice had never been filed. A copy of the notice of withdrawal will be provided to the taxpayer. Upon written request by a taxpayer with respect to whom a notice of federal tax lien has been or will be withdrawn, the Commissioner will promptly make reasonable efforts to notify any credit reporting agency and any financial institution or creditor identified by the taxpayer of the withdrawal of such notice. The withdrawal of a notice of federal tax lien

will not affect the underlying federal tax lien.

(b) *Conditions authorizing withdrawal.* The Commissioner may authorize the withdrawal of a notice of federal tax lien upon determining that one of the following conditions exists:

(1) *Premature or not in accordance with administrative procedures.* The filing of the notice of federal tax lien was premature or otherwise not in accordance with the administrative procedures of the Secretary.

(2) *Installment agreement.* The taxpayer has entered into an agreement under section 6159 to satisfy the liability for which the lien was imposed by means of installment payments. Entry into an installment agreement may not, however, be the basis for withdrawal of a notice of lien if the installment agreement specifically provides that a notice of federal tax lien will not be withdrawn.

(3) *Facilitate collection.* The withdrawal of the notice of federal tax lien will facilitate the collection of the tax liability for which the lien was imposed.

(4) *Best interests of the United States and the taxpayer*—(i) *In general.* The taxpayer or the National Taxpayer Advocate (or his delegate) has consented to the withdrawal of the notice of federal tax lien, and withdrawal of the notice would be in the best interest of the taxpayer, as determined by the taxpayer or the National Taxpayer Advocate (or his delegate), and in the best interest of the United States, as determined by the Commissioner.

(ii) *Best interest of the taxpayer.* When a taxpayer requests the withdrawal of notice of federal tax lien based on the best interests of the United States and the taxpayer, the National Taxpayer Advocate (or his delegate) generally will determine whether the withdrawal of the notice of federal tax lien is in the best interest of the taxpayer. If, however, a taxpayer requests the Commissioner to withdraw a notice and has not specifically requested the National Taxpayer Advocate (or his delegate) to determine the taxpayer's best interest, a finding by the Commissioner that the withdrawal of notice is in the best interest of the taxpayer will be sufficient to support withdrawal. If the Commissioner decides independently of a request by the taxpayer to withdraw a notice of federal tax lien, the taxpayer or the National Taxpayer Advocate (or his delegate) must consent to the withdrawal.

(5) *Examples.* The following examples illustrate the provisions of this paragraph (b):

Example 1. A owes $1,000 in Federal income taxes. The IRS files a notice of federal tax lien to secure A's tax liability. However, the IRS failed to follow procedure provided by the Internal Revenue Manual (but not required by statute) with regard to managerial approval prior to the filing of a notice of federal tax lien. The Commissioner may withdraw the notice of federal tax lien because the filing of the notice was not in accordance with the Secretary's administrative procedures.

Example 2. A owes $1,000 in federal income taxes. A enters into an agreement to pay the outstanding federal income tax liability in installments. The agreement provides that a notice of federal tax lien may be filed if the taxpayer defaults. A timely pays the installments each month and has not defaulted in any way. Eleven months after entering into the installment agreement, the Internal Revenue Service files a notice of federal tax lien. Noting that there has been no default, the taxpayer asks the Internal Revenue Service to withdraw the notice of federal tax lien. In this situation, the Commissioner may withdraw the notice of federal tax lien because the taxpayer has entered into an installment agreement.

Example 3. A is an employee of X Corporation. A notice of federal tax lien has been filed to secure an outstanding tax liability against A. A, who has no assets and no other secured creditors, has agreed to pay the balance of tax due through payroll deductions at a rate higher than the Internal Revenue Service could obtain through a wage levy in order to get the notice of federal tax lien withdrawn. X Corporation has agreed to allow A to enter into a payroll deduction agreement. In this situation, the Commissioner may withdraw the notice of federal tax lien to facilitate collection.

Example 4. A is owner of a farm machinery dealership against whom a notice of federal tax lien has been filed to secure an outstanding tax liability. A currently is paying the tax liability by an installment agreement. X Corporation has agreed to provide A with 100 tractors to increase A's inventory if the notice of federal tax lien is withdrawn. A asks the Internal Revenue Service to withdraw the notice of federal tax lien. The Commissioner determines that the larger inventory would enable A to generate additional tractor sales. Increased sales would enable A to increase the amount of installment payments and, consequently, reduce the amount of time needed to satisfy the liability. A, who has no other assets or secured creditors, has agreed to modify the installment agreement. The Commissioner may withdraw the notice of federal tax lien because the withdrawal is in the best interest of the taxpayer and the United States.

(c) *Determinations by the Commissioner.* The Commissioner must determine whether any of the conditions authorizing the withdrawal of a notice of federal tax lien exist if a taxpayer submits a request for withdrawal in accordance with paragraph (d) of this section. The Commissioner may also make this determination independent of a request from the taxpayer based on information received from a source other than the taxpayer. If the Commissioner determines that conditions authorizing the withdrawal are not present, the Commissioner may not authorize the withdrawal. If the Commissioner determines conditions for withdrawal are present, the Commissioner may (but is not required to) authorize the withdrawal.

(d) *Procedures for request for withdrawal*—(1) *Manner.* A request for the withdrawal of a notice of federal tax lien must be made in writing in accordance with procedures prescribed by the Commissioner.

(2) *Form.* The written request will include the following information and documents—

(i) Name, current address, and taxpayer identification number of the person requesting the withdrawal of notice of federal tax lien;

(ii) A copy of the notice of federal tax lien affecting the taxpayer's property, if available;

(iii) The grounds upon which the withdrawal of notice of federal tax lien is being requested;

(iv) A list of the names and addresses of any credit reporting agency and any financial institution or creditor that the taxpayer wishes the Commissioner to notify of the withdrawal of notice of federal tax lien; and

(v) A request to disclose the withdrawal of notice of federal tax lien to the persons listed in paragraph (d)(2)(iv) of this section.

(e) *Supplemental list of credit agencies, financial institutions, and creditors*—(1) *In general.* If the Commissioner grants a withdrawal of notice of federal tax lien, the taxpayer may supplement the list in paragraph (d)(2)(iv) of this section. If no list was provided in the request to withdraw the notice of federal tax lien, the list in paragraph (d)(2)(iv) of this section and the request for notification in paragraph (d)(2)(v) of this section may be submitted after the notice is withdrawn.

(2) *Manner.* A request to supplement the list of any credit agencies and any financial institutions or creditors that the taxpayer wishes the Commissioner to notify of the withdrawal of notice of federal tax lien must be made in writing in accordance with procedures prescribed by the Commissioner.

(3) *Form.* The request must include the following information and documents—

(i) Name, current address, and taxpayer identification number of the taxpayer requesting the notification of any credit agency or any financial institution or creditor of the withdrawal of notice of federal tax lien;

(ii) A copy of the notice of withdrawal, if available;

(iii) A supplemental list, identified as such, of the names and addresses of any credit reporting agency and any financial institution or creditor that the taxpayer wishes the Commissioner to notify of the withdrawal of notice of federal tax lien; and

(iv) A request to disclose the withdrawal of notice of federal tax lien to the persons listed in paragraph (e)(3)(iii) of this section.

(f) *Effective date.* This section applies on or after June 22, 2001, with respect to a withdrawal of any notice of federal tax lien.

Approved: June 13, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark A. Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01–15656 Filed 6–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–023]

RIN 2115–AE46

Special Local Regulations for Marine Events; Nanticoke River, Sharptown, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Sharptown Outboard Regatta, a marine event to be held on the waters of the Nanticoke River between Maryland S.R. 313 bridge at Sharptown, Maryland and Nanticoke River Light 43 (LLN–24175). These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Nanticoke River during the event.

DATES: This rule is effective from 11 a.m. eastern time on June 23, 2001 until 6 p.m. eastern time on June 24, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–023 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the request for special local regulations on May 9, 2001. We were notified of the need for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event on June 23, 2001.

Background and Purpose

The North-South Racing Association will sponsor the Sharptown Outboard Regatta on June 23 and June 24, 2001. The event will consist of 50 hydroplanes and runabouts conducting a high speed competitive race on the waters of the Nanticoke River between Maryland S.R. 313 bridge at Sharptown, Maryland and Nanticoke River Light 43 (LLN–24175). A fleet of spectator vessels is anticipated for the event. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Nanticoke River. The regulated area will include waters of the Nanticoke River between Maryland S.R. 313 bridge at Sharptown, Maryland and Nanticoke River Light 43 (LLN–24175). The temporary special local regulations will be enforced from 11 a. m. to 6 p.m. eastern time on June 23 and June 24, 2001, and will restrict general navigation in the regulated area during the event. Except for participants in the Sharptown Outboard Regatta and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

Regulatory Evaluation

This 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 it 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 temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Nanticoke River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Nanticoke River during the event.

Although this regulation prevents traffic from transiting a portion of the Nanticoke River during the event, the effect of this regulation will not be significant because of the limited

duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

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 temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

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 rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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 rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We prepared an ''Environmental Assessment'' in accordance with Commandant Instruction M16475.1C, and determined that this rule will not significantly affect the quality of the human environment. The ''Environmental Assessment'' and ''Finding of No Significant Impact'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary section, § 100.35-T05–023 is added to read as follows:

§ 100.35–T05–023 Nanticoke River, Sharptown, Maryland.

(a) *Definitions:*

(1) *Regulated Area.* All waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 bridge and Nanticoke River Light 43 (LLN–24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32′47″ N, longitude 075°43′15″ W, to latitude 38°32′42″ N, longitude 75°43′09″ W, thence northeasterly to latitude 38°33′07″ N, longitude 075°42′27″ W, thence northwesterly to latitude 38°33′10″ N, longitude 75°42′46″ W, thence southwesterly to latitude 38°32′47″ N, longitude 75°43′15″ W. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(3) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(4) *Participating Vessels.* Participating vessels include all vessels participating in the Sharptown Outboard Regatta under the auspices of the Maine Event Application submitted by the North-South Racing Association Inc., and approved by the Commander, Fifth Coast Guard District.

(b) *Special Local Regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective Dates.* The regulated area is effective from 11 a.m. eastern time on

June 23, 2001 until 6 p.m. eastern time on June 24, 2001.

(d) *Enforcement Times:* It is expected that this section will be enforced from 11 a.m. to 6 p.m. eastern time on June 23 and 24, 2001.

Dated: June 15, 2001.

T.C. Paar,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 01–15839 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–027]

RIN 2115–AE46

Special Local Regulations for Marine Events; Inner Harbor, Patapsco River, Baltimore, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the Baltimore Convention and Visitors Association Fireworks Display, an event to be held over the waters of the Inner Harbor, Patapsco River, Baltimore, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Inner Harbor, Patapsco River during the event.

DATES: This rule is effective from 9:45 p.m. to 10:30 p.m. eastern time on June 23, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–027 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the request for special local regulations on June 6, 2001. We were notified of the need for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event on June 23, 2001.

Background and Purpose

On June 23, 2001, the Baltimore Convention and Visitors Association will sponsor a fireworks display above the waters of the Inner Harbor, Patapsco River. The fireworks will be launched from a barge anchored in the Inner Harbor. A fleet of spectator vessels is expected to gather near the event site to view the aerial demonstration. To provide for the safety of spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the fireworks display.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Inner Harbor, Patapsco River, Baltimore, Maryland. The regulated area is a 140′ radius around the fireworks barge. The temporary special local regulations will be in effect from 9:45 p.m. to 10:30 p.m. eastern time on June 23, 2001. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will notify the public of specific enforcement times by Marine Radio Safety Broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This 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 it 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 temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Inner Harbor, Patapsco River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

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

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.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Inner Harbor, Patapsco River during the event.

Although this regulation prevents traffic from transiting a portion of the Inner Harbor, Patapsco River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

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 temporary rule so that they can better evaluate its effects on them and participate in the

rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

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 rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211

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 rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary section, § 100.35–T05–027 is added to read as follows:

§ 100.35–T05–027 Inner Harbor, Patapsco River, Baltimore, Maryland.

(a) *Regulated Area.* The waters of the Inner Harbor, Patapsco River enclosed within the arc of a circle with a radius of 140° and its center located at latitude 39°17′00″ N, longitude 076°36′30″ W. All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(c) *Special Local Regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(d) *Effective Dates.* This section is effective from 9:45 p.m. to 10:30 p.m. eastern time on June 23, 2001.

Dated: June 15, 2001.

T.C. Paar,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 01–15840 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–01–018]

RIN 2115–AE47

Drawbridge Operation Regulations; Mullica River

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District has approved a temporary deviation from the regulations governing the operation of the Green Bank Drawbridge across the Mullica River, mile 18.0, Green Bank, New Jersey. The bridge owner may close the draw for needed repairs with limited vertical navigation clearance beneath the bridge, starting June 18, 2001, through June 27, 2001, working nights if

required. This deviation to the regulation is necessary to allow the contractor to repair the superstructure and the bascule.

DATES: This deviation is effective from June 18, 2001 through June 27, 2001.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, Bridge Section at (757) 398–6222.

SUPPLEMENTARY INFORMATION: IEW Construction Group, a contractor for the New Jersey Department of Transportation requested the Coast Guard to approve a temporary deviation from the normal operation of the bridge in order to accommodate repairs. The repairs involve refurbishing the superstructure with extensive repairs to the bascule. Presently, the draw is required to operate under the operating regulations in 33 CFR 117.731a. To facilitate the repair of the bascule span, it will remain in the closed position during the period this deviation is in effect.

In accordance with 33 CFR 117.35, the District Commander granted a temporary deviation from the governing regulations in a letter dated May 17, 2001. A Local Notice to Mariners and a Broadcast Notice were sent out, so marine vessels could arrange their transits to minimize any impacts caused by the temporary deviation.

The temporary deviation allows the Green Bank Drawbridge across the Mullica River, mile 18.0, in Green Bank, New Jersey to remain closed for 10 consecutive days beginning June 18, 2001 through June 27, 2001.

Dated: June 11, 2001.

John E. Shkor,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–15659 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–007]

RIN 2115–AE47

Drawbridge Operating Regulation; Ouachita River, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the temporary operating regulation for the Kansas City Southern Railroad swing span bridge across the Ouachita River, mile 167.1, at Monroe, Ouachita Parish, Louisiana. This temporary rule allowed for the passage of vessels from June 4, 2001, through November 15, 2001, during the morning hours with proper advance notice. This rule is not needed as the bridge owner has decided to indefinitely postpone the repair activities scheduled during this time period.

DATES: This rule is effective June 22, 2001.

ADDRESSES: Documents referred to in this rule are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 8, 2001, we published a temporary final rule entitled Drawbridge Operating Regulation; Ouachita River, Louisiana, in the **Federal Register** (66 FR 23159). The temporary final rule changed the operating schedule of the Kansas City Southern Railroad swing span bridge, mile 167.1, at Monroe, to allow for repairs from June 4, 2001, through November 15, 2001.

Background and Purpose

On May 10, 2001, following publication of the temporary final rule, the bridge owner informed our office that following a lengthy meeting between the bridge owner, the prospective contractor, and the Engineers, it was determined that the river stage was too high to guarantee project completion before the Railroad's fall deadline to restore uninterrupted train service. The bridge owner requested that we cancel the published rule. The bridge owner plans to develop plans to temporarily modify the existing bridge to assure that the bridge functions adequately until such time as the pier replacement project can be implemented.

Regulatory Evaluation

This 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 it 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 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This rule returns the bridge status to the requirement to open on signal for the passage of vessels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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.

Assistance for Small Entities

Under the 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, we want to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This 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 rule under Executive Order 13132 and have determined that this rule would 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 rule would not impose an unfunded mandate.

Taking of Private Property

This 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 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. No comments were received with regards to the taking of private property during NPRM comment period.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not 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, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. Bridge Administration Program actions that can be categorically excluded include promulgation of operating regulations or procedures for drawbridges. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

§ 117.483 [Amended]

2. In § 117.483, remove paragraph (b) and remove the paragraph designation for paragraph (a).

Dated: June 7, 2001.

Roy J. Casto,

RADM, USCG, Commander, 8th CG District.

[FR Doc. 01–15658 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Presorted Priority Mail Experiment

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Domestic Mail Manual (DMM) standards to be adopted by the Postal Service to conduct the presorted Priority Mail experiment pursuant to the Decision of the Governors of the United States Postal Service on the Opinion and Recommended Decision of the Postal Rate Commission (PRC) in Docket No. MC2001–1, experimental rate categories for presorted Priority Mail.

On March 7, 2001, the Postal Service filed a request before the Postal Rate Commission (PRC) requesting the establishment of experimental classifications and discounts for presorted Priority Mail. On May 25, 2001, the PRC issued a favorable Opinion and Recommended Decision. The Governors approved that action on June 4, 2001. The experiment will begin July 15, 2001, and is expected to be conducted for at least two years. Participation in the first year of the experiment will be limited to approximately 10 mailer locations. For application and information see Postal Bulletin 22051 (5–31–01).

EFFECTIVE DATE: July 15, 2001.

FOR FURTHER INFORMATION CONTACT: Karen A. Magazino, (703) 292–3644, or Michael T. Tidwell, (202) 268–2998.

SUPPLEMENTARY INFORMATION: The Postal Service will review applications and select approximately 10 mailer locations to participate in the experiment. To receive the experimental discounts, selected mailers must meet certain containerization and mail preparation requirements in addition to various other criteria. It is desired that the Priority Mail shipped by the participants will represent a diverse range of shapes and weights. The limitation on the number of participants in the experiment is consistent with the need to conduct an experiment that can be managed effectively and enables the Postal Service to work with each participant on a one-on-one basis, determining the best method of containerization and preparation. To receive the experimental discounts, mailers also must meet the experiment's data collection requirements. Specific containerization and preparation requirements could vary from mailer to mailer due to the mailer's geographical location and mail densities. Since this is an experiment, the Postal Service will be able to reasonably adjust the requirements during the experiment. The Postal Service and selected participants will work with postal transportation networks to determine the appropriate surface and air transportation destinations. Prior to implementation, the selected participant and the Postal Service will incorporate the terms and conditions of participation into a Service Agreement that will be authorized and signed by both parties.

Mailers may choose from the following three presort levels and corresponding per-piece discounts:

Presort Level	Per-Piece Discount
5-Digit	$0.25
3-Digit	0.16
Area Distribution Center (ADC)	0.12

The discounts apply equally to letters, flats, and parcels (machineable and irregulars), including outside parcels when using surface transportation.

As selection criteria for the experiment, the Postal Service will seek mailers of diverse size, mailing locations, and mailpiece characteristics. Mailers must be prepared to work closely with business mail acceptance and logistics personnel to coordinate mail preparation and containerization and also must be prepared to meet the data collection requirements of the experiment. In addition, the Postal Service prefers mailers who will present presorted Priority Mail mailings on a regular and continuing basis.

A Presorted Priority Mail Experiment Management Team will select participants and administer the experiment. The team will include a representative from each of two functional groups within the Pricing and Product Design department: Mail Preparation and Standards, and Pricing. The other members of the team will be a representative from Operational

Requirements, an office within the Operations Planning and Processing organization; a representative from Special Studies, a section of the Finance organization; and a representative from Expedited/Package Services (E/PS). All decisions of the team are final.

Existing Priority Mail classifications will remain unchanged.

Mailers selected for participation must abide by the terms of a Presorted Priority Mail Experiment Service Agreement. The following requirements will also apply:

Mailing Standards

1. Each mailing must contain a minimum of either 300 pieces or 500 pounds regardless of the mail processing categories. Residual pieces are included in the minimum volume requirement.

2. An annual Priority Mail presort fee of $125.00 must be paid at each mailing location.

3. Postage must be paid by either permit imprint or meter stamp.

4. Two copies of the applicable alternative Postage Statement (PS Form 3600–PMRX or PS Form 3600–PMPX) must be completed and submitted to the office of mailing. When presenting different mail processing categories in one mailing, separate postage statements must be completed for each mail processing category (shape) and collectively count towards the minimum volume requirement.

5. Mailings may contain non-identical-weight pieces only if the correct metered postage is affixed to each piece or if the RCSC serving the post office of mailing has authorized payment of postage by permit imprint under Manifest Mailing System, DMM P910.

Container and Presort Preparation

1. Three optional levels of presort will be available: ADC, 3-digit, and 5-digit. Mailers can use any or all of the three presort options. The ADC list will be provided by the Postal Service; mailers may not use DMM L603 or L604.

2. Mail processing categories (letters and flats in trays, loose sackable parcels, and outside parcels) may be combined in the same pallet/pallet box at the 5-digit level for surface transportation. Letters and flats in trays and parcels in sacks may be combined on the same pallet at the 3-digit and ADC levels for surface transportation destinations. Overflow trays or sacks are not permitted.

3. Residual pieces will not receive a discount and will be charged the single-piece rate. These pieces must be containerized in sacks or on pallets, depending on volume. The residual pieces count toward the minimum volume requirements.

Containerization Requirements

1. Priority Mail letters (DMM C050.2) and flats (DMM C050.3.1) must be uniform in thickness and have a smooth and regular shape. Letters and flats must be prepared in full flat trays or meet the minimum requirement of 25 pounds per tray. A full tray is to the bottom of the hand holds. An optional preparation will be available for loose flats shrink-wrapped onto pallets for destinations that have surface transportation from the origin. A minimum volume of 250 pounds per pallet will be required. This will be specified within each Service Agreement.

2. Flat trays must be capped, green side up, strapped, and labeled with an orange label with a barcode in accordance with DMM M033.1.5b. Content Identifier Numbers (CINS) are provided.

3. Parcels (DMM C050.4 and C050.5), excluding outside parcels, are not letter size or flat size, must be uniform in thickness with a smooth and regular shape, are greater than ¾″ thick, and can fit into an orange Priority Mail sack. Parcels must be placed in sacks for all destinations with air transportation. The minimum volume per sack is 10 pieces. There will be an optional preparation to place parcels directly on pallets or in pallet boxes (DMM M041.4.0) for destinations with surface transportation from origin. A minimum volume of 250 pounds per pallet will be required. This requirement will be specified within each Service Agreement.

4. Outside parcels (C050.6) include any mailpiece that does not fit into a Priority Mail sack, or any parcel that weighs over 35 pounds, including live animals, hazardous materials, and other items specified in C050.0. These parcels may be combined with other presorted Priority Mail if sorted to 5-digit destinations only. Outside parcels are not eligible for the presorted trays or sacks of Priority Mail discount rates to destinations requiring air transportation. This eligibility criteria will be specified within each Service Agreement.

5. Any alternative preparation or localized containerization of Presorted Priority Mailings will be specified within each Service Agreement.

6. Pallets must be identified with orange placards containing destination information, mail processing category (e.g., flats, parcels), and presort level, as specified in the Service Agreement.

An application for participation in this experiment appears in Postal Bulletin 22051 (5–31–01), available online at http://ribbs.usps.gov.

Mailers may send a completed application via e-mail to ssuggs@email.usps.gov; via fax to 703–292–4058; or via mail to: Manager Mail Preparation and Standards, US Postal Service, 1735 N. Lynn St., Rm 3025,Arlington, VA 22209–6038.

Because of the purpose and limited scope of this experiment, the Postal Service finds no need to solicit comment on the standards for presorted Priority Mail or to delay implementation of this experiment.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is 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, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the Domestic Mail Manual (DMM) as set forth below:

G GENERAL INFORMATION

G000 The USPS and Mailing Standards

* * * * *

G090 Experimental Classifications and Rates

* * * * *

[Add new G095 to read as follows:]

G095 Presorted Priority Mail

1.0 ELIGIBILITY

1.1 Description

The standards in G095 apply to mailings that are produced by mailers with an approved Presorted Priority Mail Experiment Service Agreement.

1.2 Application

The Presorted Priority Mail rate applies to pieces meeting the standards in G095.

1.3 Mailing

Each mailing must:

a. Contain at least 300 pieces or 500 pounds.

b. Be presented with the correct postage statement.

c. An annual presort Priority Mail fee of $125.00 must be paid each 12-month period at each post office of mailing.

1.4 Preparation

Each piece in the mailing must be marked, prepared, documented, and presorted as specified in G095.

1.5 All Pieces

Each presorted Priority Mail mailing must meet the applicable standards in E120 and in M010 and M030. Each presorted Priority Mail mailing must be presented under the standards below. Subject to M012, all pieces must be marked ''Presorted Priority Mail'' or ''Presorted Priority.'' Mailers may abbreviate presorted with ''PRSRT.'' Markings must be placed on the addressed side of the mailpiece.

1.6 Applicability

Presorted Priority Mail pieces must:

a. Meet the applicable standards for letters in C050.2, flats in C050.3.1, parcels in C050.4 and C050.5, or outside parcels in C050.6. In addition, flats must be uniform in thickness and have a smooth and regular shape.

b. Meet the basic addressing standards in A010 and E130.3 and bear a delivery address with the correct 5-digit ZIP Code.

c. Be marked as specified in 1.5 and comply with USPS mailing standards.

d. Meet the documentation and postage payment standards (permit imprint or meter stamps) in the service agreement.

e. Be received at the post office that serves the permit holder.

f. An annual Priority Mail presort fee of $125.00 must be paid at each location where the mail is entered.

g. Outside parcels are eligible for the presorted discount rates only when using surface transportation. Outside parcels may be combined with other Priority Mail sorted to 5-digit destinations only.

h. Outside parcels are not eligible for presorted rates or containerization to destinations requiring air transportation.

i. Three optional levels of presort will be available: 5-digit, 3-digit, and ADC. Mailers can use any or all of the three presort options.

1.7 Documentation

Mailings may contain non-identical-weight pieces, as specified in the service agreement, only if the correct postage is affixed to each piece or if the RCSC serving the post office of mailing has authorized payment of postage by permit imprint under Manifest Mailing System (MMS), in accordance with P910.

2.0 REQUIRED PREPARATION—LETTERS AND FLATS

2.1 General

Letters and flats in trays must be prepared as follows:

a. The weight of a tray must not exceed 70 pounds.

b. Addresses on all pieces must face upward in the same direction.

c. Pieces must be placed in trays to maintain their orientation. Once the minimum volume is reached to allow or require preparation of a tray, additional pieces must be placed in the same tray up to its capacity to minimize the number of trays used. When possible, pieces must be placed in two or more stacks to optimize tray use, but mail must not overfill the tray to inhibit adequate closure or covering of the content.

d. Each tray must bear the correct orange label with a barcode. The appropriate Content Identifier Numbers (CINs) are provided in 2.3.

e. Each tray must be covered, green side up, and strapped in accordance with M033.1.5 and 1.6.

f. Overflow trays are not permitted.

2.2 Tray Preparation

Tray preparation and labeling is as follows:

a. *5-Digit.* Optional. Minimum 25 pounds of mail or full flat tray (8 inches in height, to the bottom of the handholds).

(1) Line 1: use the city, state abbreviation, and 5-digit ZIP Code destination from the City/State file.

(2) Line 2: ''PRIORITY''; followed by ''LTRS'' or ''FLTS'', or if combined Ltrs/Flts as appropriate; followed by ''5D.''

b. *3-Digit.* Optional. Minimum 25 pounds of mail or full flat tray (8 inches in height, to the bottom of the handholds).

(1) Line 1: use L002, Column A.

(2) Line 2: ''PRIORITY''; followed by ''LTRS'' or ''FLTS'' as appropriate; followed by ''3D.''

c. *ADC.* Optional. Minimum 25 pounds of mail or full flat tray (8 inches in height, to the bottom of the handholds).

(1) Line 1: use the presorted Priority Mail experiment labeling list provided to participants.

(2) Line 2: use ''PRIORITY''; followed by ''LTRS'' or ''FLTS'' as appropriate; followed by ''ADC.''

d. *Residual.* No minimum.

(1) Line 1: use ''WORKING'' or ''WKG'' and label to origin.

(2) Line 2: use ''PRIORITY''; followed by ''LTRS'' or ''FLTS'' as appropriate; followed by ''WKG.''

2.3 3-Digit Content Identifier Numbers (CINs)

PRIORITY MAIL FLATS—PRESORTED

5-digit flats	154	PRIORITY FLTS 5D
3-digit flats	155	PRIORITY FLTS 3D
ADC flats	157	PRIORITY FLTS ADC
Residual flats	158	PRIORITY FLTS WKG

2.4 ADC Tray

Pieces in each ADC tray must be destined for the same zone, unless the exact postage is affixed or MMS under P910 is used, or must be eligible for a rate that does not vary by zone.

3.0 REQUIRED PREPARATION—PARCELS

3.1 General

Parcels in sacks must be prepared as follows:

a. Each sack must bear the correct sack label.

b. Each sack must bear the correct orange barcoded sack label. The appropriate Content Identifier Numbers (CINs) are provided in 3.3.

c. The weight of a sack must not exceed 70 pounds.

d. Sack preparation is not required for outside parcels.

e. Overflow sacks are not permitted.

3.2 Sack Preparation

Sack preparation and labeling is as follows:

a. *5-Digit.* Optional. Minimum 10 pieces.

(1) Line 1: use the city, state abbreviation, and 5-digit ZIP Code destination from the City/State file.

(2) Line 2: ''PRIORITY''; followed by ''PARCELS''; followed by ''5D.''

b. *3-Digit.* Optional. Minimum 10 pieces.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PRIORITY''; followed by ''PARCELS''; followed by ''3D.''

c. *ADC.* Optional. Minimum 10 pieces.

(1) Line 1: use the presorted Priority Mail experiment labeling list provided to participants.

(2) Line 2: use ''PRIORITY''; followed by ''PARCELS''; followed by ''ADC.''

d. *Residual.* No minimum.

(1) Line 1: use ''WORKING'' or ''WKG'' and label to origin.

(2) Line 2: use ''PRIORITY''; followed by ''PARCELS''; followed by ''WKG.''

3.3 3-Digit Content Identifier Numbers (CINs)

PRIORITY MAIL PARCELS—PRESORTED

5-digit parcels	160	PRIORITY PARCELS 5D
3-digit parcels	161	PRIORITY PARCELS 3D
ADC parcels	163	PRIORITY PARCELS ADC
Residual parcels	164	PRIORITY PARCELS WKG

3.4 ADC Sacks and Pallets

Pieces in each ADC sack or pallet must be destined for the same zone, unless the exact postage is affixed or MMS under P910 is used, or eligible for a rate that does not vary by zone.

4.0 OPTIONAL PREPARATION

4.1 General

More than one mail processing category (letters and flats in trays, parcels in sacks, loose sackable parcels, and outside parcels) may be combined into the same container at the 5-digit level. Letters and flats in trays and parcels in sacks may be combined in the same container at the 3-digit and ADC levels. Overflow trays or sacks are not allowed. This will be specified in the service agreement.

4.2 Flats

Loose flats may be shrink-wrapped onto pallets for 5-digit, 3-digit, or ADC destinations with surface transportation from origin. A minimum volume of 250 pounds per pallet is required. This will be specified within each service agreement.

4.3 Parcels

Parcels other than outside parcels may be directly placed on pallets or in pallet boxes for destinations with surface transportation from origin. A minimum volume of 250 pounds per pallet is required. This will be specified within each service agreement.

5.0 RATES AND FEES

5.1 Rate Application

Each presorted Priority Mail mailpiece is charged the applicable single-piece Priority Mail rate in R100.8.0, less a per piece discount, based upon the level of sortation, as follows:

Presort Level	Per-Piece Discount
5–Digit	$0.25
3–Digit	0.16
Area Distribution Center (ADC)	0.12

6.0 REVOCATION

6.1 Discontinued Eligibility

The Manager, Mail Preparation and Standards may revoke a mailer's authorization to participate in the experiment if that mailer:

a. Provides incorrect data on the required documentation and appears unable or unwilling to correct identified problems.

b. No longer meets the criteria for participation in the experiment or the terms of the service agreement.

6.2 Notice

After a revocation notice is issued, the USPS consults with the mailer and determines necessary corrective actions and an implementation schedule for such actions. At the conclusion of this schedule the USPS reexamines the participant's documentation and system. Failure to correct identified problems is sufficient grounds for revocation of the mailer's authorization to participate in the experiment.

6.3 Appeal

The participant may file a written appeal of revocation within 15 days from the date of the receipt of the notice, with evidence explaining why the authorization should not be revoked. The appeal must be filed with the Presorted Priority Mail Experiment Management Review Board. Decisions of the Board are final.

* * * * *

As provided by 30 CFR 111.3, notice of issuance will be published in the **Federal Register**.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–15771 Filed 6–21–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH148–1a; FRL–7001–6]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a May 31, 2001, request from Ohio for a State Implementation Plan (SIP) revision of the Cleveland/Akron/Lorain ozone maintenance plan. The maintenance plan revision establishes a new transportation conformity mobile source emissions budget for the year 2006. EPA is approving the allocation of a portion of the safety margin for volatile organic compounds (VOCs) to the area's 2006 mobile source emissions budget for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. The transportation conformity budget for oxides of nitrogen will remain the same as previously approved in the maintenance plan.

DATES: This rule is effective on August 6, 2001, unless EPA receives adverse written comments by July 23, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J),

U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Patricia Morris at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

This Supplementary Information section is organized as follows:

I. What action is EPA taking today?
II. Who is affected by this action?
III. How did the State support its request?
IV. What is transportation conformity?
V. What is an emissions budget?
VI. What is a safety margin?
VII. How does this action change the Cleveland/Akron/Lorain ozone maintenance plan?
VIII. Why is the request approvable?
IX. EPA Action.
X. Administrative Requirements.

I. What Action Is EPA Taking Today?

In this action, we are approving a revision to the ozone maintenance plan for Cleveland/Akron/Lorain, Ohio. The revision will change the mobile source emissions budget for VOC that is used for transportation conformity purposes. The revision will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to maintain air quality while providing for transportation growth.

II. Who Is Affected by This Action?

Primarily, the transportation sector (represented by Ohio Department of Transportation), the metropolitan planning organizations for Cleveland and Akron and persons needing to travel in the Cleveland/Akron/Lorain area will be affected by this revision. The proposed transportation plans and programs for the Cleveland/Akron/Lorain area must demonstrate conformity to the emissions budget in the State Implementation Plan (SIP). Analysis of the current proposed transportation plan indicates that it would produce higher emissions than currently allowed in the maintenance plan. The conformity rule, however, provides that if a ''safety margin'' exists in the maintenance plan, then the safety margin can be allocated to the transportation sector via the mobile source budget.

III. How Did the State Support Its Request?

On May 31, 2001, Ohio submitted to EPA a SIP revision request for the Cleveland/Akron/Lorain ozone maintenance area. A public hearing on this proposal was held on June 13, 2001. No one from the public commented on the proposed revisions.

In the submittal, Ohio requested to establish a new 2006 mobile source emissions budget for VOC for the Cleveland/Akron/Lorain, Ohio, ozone maintenance area. The State requested that 10 tons of VOC be allocated from the maintenance plan's safety margin of 86.3 tons of VOC. The mobile source budgets are used for transportation conformity purposes.

IV. What Is Transportation Conformity?

Transportation conformity means that the level of emissions from the transportation sector (cars, trucks and buses) must be consistent with the requirements in the SIP to attain and maintain the air quality standards. The Clean Air Act, in section 176(c), requires conformity of transportation plans, programs and projects to an implementation plan's purpose of attaining and maintaining the National Ambient Air Quality Standards. On November 24, 1993, EPA published a final rule establishing criteria and procedures for determining if transportation plans, programs and projects funded or approved under Title 23 U.S.C. or the Federal Transit Act conform to the SIP.

The transportation conformity rules require an ozone maintenance area, such as Cleveland/Akron/Lorain, to compare the actual projected emissions from cars, trucks and buses on the highway network, to the mobile source emissions budget established by a maintenance plan. The Cleveland/Akron/Lorain area has an approved ozone maintenance plan. Our approval of the maintenance plan established the mobile source emissions budgets for transportation conformity purposes.

V. What Is an Emissions Budget?

An emissions budget is the projected level of controlled emissions from the transportation sector (mobile sources) that is estimated in the SIP. For example, the SIP controls emissions through regulations on fuels and exhaust levels for cars. The emissions budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the mobile source emissions budget in the SIP and how to revise the emissions budget. The transportation conformity rule allows the mobile source emissions budget to be changed as long as the total level of emissions from all sources remains below the attainment level.

VI. What Is a Safety Margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the air quality health standard. For example: Cleveland/Akron/Lorain was monitoring attainment of the one hour ozone standard during 1993, and the 1993 level was used for the attainment year inventory in the approved maintenance plan. The emissions from point, area and mobile sources in 1993 equaled 458.5 tons per day of VOC and 495.1 tons per day of oxides of nitrogen (NO_X). The Ohio Environmental Protection Agency projected emissions out to the year 2006 and projected a total of 338.3 tons per day of VOC and 453.6 tons per day of NO_X from all sources in Cleveland/Akron/Lorain. The safety margin for Cleveland/Akron/Lorain is calculated to be the difference between these amounts or 120.2 tons per day of VOC and 41.5 tons per day of NO_X.

In 1997, part of the safety margin for both VOC and NO_X was allocated to mobile sources (see 62 FR 44903 published on August 25, 1997). The remaining safety margin for the area after the allocation in 1997 is 86.3 tons per day VOC and 12.5 tons per day NO_X. Table 1 gives detailed information on the estimated emissions from each source category and the safety margin calculation after the 1997 allocation of the safety margin to the mobile source budgets.

The 2006 emission projections reflect the point, area and mobile source reductions and are illustrated in Table 1.

TABLE 1.— NO_X AND VOC EMISSIONS BUDGET; AND SAFETY MARGIN DETERMINATIONS, CLEVELAND/AKRON/LORAIN

[Tons/day]

Source category	VOC emissions	
	1993	2006
Point	75.7	88.6
Mobile (on road)	181.4	82.7

TABLE 1.— NO_X AND VOC EMISSIONS BUDGET; AND SAFETY MARGIN DETERMINATIONS, CLEVELAND/AKRON/LORAIN—Continued

[Tons/day]

Source category	VOC emissions	
	1993	2006
Area	201.4	200.9
Totals	458.5	372.2

Safety Margin = 1993 total emissions—2006 total emissions = 86.3 tons/day VOC

Source category	NO_X emissions	
	1993	2006
Point	254.6	298.0
Mobile (on road)	159.9	104.4
Area	80.6	80.2
Totals	495.1	482.6

Safety Margin = 1993 total emissions—2006 total emissions = 12.5 tons/day NO_X

The emissions are projected to maintain the area's air quality consistent with the air quality health standard. The safety margin credit can be allocated to the transportation sector. The total emission level, even with this allocation will be below the attainment level, or safety level, and thus is acceptable. The safety margin is the extra safety [points] that can be allocated as long as the total level is maintained.

VII. How Does This Action Change the Cleveland/Akron/Lorain Ozone Maintenance Plan?

It raises the VOC emissions budget for mobile sources. The maintenance plan is designed to provide for future growth while still maintaining the ozone air quality standard. Growth in industries, population, and traffic is offset with reductions from cleaner cars and other emission reduction programs. Through the maintenance plan the State and local agencies can manage and maintain air quality while providing for growth.

In the submittal, Ohio requested to allocate part of the area's safety margin to the mobile source emissions budget. The Cleveland/Akron/Lorain/Lorain area's safety margin is the difference between the 1993 attainment inventory year and the 2006 projected emissions inventory (86.3 tons/day VOC safety margin, and 12.5 tons/day NO_X safety margin) as shown in Table 1. The SIP revision requests the allocation of 10 tons/day VOC into the area's mobile source VOC emissions budget from the safety margin. The 2006 mobile source VOC emissions budget showing the safety margin allocations are outlined in Table 2. The mobile source VOC emissions budget in Table 2 will be used for transportation conformity purposes.

Table 2 below illustrates that the requested portion of the safety margin can be allocated to the 2006 VOC mobile source budget and that total emissions will still remain at or below the 1993 attainment level of total emissions for the Cleveland/Akron/Lorain maintenance area. Since the area would still be at or below the 1993 attainment level for the total emissions, this allocation is allowed by the conformity rule. The NO_X budget and safety margin will remain the same.

TABLE 2.—ALLOCATION OF SAFETY MARGIN TO THE 2006 MOBILE SOURCE EMISSIONS BUDGET, CLEVELAND/AKRON/LORAIN

[Tons/day]

Source category	VOC emissions	
	1993	2006
Point	75.7	88.6
Mobile (on road)	181.4	92.7
Area	201.4	200.9
Totals	458.5	382.2

Remaining Safety Margin = 1993 total emissions—2006 total emissions = 76.3 tons/day VOC

VIII. Why Is the Request Approvable?

After review of the SIP revision request, EPA finds that the requested allocation of the safety margin for the Cleveland/Akron/Lorain area is approvable because the new mobile source emissions budget for VOC maintains the total emissions for the area at or below the attainment year inventory level as required by the transportation conformity regulations. This allocation is allowed by the conformity rule since the area would still be at or below the 1993 attainment level for the total emissions.

IX. EPA Action

EPA is approving the requested allocation of the safety margin to the mobile source VOC emission budget for the Cleveland/Akron/Lorain ozone maintenance area.

EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by July 23, 2001. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 6, 2001.

X. 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 (Public Law 104–4). This 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 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. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective August 6, 2001 unless EPA receives adverse written comments by July 23, 2001.

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 August 21, 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, Hydrocarbons, Ozone, Nitrogen oxides, Transportation conformity.

Dated: June 14, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

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 KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(15) to read as follows:

§ 52.1885 Control strategy: ozone.

(a) * * *

(15) Approval—On May 31, 2001, Ohio submitted a revision to the ozone maintenance plan for the Cleveland/Akron/Lorain area. The revision consists of allocating a portion of the Cleveland/Akron/Lorain area's NO_X safety margin to the transportation conformity mobile source emissions budget. The mobile source emissions budgets for transportation conformity purposes for the Cleveland/Akron/Lorain area are now: 92.7 tons per day of volatile organic compound emissions for the year 2006 and 104.4 tons per day of oxides of nitrogen emissions for the year 2006. This approval only changes the VOC transportation conformity emission budget for Cleveland/Akron/Lorain.

* * * * *

[FR Doc. 01–15749 Filed 6–21–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301120; FRL–6778–7]

RIN 2070–AB78

Cyprodinil; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of cyprodinil in or on strawberry, dry bulb onion, and green onion. IR-4 requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire on December 31, 2003.

DATES: This regulation is effective June 22, 2001. Objections and requests for hearings, identified by docket control number OPP–301120, must be received by EPA on or before August 21, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301120 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

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

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301120. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 21, 2000 (65 FR 38535) (FRL–6558–9), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) 8E5012 for tolerances by, IR-4, North Brunswick, New Jersey 08902–3390. This notice included a summary of the petition prepared by Novartis Crop Protection, Inc., the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.532 be amended by establishing tolerances for residues of the fungicide cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine, in or on strawberry at 5.0 parts per million (ppm) and the bulb vegetable crop group at 5 ppm. The petition was subsequently amended by IR-4 to propose time-limited tolerances for residues of cyprodinil in or on strawberry at 5.0 ppm, dry bulb onion at 0.60 ppm, and green onion at 4.0 ppm. These tolerances will expire on December 31, 2003.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of cyprodinil on strawberry at 5.0 ppm, dry bulb onion at 0.6 ppm and green onion at 4.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

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

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
	28–Day oral toxicity (gavage) (rat)	NOAEL = 10 mg/kg/day LOAEL = 100 mg/kg/day based on based on increased liver weights and abnormalities in liver morphology
870.3150	90–Day oral toxicity (dog)	NOAEL = 210 mg/kg/day (males) and 232 mg/kg/day (females) LOAEL = 560 mg/kg/day (males) and 581 mg/kg/day (females) based on lower body weight gains and decreased food consumption in both sexes
870.3200	28–Day dermal toxicity (rat)	NOAEL = 5 mg/kg/day (females) and 125 mg/kg/day (males)

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

Guideline No.	Study Type	Results
		LOAEL = 25 mg/kg/day for females and 1,000 mg/kg/day for males based on alterations in clinical signs (piloerection)
870.3100	90–Day oral toxicity (rat)	NOAEL = 3.14 mg/kg/day LOAEL = 19 mg/kg/day based on increased chronic tubular kidney lesions in males
870.3100	90–Day oral toxicity (mouse)	NOAEL = 73.3/103 mg/kg/day, males/females LOAEL = 257/349 mg/kg/day, males/females based on histopathological changes in the liver
870.3700a	Prenatal developmental (rat)	Maternal NOAEL = 200 mg/kg/day LOAEL = 1,000 mg/kg/day based on lower body weight/body weight gain and reduced food consumption Developmental NOAEL = 200 mg/kg/day LOAEL = 1,000 mg/kg/day based on lower mean fetal weights and an increased incidence of delayed ossification
870.3700b	Prenatal developmental (rabbit)	Maternal NOAEL = 150 mg/kg/day LOAEL = 400 mg/kg/day based on decreased body weight gain Developmental NOAEL = 150 mg/kg/day LOAEL = 400 mg/kg/day based on a slight increase of litters showing extra (13th) ribs.
870.3800	Reproduction and fertility effects (rat)	Parental/Systemic NOAEL = 81 mg/kg/day LOAEL = 326 mg/kg/day based on based on lower body weights in F_0 females during the pre-mating period Reproductive NOAEL = 81 mg/kg/day LOAEL = 326 mg/kg/day based on decreased pup weights (F_1 and F_2.
870.4300	Chronic toxicity/carcinogenicity (rat)	NOAEL = 2.7 mg/kg/day LOAEL = 35.6 mg/kg/day based on degenerative liver lesions (spongiosis hepatis) in males. There was no evidence of carcinogenicity in rat fed diets containing 0, 0.177, 2.7, 35.6 or 73.6 mg/kg/day (males); 0, 0.204, 3.22, 41.2 or 87.1 mg/kg/day (females) for 24-months. There was an increase in mammary fibroadenomas from controls to high dose, which was considered to be non-treatment related.
870.4100b	Chronic toxicity (dog)	NOAEL = 65.63 mg/kg/day (males) and 67.99 mg/kg/day (females) LOAEL = 446.37 mg/kg/day (females) and 449.25 mg/kg/day (males) based on lower body weight gains and decreased food consumption and food efficacy.
870.4200	Carcinogenicity in mice	NOAEL = 16.1 mg/kg/day (males). LOAEL = 212.4 mg/kg/day based on a dose-related increase in the incidence of focal and mutltifocal hyperplasia of the exocrine pancreas in males. There was no evidence of carcinogenicity.
870.5100	Gene mutation/bacteria	Negative in bacterial cells (*S. typhimurium* and (*E. coli*) and mammalian cells (V79/HGPRT assay)
870.5300	Gene mutation/Mammalian cell	Negative with and without activation
870.5375	Chromosome aberration (Chinese hamster ovary)	Negative; up to 25 micrograms/milliter (µg/ml) (-S9); up to 50 µg/ml (+S9)
870.5550	*In vitro* unscheduled DNA synthesis assay - primary rat hepatocytes	Negative; 0.74 to 80 µg/ml; cytotoxicity was seen at concentrations of 80 µg/ml

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

Guideline No.	Study Type	Results
870.5395	*In vivo* mouse micronucleus assay - bone marrow	Negative; single dose (gavage) 1,250 or 5,000 mg/kg
870.7485	Metabolism and pharmacokinetics	In a metabolism study in rats, single oral doses (0.5 or 100 mg/kg bw) of phenyl or pyrimidyl-radiolabelled cyprodinil were administered, with one low-dose group receiving unlabeled cyprodinil for 2 weeks prior to treatment with radiolabelled compound. Excretion was rapid and almost complete, with urine as the principle route of excretion. Tissue residues declined rapidly, with the highest concentrations (≥ 1.8 ppm) found in kidneys, liver, lungs, spleen, thyroid, whole blood, and carcass. Unchanged parent compound was detected in feces extract only. Excretion, distribution and metabolite profiles were essentially independent of dose level, pretreatment, and type of label, although there were some sex- dependent qualitative differences in two urinary metabolite fractions. Eleven metabolites were isolated from urine, feces and bile, and the metabolic pathways in the rat were proposed. All urinary and biliary metabolites (with one exception) were conjugated with glucuronic acid or sulfonated, and excreted. Cyprodinil was almost completely metabolized by hydroxylation of the phenyl ring (position 4) or pyrimidine ring (position 5), followed by conjugation. An alternative pathway involved oxidation of the phenyl ring followed by glucuronic acid conjugation. A quantitative sex difference was observed with respect to sulfonation of the major metabolite. The monosulfate metabolite was predominant in females, whereas equal amounts of mono- and disulfate conjugates were noted in males. Most of the significant metabolites in feces were exocons of biliary metabolites. These were assumed to be deconjugated in the intestines, partially reabsorbed into the general circulation, conjugated again, and eliminated renally. The major metabolic pathways of cyprodinil were not significantly influenced by the dose, treatment regimen, or sex of the animal.

B. Toxicological Endpoints

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

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

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

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

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute dietary (all populations)	Not applicable	Not applicable	There were no effects that could be attributed to a single exposure (dose) in oral toxicity studies including the developmental toxicity studies in rats and rabbits.

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Chronic dietary (all populations)	NOAEL= 2.7 mg/kg/day UF = 100 Chronic RfD = 0.03 mg/kg/day	FQPA SF = 1 cPAD = 0.03 ÷ 1 0.03 mg/kg/day	Combined/chronic toxicity - rat LOAEL = 35.6 mg/kg/day based on increased incidence of spongiosis hepatis in the liver
Short-term dermal (1–7 days)	Dermal study NOAEL= 25.0 mg/kg/day	LOC for MOE = 100 (includes the FQPA SF)	21–day dermal study - rat LOAEL = 125 mg/kg/day based on hunched posture
Intermediate- term dermal (1 week – several months)	Dermal study NOAEL= 25.0 mg/kg/day	LOC for MOE = 100 (includes the FQPA SF)	21–day dermal study - rat LOAEL = 125 mg/kg/day based on hunched posture
Long-term dermal (several months - lifetime)	Not applicable	Not applicable	Based on the current use pattern, there is no potential for long-term dermal exposure.
Inhalation (any time period)	Not applicable	Not applicable	The current use pattern, the low exposure potential and the low toxicity (Toxicity Category III) do not indicate a significant potential for exposure via this route.
Cancer (oral, dermal, inhalation)	''Not likely'' to be a human carcinogen	Not applicable	There is no evidence of carcinogenic potential, therefore, cancer risk assessment is not required.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.532(a)) for the residues of cyprodinil, in or on food commodities as follows: almond nutmeats at 0.02 ppm, almond hulls at 0.05 ppm, pome fruit at 0.1 ppm, apple, wet pomace at 0.15 ppm, grapes at 2.0 ppm, raisins at 3.0 ppm and stone fruit at 2.0 ppm. Time-limited tolerances in association with section 18 of FIFRA (emergency exemptions) have been established under 180.532(b) for caneberries at 10 ppm and strawberries at 5.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures from cyprodinil in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Agency did not conduct an acute dietary risk assessment since no toxicological endpoint of concern was identified during the review of the available data.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment, the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA (1989–1992) nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A conservative analysis was performed using published and proposed tolerance level residues and 100% crop treated information for all commodities.

iii. *Cancer*. Cyprodinil is classified as ''not likely'' to be a human carcinogen by all routes of exposure based on lack of evidence of carcinogenicity in mice and rats, therefore, a cancer risk assessment was not performed.

2. *Dietary exposure from drinking water*. Cyprodinil has a low potential for significant movement into ground water under most conditions. There is a moderate risk of cyprodinil contaminating surface water as runoff and through erosion of soil particles to which cyprodinil is absorbed. However, if cyprodinil residues were to reach surface water and/or ground water, it may persist for a significant period of time.

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

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-

GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

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

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

Based on the PRZM/EXAMS and SCI-GROW models the estimated environmental concentrations (EECs) of cyprodinil in surface water and ground water for acute exposures are estimated to be 52.9 parts per billion (ppb) for surface water and 0.033 ppb for ground water. The EECs for chronic exposures are estimated to be 51 ppb for surface water and 0.033 ppb for ground water.

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

Cyprodonil is not registered for use on any sites that would result in residential exposure.

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

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

D. Safety Factor for Infants and Children

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

ii. *Prenatal and postnatal sensitivity*. There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure.

2. *Conclusion*. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because: The toxicology data base is complete for the assessment of the effects following *in utero* and/or postnatal exposure; there is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure; EPA determined that a developmental neurotoxicity study is not required; the dietary (food and drinking water) exposure assessments will not underestimate the potential exposures for infants and children; and there are no registered residential uses at the current time.

E. Aggregate Risks and Determination of Safety

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

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

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

impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. Acute aggregate risk is negligible since no acute toxicological endpoint of concern was identified.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to cyprodinil from food will utilize 7% of the cPAD for the U.S. population, 23% of the cPAD for all infants < 1 year old and 22% of the cPAD for children 1–6 years old. There are no residential uses for cyprodinil that result in chronic residential exposure to cyprodinil. In addition, there is potential for chronic dietary exposure to cyprodinil in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup	cPAD (mg/kg)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.03	7	51	0.033	974
Infant < 1 year old	0.03	23	51	0.033	230

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

Cyprodinil is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Aggregate cancer risk for U.S. population*. Cyprodinil is classified as ''not likely to be human carcinogen,'' therefore, EPA concludes that cyprodinil poses no greater than a negligible cancer risk.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Ciby Geigy Method AG-631A is adequate for enforcement of tolerances for residues of cyprodinil in/on strawberry and dry bulb and green onions. Method AG-631A is a reissue of Method(s) AG-631/REM 141.01 which has successfully undergone an independent laboratory validation (ILV) as well as an Agency petition method validation (PMV) in conjunction with permanent tolerance petitions for use on stone fruits and almonds. The method includes a GC-NPD confirmatory method and has been radiovalidated using samples of ^{14}C cyprodinil-treated tomatoes. Once minor deficiencies cited in the PMVs have been resolved (the petitioner was required to submit a standard of cyprodinil and material safety data sheet (MSDS) to the EPA repository and to incorporate the necessary method revisions), the method will be forwarded to FDA for inclusion in PAM II.

The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian or Mexican maximum residue limits for strawberries, dry bulb onions or green onions.

C. Conditions

The residue field trials do not support permanent tolerances for cyprodinil residues in or on strawberry and onions. The residue field trials were conducted at exaggerated application rates (2.3 times the proposed use rates). Since EPA expects that residues from field trials preformed at the proposed use rates will be lower than those reported at the 2.3 times rate, conditional registration and time-limited tolerances may be established using the available data on strawberry and onions.

Based on the findings from a confined accumulation in rotational crops study, EPA has concluded that a field accumulation in rotational crop study should be conducted and residues of the cyprodinil metabolites (CGA-249287, CGA-263208, CGA-232449 and NOA-422054) should be monitored and reported to the Agency.

Based on structural similarities to genotoxic nucleotide analogs, there was concern that the pyrimidine metabolites (CGA-249287, NOA-422054) may be more toxic than the parent compound. However, EPA's review indicates similar results in an acute oral and mutagenicity studies with both the parent compound and the CGA-249287 metabolite. EPA concluded that the toxicity of the CGA-249287 and NOA-422054 metabolites is no greater than that of the parent, conditional on submission and review of confirmatory data of an acute oral toxicity study and bacterial reverse mutation assay for the NOA-422054 metabolite. Although the metabolites CGA-232449 and CGA-263208 were determined to be of potential toxicological concern, they are not expected to be more toxic than cyprodinil per se.

Upon receipt and evaluation of additional residue field trials for strawberries, dry bulb onions, and green onions; field accumulation in rotational crops study for the CGA-249287, NOA-422054, CGA-263208, and CGA-232449 metabolites; and formal submission and review of confirmatory data from an acute oral toxicity study and Ames assay for the CGA-249287 and NOA-422054 metabolites; the Agency will reassess these tolerances and, if appropriate, will establish permanent tolerances for strawberry, dry bulb onion and green onion. A rotational crop restriction will be imposed, which will limit the plant-back to crops which have established cyprodinil tolerances.

V. Conclusion

Therefore, these tolerances are established for residues of cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine, in or on strawberry at 5.0 ppm, dry bulb onion at 0.60 ppm, and green onion at 4.0 ppm. These tolerances will expire on December 31, 2003.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a

hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301120 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 21, 2001.

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

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301120, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: June 7, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.532(a) is amended by designating the text following the paragraph heading as paragraph (a)(1) and adding paragraph (a)(2) to read as follows:

§ 180.532 Cyprodinil; tolerances for residues.

(a) * * *

(2) Time-limited tolerances are established for residues of the fungicide cyprodinil, 4-cyclopropyl-6-methyl-*N*-phenyl-2-pyrimidinamine in or on the following food commodities.

Commodity	Parts per million	Expiration/ revocation date
Onion, dry bulb	0.60	12/31/03
Onion, green	4.0	12/31/03
Strawberry	5.0	12/31/03

* * * * *

[FR Doc. 01–15620 Filed 6–21–01 8:45 a.m.]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301141; FRL–6788–4]

RIN 2070–AB78

Tebufenozide; Re-establish Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation re-establishes time-limited tolerances for residues of the insecticide tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide in or on eggs at 0.01 part per million (ppm); grass, forage at 5 ppm; grass, hay at 18 ppm; hogs, liver at 1 ppm; hogs, mbyp at 0.1 ppm; peanuts at 0.05 ppm; peanut, hay at 5 ppm; peanut, meal at 0.15 ppm; peanut, oil at 0.15 ppm; poultry, fat at 0.1 ppm; poultry, meat at 0.01 ppm; and poultry, mbyp at 0.05 ppm for an additional 2–year period. These tolerances will expire and are revoked on June 30, 2003. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on peanuts and pasture. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the FIFRA.

DATES: This regulation is effective June 22, 2001. Objections and requests for hearings, identified by docket control number OPP–301141, must be received by EPA on or before August 21, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301141 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone

number:(703) 305–6463; and e-mail address: madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS Codes	Examples Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301141. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of December 18, 1998 (63 FR 70030) (FRL–6049–4), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the residues of the insecticide tebufenozide, in or on eggs at 0.01 ppm; grass, forage at 5 ppm; grass, hay at 18 ppm; hogs, liver at 1 ppm; hogs, mbyp at 0.1 ppm; peanuts at 0.05 ppm; peanut, hay at 5 ppm; peanut, meal at 0.15 ppm; peanut, oil at 0.15 ppm; poultry, fat at 0.1 ppm; poultry, meat at 0.01 ppm; and poultry, mbyp at 0.05 ppm, with an expiration date of December 31, 2000. EPA established these tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of tebufenozide on peanuts and pasture for this year's growing season. For peanuts the applicant claims that Lambda-cyhalothrin as well as other synthetic pyrethroids are ineffective in controlling the beet armyworm on peanuts. Researchers have found that the inherent resistant problem found in beet armyworm is associated with its enzyme system. These enzymes are commonly found in many of the cultivated and wild host plants. Researchers have shown that the induction of monooxygenases by host-plant feeding reduces the toxicity of carbamate and pyrethroid insecticides to the beet armyworm. The petition claims that as much as a 20 percent yield loss could occur without an effective insecticide to control the beet armyworm.

For pasture the armyworms have attacked pastures early this year and several states have availed themselves of the authority to declare a crisis including: Arkansas, Missouri, Kentucky, and Mississippi. Armyworms cause serious damage to hay and pasture lands. There have been many years where entire pastures have been destroyed by this insect. The primary advantage of tebufenozide is the short period of time between treatment and re-entry or harvest. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of tebufenozide on peanuts in Oklahoma and pasture land in Tennessee, Arkansas, Missouri, Kentucky, and Mississippi for control of armyworms.

EPA assessed the potential risks presented by residues of tebufenozide in or on peanuts and pasture. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of December 18, 1998 (63 FR 70030) (FRL–6049–4). Based on that data and information considered, the Agency reaffirms that re-establishment of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are re-established for an additional 2–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on eggs; grass, forage; grass, hay; hogs, liver; hogs, mbyp; peanuts; peanut, hay; peanuts, meal; peanut, oil; poultry, fat; poultry, meat; and poultry, mbyp after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301141 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before August 21, 2001.

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

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

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

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

3. *Copies for the docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301141, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

IV. Regulatory Assessment Requirements

This final rule establishes time-limited [tolerances] under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between

the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: June 11, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

§ 180.482 [Amended]

2. In § 180.482, amend paragraph (b) by revising the date ''December 30, 2000'' to read ''June 30, 2003'' for eggs; grass, forage; grass, hay; peanuts; peanut, hay; peanuts, meal; peanut, oil; poultry, fat; poultry, meat; and poultry, mbyp.''

[FR Doc. 01–15621 Filed 6–21–01; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No.010618158–1158-01; I.D.061301B]

RIN 0648–AP34

Sea Turtle Conservation; Restrictions to Fishing Activities

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is requiring all Virginia permitted fishermen deploying pound nets with leaders measuring 8 inches (20.3 cm) or greater stretched mesh and leaders with stringers to tie up such leaders in the Virginia waters of the mainstem Chesapeake Bay and tributaries for a period of 30 days. This action is necessary to protect threatened and endangered sea turtles.

DATES: This action is effective from 11:59 p.m. local time June 19, 2001 through 11:59 p.m. local time July 19, 2001. Comments on this action are requested, and must be received at the appropriate address or fax number (**ADDRESSES**) by no later than 5 p.m., eastern daylight time, on July 19, 2001..

ADDRESSES: Written comments on this action or request for copies of the literature cited or the Environmental Assessment (EA) should be addressed to the Assistant Regional Administrator for Protected Resources, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to 978–281–9394. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Mary A. Colligan (ph. 978-281–9116, fax 978–281-9394), or Barbara A. Schroeder (ph. 301–713–1401, fax 301–713–0376).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Under the ESA and its implementing regulations, taking sea turtles--even incidentally--is prohibited, with exceptions identified in 50 CFR 223.206. The incidental take of endangered species may only legally be authorized by an incidental take statement or an incidental take permit issued pursuant to section 7 or 10 of the ESA. No incidental take of sea turtles is currently authorized in the Virginia pound net fisheries. Existing NMFS regulations specify procedures that NMFS may use to determine that unauthorized takings of sea turtles are occurring during fishing activities, and to impose additional restrictions to conserve sea turtles and to prevent unauthorized takings (50 CFR 223.206(d)(4)). Restrictions may be effective for a period of up to 30 days

and may be renewed for additional periods of up to 30 days each.

Existing information indicates that pound nets with large mesh and stringer leaders incidentally take sea turtles, and based on the available information, NMFS has determined that fishing with this gear is the most likely cause of significant increases in the stranding of sea turtles in the Chesapeake Bay. This action is necessary to protect threatened and endangered turtles from further unauthorized incidental take in state water fisheries.

Recent Stranding Events

The Sea Turtle Stranding and Salvage Network (STSSN) documented a high level of sea turtle strandings in Virginia inshore waters this spring. From May 19 to June 11, 2001, preliminary data indicate 160 sea turtles washed ashore dead in Virginia. The number of stranded sea turtles began to increase dramatically after May 29. On 3 separate days in June, more than 20 turtle strandings were reported for each day. Loggerhead turtles comprised the majority of the strandings (137), but 16 Kemp's ridley, 1 green, and 6 unidentified sea turtles also stranded during this time. Most of the stranded turtles were juveniles.

Approximately 22 sea turtles were also reported as floating dead around the mouth of and in various parts of the Chesapeake Bay during early June. It is unknown whether these turtles eventually washed ashore and were recorded by the STSSN. Additionally, aerial surveys conducted this spring in offshore Virginia waters as well as in the inshore Chesapeake Bay waters have observed sea turtles. While these turtles were alive when observed, their presence indicates that turtles are continuing to migrate into the Chesapeake Bay and may be subject to fishery interactions. Aerial surveys conducted in May and June between the Maryland and Virginia State line, from the oceanside beaches out to the shelf break, have documented hundreds of live turtles throughout the survey area. An additional 13 sea turtles were observed on an aerial survey of the southern portion of the Chesapeake Bay on June 8.

For the majority of turtles that stranded, there were no obvious external signs of the cause of death. Two of the turtles found on the eastern shore of Virginia had large fish hooks imbedded in them. Five turtles had cracks/propeller-like wounds on their carapaces, although it is impossible to determine whether these wounds occurred pre- or post-mortem. One turtle found on the ocean side of the eastern shore of Virginia had a large hole in its neck, and another turtle found on the bay side had three puncture holes on three of its flippers.

The rate of decomposition varied, but the majority of the stranded turtles were moderately decomposed. Turtles examined by necropsy were found to have been in good health prior to their death. Many of the turtles had full stomachs, and contents included blue crab, horseshoe crab, and some fish.

The majority of the strandings (approximately 65 percent) occurred along the Chesapeake Bay side of the eastern shore of Virginia and along the southern tip near Kiptopeke and Fisherman's Island. The wind during much of the stranding event was blowing toward the eastern shore and could have contributed to the concentration of strandings on the eastern shore during the first few days of June.

Analysis of Other Factors

The existing data indicate that the most likely anthropogenic source of sea turtle mortality in Virginia this year is interactions with the pound net fishery. There is a complex matrix of fisheries operating in Virginia during the spring, including large and small mesh gillnet fisheries, whelk and crab pot fisheries, and the pound net fishery. Due to previous concern over fisheries in the Chesapeake Bay and in the waters off Virginia, NMFS observed a number of the fisheries active in the area at the time of the strandings. The federally managed monkfish large mesh gillnet fishery (approximately 10-12 inch mesh) had near 100 percent observer coverage in waters off Virginia from May 1 until it stopped operating on May 29. As of May 29, 82 monkfish trips were observed in Virginia and two live and one dead loggerhead turtle were incidentally captured in this fishery. An experimental blackfin monkfish fishery with 100 percent observer coverage was also occurring offshore Virginia during the time of the strandings and one dead loggerhead turtles was taken in 35 observed trips. Two 13-14 inch (33.0-35.6 cm) mesh gillnet fisheries, the black drum and sandbar shark gillnet fisheries, occurred in state waters, in the vicinity of the highest number of turtle strandings (along the tip of the eastern shore). However, during May and June, both of these fisheries had good alternative platform observer coverage (approximately 75 trips observed in both fisheries), and no turtle takes were observed. Additionally, almost all of the black drum fishing effort ceased at the beginning of June, and there has not been a large amount of sandbar shark gillnet effort. No large mesh gillnet fishing in the vicinity of the mouth of the Chesapeake Bay occurs from June 1 to June 30, because during this time, gillnets with a stretched mesh size greater than 6 inches (15.2 cm) are prohibited in Virginia's portion of the Chesapeake Bay south of Smith Island.

There has been only a limited amount of small mesh gillnet effort occurring in Virginia waters during May and June. NMFS has observed 14 (seven in the Chesapeake Bay and seven in the ocean) small mesh gillnet trips for croaker and spot in May, and 4 trips from June 1 to June 10. No takes have been observed in these small mesh gillnets. Aerial survey flights conducted in the inshore waters of the Chesapeake Bay also have not documented a large amount of gillnet fishing. No trawling occurs in the Chesapeake Bay, as the Virginia Marine Resources Commission (VMRC) restricted the use of trawls in Virginia's portion of the Chesapeake Bay in 1989. Aerial surveys, landings data, and dock surveys indicate that limited trawling occurs in Federal waters offshore of Virginia during May and June.

While whelk and crab pots may contribute to some sea turtle mortalities, the nature of the recent 160 strandings does not implicate pot gear. The majority of the whelk pot effort is found offshore, particularly outside Virginia's state waters, and few fishermen set their pots inside the Chesapeake Bay (Mansfield *et al.*, 2001). The spring peak months for the whelk pot fishery are April and May. Crab pot fishing occurs in the Chesapeake Bay, in the vicinity of the eastern shore and tip of the Delmarva Peninsula, but it is unlikely that sea turtle interactions with crab pots resulted in the high level of strandings observed this year.

Pound nets are the only remaining gear type in the Chesapeake Bay that may have contributed to the high stranding event. High mortalities in late May and early June in Virginia have previously been attributed to entanglement in large mesh pound net leaders in the Chesapeake Bay (Bellmund *et al.* 1987; Musick *et al.* 1985). Pound nets with large (greater than 10 inch (>25.4 cm)) mesh leaders set where the currents are strong may entangle turtles when they enter the Chesapeake Bay. A 1986 study by the Virginia Institute of Marine Science (VIMS) found that entanglements in pound net leaders began in mid-May, increasing in early June, and reaching a plateau in late June. Mortalities drop off substantially by the end of June, and turtles tracked using radio transmitters were able to forage around the nets

without injury (Musick *et al.*, 1985; Byles, 1988).

Data collected in 1983 and 1984 found turtle entanglement in pound nets with small mesh leaders to be insignificant, but in 173 pound nets examined with large mesh leaders, 0.2 turtles per net were found entangled (30 turtles; Musick *et al.*, 1986). The 1986 VIMS study also found that in 38 nets examined with stringer mesh, 0.7 turtles per net were documented entangled (27 turtles). Pound net observations in North Carolina during the early 1980s also documented entanglements in pound net leaders with 8-inch (20.3-cm) mesh and greater.

Pound nets are set throughout the Chesapeake Bay, with gear found in the mainstem of the bay (e.g., Mobjack Bay) and along the eastern shore of Virginia, around the mouth of and in the York River, and around the mouth of and in the Rappahannock River. Pound nets are the main fishing gear observed immediately offshore of the Kiptopeke area and along the southern portion of the Virginia eastern shore, where most of the 2001 strandings have occurred. There are approximately 16 to 20 pound nets along the southern portion of the eastern shore, and approximately one-third of these nets use large mesh leaders. Large mesh leaders are utilized in this high flow area to prevent flotsam from getting entangled in the leaders and causing the net to be swept away, which happens in locations with strong tidal currents. In the southern area of the eastern shore, large mesh leaders (approximately 12 inch (30.5 cm) mesh) are set in deep water (approximately 20 to 30 ft (6.1 to 9.1 m)), while small mesh leaders (approximately 6 to 8 inch (15.2 to 20.3 cm) mesh) are set closer to shore in up to 10 ft (3.0 m) of water. While stringer leaders are not used along the eastern shore, they are found in the western bay, around the tip of Mobjack Bay and just south of the mouth of the Potomac River, near Reedville. While fishing effort varies from spring to fall, a survey conducted in the fall of 2000 found nine stringer leaders in the western Chesapeake Bay (Mansfield *et al.*, 2001). Several sea turtle strandings have occurred on the western shore of the Chesapeake Bay during the spring of 2001, but strandings have not been documented at the same magnitude as along the eastern shore. As mentioned previously, this may be a reflection of prevailing winds rather than the location of turtle mortalities. In any event, stringer mesh leaders have been found to pose a large entanglement threat to sea turtles (Musick *et al.*, 1986).

Several sea turtles have been documented in pound net leaders this spring. A NMFS observer found three loggerhead turtles against two different large mesh pound net leaders (approximately 13 inch (33.0 cm)) off Sunset Beach on the eastern shore in early June. The two pound nets were set in deep water (approximately 25 feet (7.6 m)) and were the farthest out in the water relative to the other nets in the area. On June 14 off Sunset Beach, the NMFS observer documented six loggerheads and one Kemp's ridley stranded dead on the beach in the vicinity of 19 pound nets. VMRC law enforcement agents also documented two dead and one live sea turtle in pound net leaders along the eastern shore.

Sea turtle entanglements in pound net leaders are often difficult to detect. These five observed sea turtles were found in the leaders at the water's surface. Due to the lack of water clarity in the Chesapeake Bay, turtles entangled below the surface may go unobserved. Thus, it is likely that significantly more sea turtles have been entangled this spring in the pound nets than were observed.

NMFS has continuously investigated other possible causes for the sea turtle mortality events, but non-fishing related causes for the increase in dead sea turtles are not consistent with the nature of the strandings this spring. For instance, the absence of other species in the most recent stranding events was inconsistent with a toxic algae bloom, disease, or other water quality impact. Further, there were no major traumatic injuries such as might be caused by dredging or blasting.

Due to the location of the turtle strandings, the type of fishing gear in the vicinity of the greatest number of strandings, and the known interactions between sea turtles and large mesh and stringer pound net leaders, pound nets have been considered to be the likely cause of the high sea turtle strandings in Virginia in May and June 2001. Specifically, large mesh (greater than 8 inches (>20.3 cm)) and stringer leaders pose the greatest current entanglement threat to sea turtles in the Chesapeake Bay.

Impacts on Sea Turtles

Strandings in Virginia are almost always highest during the month of June and stranding reports have increased in recent years. For example, for the month of June sea turtle strandings were 57 in 1995, 62 in 1996, 133 in 1997, 153 in 1998, 125 in 1999, and 85 in 2000. From June 1 through June 11, 2001, preliminary reports indicate 105 sea turtles stranded on Virginia beaches.

In recent years, sea turtles strandings have been documented earlier in the spring, with 55 turtle strandings (45 loggerheads, 5 Kemp's ridleys, 5 unidentified) reported in Virginia from May 1 to May 31, 2001. While 70 sea turtles stranded during the same time period in 2000, that was an exceptionably high year; only 5 stranded in 1999, 30 in May 1998, 35 in 1997, 29 in 1996 and 34 in 1995. The strandings in May 2001 are approximately twice the average number of turtles stranded in May from 1995 to 2000. While these earlier stranding patterns may be explained by water temperature fluctuations and associated effects on turtle migrations, strandings in June 2001 have also been elevated. The high level of strandings in May and June this year and the number of dead loggerheads and Kemp's ridleys may pose a risk to these populations.

Most loggerheads in U.S. waters come from one of two genetically distinct nesting populations. The population that nests in south Florida is much larger and has shown increases in nesting. The northern population that nests from northeast Florida through North Carolina is much smaller and nesting numbers are stable or declining. Previous genetic analysis suggests that approximately one-half of the juvenile loggerheads inhabiting the Chesapeake Bay during the spring and summer are from the smaller, northern population (TEWG, 2000; Norrgard, 1995).

The Virginia strandings in May and June 2001 are of concern for the following reasons: (1) The level of strandings in Virginia have been high over the last 5 years and continue to increase this year; (2) the strandings occurred during a time when observer coverage in the large and small mesh gillnet fisheries found little evidence of sea turtle take; (3) most of the strandings were concentrated along the southern tip of the eastern shore, suggesting a potential localized interaction; (4) the take of ESA-listed sea turtles is unauthorized without a incidental take statement or permit; and (5) the non-recovering northern subpopulation of threatened loggerheads comprises approximately one-half of the mixed stock off Virginia.

The increase in loggerhead mortality documented during the last several years may affect the recovery of the loggerhead populations, especially as the mortality is occurring at an important point when turtles are migrating inshore to their summer foraging grounds in the Chesapeake Bay.

Modification of Pound Net Gear

The exemption for incidental taking of sea turtles in 50 CFR 223.206(d)(1) does not apply to endangered sea turtles (i.e., Kemp's ridleys) nor does it authorize incidental takings during fishing activities if the takings may be likely to jeopardize the continued existence of a species listed under the ESA, pursuant to NMFS regulations at 50 CFR 223.206(d)(4) provide that the Assistant Administrator for Fisheries, NOAA, (AA) may issue a determination that incidental takings in the course of fishing activities are unauthorized, and specify procedures that the AA may use to impose additional restrictions to conserve listed sea turtles and prevent such takings. Sixteen endangered Kemp's ridleys and one green turtle stranded on the shores of Virginia this year, which indicates that there may be unauthorized takes occurring in these waters. While most of the stranded turtles were loggerheads, there is no incidental take statement nor incidental take permit for any of these threatened or endangered turtles. The unregulated incidental take of sea turtles in state fisheries needs to be minimized to the extent practicable to ensure recovery of these species. The level of mortality suffered by loggerhead turtles this spring off Virginia is high and may be adversely impacting the northern nesting population of loggerheads. Strandings in Virginia have been high over the last 5 years, and if the strandings continue at the current rate, the number of sea turtle mortalities will exceed previous levels. Continued mortality caused by unauthorized incidental capture in all pound net leaders greater or equal to 8 inches (20.3 cm) stretched mesh and pound net leaders with stringers during loggerheads' migration into and residency in the Chesapeake Bay may affect the ability of the northern population to recover. Therefore, the AA issues this determination that takings of threatened or endangered sea turtles by all Virginia permitted fishermen deploying pound nets with leaders of 8 inches or greater (≥ 20.3 cm) stretched mesh and leaders with stringers in Virginia waters of the mainstem Chesapeake Bay and tributaries are unauthorized, and issues this additional restriction on fishing activities to conserve and protect threatened and endangered sea turtles in the Chesapeake Bay. Specifically, the AA requires that in the Virginia waters of the mainstem Chesapeake Bay and the tidal waters of the James, York, and Rappahannock Rivers, all Virginia permitted fishermen deploying pound nets with leaders measuring 8 inches (20.3 cm) or greater stretched mesh and all pound nets with stringer leaders must tie up their leaders. The leaders must be tied up in such a manner so that the mesh and stringers are rolled up and tied off, and are not fishing in the water. The heart(s) and pound may remain in the water, and only the leaders must be tied up. The area where this gear modification applies includes the Virginia waters of the mainstem Chesapeake Bay from the Maryland-Virginia State line (approximately 38° N. lat.) to the COLREGS line at the mouth of the Chesapeake Bay; the tidal James River; the tidal York River; and the tidal Rappahannock River. This modification of the pound net leaders is effective from 11:59 p.m. local time June 19, 2001 through 11:59 p.m. local time July 19, 2001. For the duration of this mandatory gear modification, all pound net leaders measuring 8 inches or greater stretched (≥ 20.3 cm) mesh and pound net leaders with stringers must be tied up, and all fishing with these leaders must be curtailed in the designated area. All such pound net leaders that are currently set must be modified by 11:59 p.m local time on June 19, 2001.

The fishery affected by this temporary rule is the Virginia pound net fishery in the Chesapeake Bay. Virginia permitted fishermen deploying pound nets with leaders measuring 8 inches or greater (≥ 20.3 cm) stretched mesh and leaders with stringers will be affected. While target species catch rates will likely decrease due to the inability to use the leaders on the pound nets, the heart(s) and pound may still be set, which may result in some level of catch. From June 20 to July 20, 2000, the total landings for all pound nets in Virginia waters were 1,284,147 lbs (582,489 kg), with a total value of $437,868. This represents the worst case scenario of landings forgone as a result of this temporary rule. However, not all of the pound nets in Virginia waters are equipped with large mesh leaders or leaders with stringers. While landings data have not been separated into landings from large mesh, small mesh, or stringer leaders, based on information obtained from the Mansfield *et al.*, (2001) fall pound net characterization, approximately 20 out of 82 active pound nets will be affected by this rule (approximately 1/4 of the total pound nets set in Virginia waters). Assuming the same number of pound nets will be fished, the same amount of fish will be landed, and the value of these landings will be similar from June 20 to July 20, 2000 to 2001, the landings that may be forgone by the issuance of this temporary rule would be 313,207 lbs (142,071 kg) of fish, with a total value of $106,797. Pound nets catch a variety of fish species, so this total value amount incorporates a range of fish prices. Most of the fishermen that fish pound nets with large mesh leaders in this area also fish nets with small mesh leaders closer to shore, reducing the economic impact of this temporary gear modification.

As mentioned previously, stringer leaders are only set in the western Chesapeake Bay, around the tip of Mobjack Bay and just south of the mouth of the Potomac River, near Reedville. A survey conducted in the fall of 2000 found only nine stringer leaders in the western Chesapeake Bay (Mansfield *et al.*, 2001), so the impact of this temporary gear modification will only impact this limited group of fishermen who deploy pound nets using stringer leaders in the western part of the bay.

This restriction has been announced on the NOAA weather channel, in newspapers, and other media.

Additional Conservation Measures

The AA may withdraw or modify any additional restriction on fishing activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30-day action, will be published in the **Federal Register** pursuant to 50 CFR 223.206(d)(4).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures as well as compliance.

Classification

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

The AA has determined that this action is necessary to respond to an emergency situation to provide adequate protection for endangered and threatened sea turtles, pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing this action in a timely manner to protect the ESA-listed sea turtles. Notification of and opportunity to comment on the procedures allowing the implementation of temporary measures to protect sea turtles was provided through the proposed rule which

established these actions (57 FR 18446, April 30, 1992). For the same reasons, the AA finds good cause also under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. NMFS is making the rule effective 11:59 p.m. local time June 19, 2001 through 11:59 p.m. local time July 19, 2001. Immediately, pound net leaders measuring 8 inches or greater (≥ 20.3 cm) and pound net leaders with stringers must be tied up in the designated area, and all fishing with these leaders must be curtailed. As stated earlier, this restriction has been announced on the NOAA weather radio, in newspapers, and other media.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.*, are inapplicable.

The AA prepared an EA for the final rule (57 FR 57348, December 4, 1992) requiring turtle excluder device use in shrimp trawls and creating the regulatory framework for the issuance of notices such as this. Copies of the EA and literature cited are available (see **ADDRESSES**).

Authority: 16 U.S.C. 1531, *et seq.*

Dated: June 18, 2001.

Rolland A. Schmitten,

Director, Habitat Conservation, National Marine Fisheries Service

[FR Doc. 01–15676 Filed 6–18–01; 4:40 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 121
Friday, June 22, 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 170

RIN Number 3038–AB84

Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers

AGENCY: Commodity Futures Trading Commission.

ACTION: Reopening and extension of comment period.

SUMMARY: On May 17, 2001, the Commodity Futures Trading Commission (''CFTC'') published in the **Federal Register** a request for public comment on a proposal to amend Rule 3.10, so as to provide notice registration as a futures commission merchant (''FCM'') or introducing broker (''IB'') for certain securities brokers or dealers (''BDs''), and to amend Rule 170.15, so as to exempt these BDs from the requirement to become a member of the National Futures Association (''CFTC Proposal'').[1] Among other things, these BDs would be required to be registered with the Securities and Exchange Commission (''SEC'') and to limit their involvement with commodity interests to security futures products. The CFTC Proposal was made in accordance with the Commodity Futures Modernization Act of 2000 (''CFMA''). In response to a request it has received, the CFTC is extending the comment period on the CFTC Proposal to July 11, 2001.

DATES: Written comments must be received on or before July 11, 2001.

ADDRESSES: Comments on the proposal should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to secretary@cftc.gov. Reference should be made to ''Notice Registration as a Futures Commission Merchant or Introducing Broker for Certain Securities Brokers or Dealers.''

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, Assistant Chief Counsel, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, D.C. 20581, (202) 418–5450, electronic mail: bgold@cftc.gov, or lpatent@cftc.gov.

SUPPLEMENTARY INFORMATION: The CFTC Proposal would provide for notice registration as an FCM or IB for certain BDs subject to the condition that they limit their commodity interest-related activity to security futures products. The comment period on the CFTC Proposal expires June 18, 2001. The CFMA also authorizes notice registration as a BD with the SEC of certain FCMs and IBs for the limited purpose of effecting transactions in security futures products. The SEC has not, however, as of this date published for comment in the **Federal Register** a notice registration proposal for such FCMs and IBs (''SEC Proposal'').

Because it would like the opportunity to review the SEC Proposal before commenting on the CFTC Proposal, the Futures Industry Association (''FIA'') has requested an extension of time of the comment period on the CFTC Proposal. In response, the CFTC has determined to extend the comment period on the CFTC Proposal until July 11, 2001 in order to insure that an adequate opportunity is provided for submission of meaningful comments.

This date is intended to provide the FIA with its requested ''two-week extension . . . from the date the SEC's release is published.'' However, in the event the date of July 11, 2001 is not sufficient to provide for the requested two-week extension, the CFTC intends to provide for another extension of the comment period on the CFTC Proposal so as to in fact provide interested persons with two weeks after the date of publication in the **Federal Register** of the SEC Proposal in which to comment on the Proposal.

Issued in Washington, D.C. on June 18, 2001 by the Commission.

Jean A. Webb,
Secretary of the Commission.

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[1] 66 FR 27476.

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 502

RIN 3141–AA10

Definitions: Electronic or Electromechanical Facsimile

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission proposes to amend its regulations by removing the definition of ''electronic and electromechanical facsimile'' now set forth at 25 CFR 502.8.

DATES: Comments may be submitted on or before July 23, 2001.

ADDRESSES: Send comments by mail, facsimile, or hand delivery to: Definitions: Electronic and Electromechanical Facsimile, Amendment Comments, National Indian Gaming Commission, Suite 9100, 1441 L Street, NW., Washington, DC 20005. Fax number: 202–632–7066 (not a toll-free number). Public comments may be delivered or inspected from 9 a.m. until noon and from 2 p.m. to 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Michele F. Mitchell at 202–632–7003 or, by fax, at 202–632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (''IGRA'' or ''Act'') 25 U.S.C. 2701–2721, enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). Under the Act, the Commission is charged, among other things, with regulating Class II gaming by Indian tribes. The Act defines Class II gaming as including the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith), but does not include electronic or electromechanical facsimiles of any game of chance or slot

machines of any kind. On April 9, 1992, the Commission issued a final rule defining key terms in the Act. Among the terms defined by the Commission was ''electronic or electromechanical facsimile.'' The Commission defined this term by reference to the Johnson Act, 15 U.S.C. 1171(a)(2) and (3). See 25 CFR 502.8. Although an agency's interpretation of ambiguous terms in a federal law that it is responsible for administering is ordinarily entitled to great deference, the courts, in several recent decisions, have not relied on the Commission's definition of electronic or electromechanical facsimile. Instead the courts have relied exclusively on the terms contained in the Indian Gaming Regulatory Act, applying a plain language interpretation of this phrase. To ensure consistency with developments in the case law and to ensure a uniform approach to this term by the Commission and the courts, the Commission now proposes and seeks public comment on removal of 25 CFR 502.8 and use instead the plain language interpretation that has been preferred by the courts.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The Commission has determined that this proposed rule does not impose an unfunded mandate on State, local or tribal governments or on the private sector of more than $100 million per year. Thus, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.* The Commission has also determined that the proposed rule does not have a unique effect on tribal governments because the proposed removal of the reference to the Johnson Act merely codifies the practice of defining ''electronic and electromechanical facsimile'' in accordance with the plain meaning of those words.

Takings

In accordance with Executive Order 12630, the Commission has determined that this rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Instead, the rule is likely to decrease litigation with Indian tribes and reduce unnecessary friction between the Department of Justice and the Commission.

Paperwork Reduction Act

This regulation does not require an information collection under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The Commission has analyzed this rule in accordance with the criteria of the National Environmental Policy Act. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental assessment is not required.

List of Subjects in 25 CFR Part 502

Gaming, Indian lands.

For the reasons set forth in the preamble, the National Indian Gaming Commission proposes to amend 25 CFR Part 502 as follows:

PART 502—DEFINITIONS OF THIS CHAPTER

1. The authority citation for part 502 continues to read as follows:

Authority 25 U.S.C. 2701 *et seq.*

2. Amend § 502.8 as follows:

§ 502.8 [Removed and Reserved]

Remove and reserve § 502.8.

Dated: June 18, 2001.

Elizabeth L. Homer,

Vice Chair.

Teresa E. Poust,

Commissioner.

[FR Doc. 01–15700 Filed 6–21–01; 8:45 am]

BILLING CODE 7565–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI85–01–7316; FRL–7000–6]

Approval and Promulgation of Air Quality Plans; Wisconsin; Post-1996 Rate Of Progress Plan for the Milwaukee-Racine Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the post-1996 Rate-Of-Progress (ROP) plan submitted by the State of Wisconsin for the Milwaukee-Racine ozone nonattainment area, as a requested revision of the State Implementation Plan (SIP) for ozone. The Clean Air Act (Act) requires a post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area. The purpose of the post-1996 ROP plan is to incrementally provide for progress toward attainment of the 1-hour ozone standard in the Milwaukee-Racine ozone nonattainment area by reducing ground-level ozone precursor emissions. The submitted plan, which covers the period of 1996 through 1999 and emission reductions occurring by November 15, 1999, shows that Wisconsin reduced emissions of volatile organic compounds (VOC), ozone-forming pollutants by the amounts required by the Act.

DATES: EPA must receive comments in writing by July 23, 2001.

ADDRESSES: Written comments should be sent to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the state's submittal addressed in this proposed rule, and other relevant materials are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Jacqueline Nwia at (312) 886–6081 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Jacqueline Nwia, Environmental Scientist, U.S. Environmental Protection Agency, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago cv, Illinois 60604, (312) 886–6081, nwia.jacqueline@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, ''we,'' ''us,'' or ''our'' mean EPA.

This section provides additional information by addressing the following questions and topics:

I. What Is EPA Proposing to Approve In This Action?
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III. The Wisconsin Post-1996 ROP Plan.
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B. What environmental benefits does the post-1996 ROP plan provide?
C. What Wisconsin counties are in the Milwaukee-Racine ozone nonattainment area?
D. Who is affected by the Wisconsin post-1996 ROP plan?
E. What public review opportunities were provided?
F. What criteria must a post-1996 ROP plan meet to be approved?
G. What are the special requirements for claiming VOC reductions from sources outside the nonattainment area boundary?
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V. The Wisconsin Post-1996 ROP Plan Control Strategies.
A. What are the criteria for acceptable control strategies?
B. What are the control strategies under the Wisconsin post-1996 ROP plan?
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d. Gray Iron and Steel Foundries.
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g. Degreasing.
h. Federal Architectural and Industrial Maintenance (AIM) Coating (Industrial).
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A. Why is the Wisconsin Post-1996 ROP plan approvable?
VII. What Action Are We Proposing Today?
VIII. Administrative Requirements.
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B. Executive Order 13045
C. Executive Order 13084
D. Executive Order 13132
E. Regulatory Flexibility
F. Unfunded Mandates

I. What Is EPA Proposing to Approve In This Action?

We are approving the post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area because the plan identifies control measures to achieve a projected 9 percent VOC emission reduction by November 15, 1999. Section 182(c)(2) of the Act requires serious and above ozone nonattainment areas to submit plans that would achieve reductions in VOC emissions by at least 3 percent per year, net of growth, averaged over each consecutive 3 year period beginning in 1996 until the areas attainment date. These plans are referred to as rate-of-progress (ROP) plans. Section 182(c)(2) also requires such areas to submit a plan that demonstrates attainment of the ozone standard based on photochemical grid modeling or an equally effective method. The attainment demonstration and ROP plans were due to EPA by November 15, 1994.

Many states, however, found it difficult to meet the date for submittal of an attainment demonstration and post-1996 ROP plan due primarily to an inability to address or control transport of ozone. We consequently recognized the efforts made by the states and the challenges in developing technical information and control measures with respect to these submittals in a memorandum entitled ''Ozone Attainment Demonstrations,'' dated March 2, 1995, from Mary D. Nichols, Assistant Administrator for Air and Radiation. The memorandum then allowed new time frames for these SIP submittals and divided the required SIP submittals into two phases. Generally, Phase I consists of: SIP measures providing for ROP reductions due by the end of 1999, an enforceable SIP commitment to submit any remaining required ROP reductions on a specified schedule after 1999, and an enforceable SIP commitment to submit the additional SIP measures needed for attainment. Phase II consists of the remaining ROP SIP measures, the attainment demonstration and additional local rules needed to attain, and any regional controls needed for attainment by all areas in the region.

This action is proposing to approve Wisconsin's post-1996 ROP plan.

II. What Is the Procedural Background of the Wisconsin Submittal?

On December 11, 1997, the State of Wisconsin submitted the post-1996 ROP plan for the Milwaukee-Racine area as a requested SIP revision. The plan was submitted to meet the Act's requirement, in section 182(c)(2)(B), that the state demonstrate a 9 percent reduction of VOC emission in the Milwaukee-Racine ozone nonattainment area during the 3 year period between 1996 and 1999. We issued a completeness letter on December 29, 1998. Wisconsin subsequently submitted several supplements to the December 11, 1997 ROP plan, consisting of supplemental documentation, on August 5, 1999, January 31, 2000, March 3, 2000, and February 2001.

III. The Wisconsin Post-1996 ROP Plan

A. What is a Post-1996 ROP Plan?

An ROP plan is a strategy to achieve timely periodic reductions of emissions that produce ground-level ozone in areas that are not attaining the ozone National Ambient Air Quality Standards (NAAQS). A post-1996 ROP plan must demonstrate a projected 9 percent emission reduction of ozone-forming VOC emissions in those areas between 1996 and 1999.

ROP plans are a requirement of the Act under section 182. Section 182(c)(2)(B) requires states with ozone nonattainment areas classified as serious and above to adopt and implement plans to achieve periodic reductions in VOC emissions after 1996. The requirement is intended to ensure that an area make progress toward attainment of the ozone NAAQS. The post-1996 ROP emission reductions must be achieved at a rate of 3 percent per year relative to the 1990 baseline emissions, net of growth of emissions, averaged over three-year periods. The first three-year 9 percent milestone, called the ''post-1996 ROP plan,'' must demonstrate that these emission reductions were projected to have occured by November 15, 1999. Because the Milwaukee-Racine ozone nonattainment area is classified as a severe area, the area was required to meet the post-1996 ROP requirement.

The post-1996 ROP plan contains: (1) Documentation showing how the state

calculated the emission reduction(s) needed on a daily basis to achieve the 9 percent VOC emission reduction; (2) a description of the control measures used to achieve the emission reduction; and (3) a description of how the state determined the emission reduction from each control measure.

The post-1996 ROP plan will contribute to continued progress toward achieving attainment by the Act's mandated date of November 15, 2007 for the Milwaukee-Racine ozone nonattainment area.

B. What Environmental Benefits Does the Post-1996 ROP Plan Provide?

The Wisconsin post-1996 ROP plan shows reductions of VOC emissions. VOC emissions contribute to the formation of ground-level ozone in the atmosphere.

The post-1996 ROP plan demonstrates VOC emission reductions from sources within the Milwaukee-Racine ozone nonattainment area and several source categories within 100 kilometer of the nonattainment area boundary. Although some of the VOC reductions are from sources outside the nonattainment area, they are creditable towards the post-1996 ROP plan. These outside VOC emissions contribute to ozone formation in the Milwaukee-Racine area, and reducing such emissions will contribute to the Milwaukee-Racine area's progress towards attainment.

The reactivity of ozone causes health problems because it damages lung tissue, reduces lung function and sensitizes the lungs to other irritants. When inhaled, even at low levels, ozone can cause or aggravate a variety of respiratory problems, including shortness of breath, chest pain, wheezing, coughing, asthma, decreased lung capacity, and inflammation of lung tissue. Repeated exposure to ozone at elevated concentrations for several months may cause permanent structural damage to the lungs.

Ozone also affects vegetation and ecosystems, leading to reductions in agricultural and commercial forest yields, reduced growth and survivability of tree seedlings, and increased plant susceptibility to disease and pests.

C. What Wisconsin Counties are in the Milwaukee-Racine Ozone Nonattainment Area?

The Milwaukee-Racine ozone nonattainment area includes the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha.

D. Who is Affected by the Wisconsin Post-1996 ROP Plan?

Wisconsin's post-1996 ROP plan does not create any new control requirements. Instead, it demonstrates that existing state and federal regulations and control programs in the Milwaukee-Racine area will result in a 9 percent VOC emission reduction. The control measures in Wisconsin's plan affect a variety of industries, businesses, and motor vehicle owners. State regulations in the post-1996 ROP plan are federally enforceable through separate SIP revisions or through separate EPA promulgation. One exception is the state's motor vehicle inspection and maintenance program. We conditionally approved an enhanced motor vehicle inspection and maintenance program on January 12, 1995 (60 FR 2881). Subsequently, Wisconsin submitted a revision on December 30, 1998 and is expected to submit another revision in the near future. These revisions must be finally approved prior to final approval of the post-1996 ROP plan.

E. What Public Review Opportunities Were Involved?

Wisconsin afforded the public a 30 day opportunity for public comment on the post-1996 ROP plan from September 10, 1997 through October 10, 1997. Wisconsin also held a public hearing on the post-1996 ROP plan on October 10, 1997.

F. What Criteria Must a post-1996 ROP Plan Meet to be Approved?

Section 182(c)(2)(B) establishes elements that a post-1996 ROP plan must contain for approval. These elements are: (1) an emission baseline; (2) an emission target level; (3) an emission reduction estimate to compensate for emission growth projections and to reach the ROP emission reduction goal; and (4) emission reduction estimates for the plan's control measures. Through these elements, the plan must illustrate that the nonattainment area will achieve a 9 percent VOC emission reduction by November 15, 1999.

We have issued several guidance documents for states to use in developing approvable post-1996 ROP plans. These documents address such topics as: (1) The relationship of ROP plans to other SIP elements required by the Act; (2) calculation of baseline emissions and emission target levels; (3) procedures for projecting emission growth; and (4) methodology for determining emission reduction estimates for various control measures, including federal measures.

Our January 1994, policy document, *Guidance on the Post-1996 Rate-Of-Progress Plan and the Attainment Demonstration* (post-1996 policy), provides states with an appropriate method to calculate the emission reductions needed to meet the ROP emission reduction requirement. A complete list of ROP guidance documents is provided in the Technical Support Document (TSD) for this rulemaking. You can get the TSD for this proposed rulemaking from the Region 5 office at the address indicated above.

G. What are the Special Requirements for Claiming VOC Reductions From Sources Outside the Nonattainment Area Boundary?

On December 29, 1997, we issued a policy memorandum entitled, ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS'' (December 1997 policy) which provides additional guidance on the types of emission reductions that are creditable towards ROP. This guidance provides flexibility in terms of substituting of credits for ROP emission reductions, including expanding the geographic boundary of the area from which emission reductions may be obtained to meet the post-1996 ROP requirement. Specifically, areas may take credit for emission reductions obtained from sources outside the designated nonattainment area boundary for post-1996 plans. The geographic expansion for substitution of VOC emission reductions occurring outside the nonattainment area is limited to an area within 100 kilometers from the nonattainment area boundary. However, to take credit for VOC emission reductions outside the nonattainment area boundaries, the emissions from sources outside the nonattainment area that are involved must be included in the baseline ROP emissions and target ROP reduction calculation.

Wisconsin claimed emission reduction credits for the following source categories: autobody refinishing, traffic markings, and organic solvents. Wisconsin included the emissions from these source categories outside the nonattainment area in the baseline ROP emissions and target ROP reduction calculation. The outside nonattainment counties included are: Brown, Calumet, Columbia, Dane, Dodge, Fond du Lac, Green, Green Lake, Jefferson, Marquette, Outagamie, Rock, Waushara, and Winnebago. These counties are within 100 kilometers of the Milwaukee-Racine ozone nonattainment area boundary.

IV. Wisconsin's Calculation of the Needed ROP Reduction.

A. How did Wisconsin Calculate the Needed ROP and Contingency Measure Reduction?

The following table summarizes Wisconsin's post-1996 ROP calculations for determining the ROP emission reductions, as well as our adjustments to the calculations. We adjusted the calculations by removing the traffic markings emissions for the 100 kilometer boundary area, which Wisconsin included in the 1990 base year emission inventory. Wisconsin claimed emission reductions from this category, which we found not to be approvable because they are not permanent and enforceable. Consequently, the emissions from this category were removed from the 1990 base year emission inventory. The calculation of required emission reductions was based solely on VOC emission reductions and includes emissions from outside the Milwaukee-Racine ozone nonattainment area boundary but within 100 kilometers of the boundary for certain source categories.

REQUIRED VOC REDUCTION BY 1999

Calculation of the VOC Reduction Needs by 1999	Wisconsin's calculations tons of VOC/day	EPA's adjusted calculations tons of VOC/day
1990 Milwaukee-Racine Area Total VOC Emissions	461.5	458.36
1990 ROP VOC Emissions (Anthropogenic only)	392.6	389.38
1990–99 Noncreditable Reductions	69.81	69.81
1990 Adjusted Base Year Emissions (1990 ROP Emissions minus Noncreditable Reductions)	322.79	319.57
9 percent of Adjusted Base Year Emissions	29.05	28.76
1999 Fleet Turnover Correction Factor	5.3	5.3
1996 Target Level	278.87	276.13
1999 Target Level (1996 Target Level minus 9 percent Reductions minus Fleet Turnover Correction Factor)	240.02	237.57
1999 Projected VOC Emissions (1990 VOC Emissions Grown to 1999 plus Noncreditable Emission Reductions)	405.74	402.5
Required Reductions by 1999 to Meet the 9 Percent ROP Requirement Net-of-Growth (1999 Projected Emissions minus 1999 Target Level)	165.72	164.93

Using our post-1996 policy, the needed emissions reductions are calculated by taking the following steps:

(1) Establish the emission baselines for VOC;

(2) Calculate the emission target level to meet the overall 9 percent reduction by 1999;

(3) Estimate the projected emission growth that would occur if no 9 percent emission reduction takes place;

(4) Subtract the projected emission level from the emission target to determine the VOC emission reduction needed, net of growth.

Wisconsin's calculation methods are discussed below.

1. Emission Baselines

The Act requires that the baseline emissions represent 1990 anthropogenic emissions on a peak ozone season weekday basis. Peak ozone season weekday emissions represent the average VOC daily emissions that occur on weekdays during the peak 3-month ozone period of June through August.

Wisconsin used the Milwaukee-Racine area's 1990 base year emission inventory for the VOC baseline. We approved the Milwaukee-Racine area 1990 inventory as a SIP revision on June 15, 1994 (59 FR 30702). In addition, Wisconsin included the 1990 VOC emissions from certain source categories outside the nonattainment area boundary but within 100 kilometers of the boundary, namely for the Traffic Markings, Autobody Refinishing, Degreasing and Organic Solvents categories. The 1990 emissions for the sources in the 100 kilometer area were extracted from a statewide emission inventory. These emissions were also used in the domain-wide modeling for the 1-hour attainment demonstration modeling performed by the Lake Michigan Air Director's Consortium and submitted separately as a SIP revision in December 2000. It should be noted, however, that because we determined that the emission reductions claimed by Wisconsin for the traffic markings category for the 100 kilometer area were not approvable, we excluded these emissions from the 1990 baseline inventory. These emissions amounted to 3.17 tpd. We then recalculated the post-1996 ROP plan requirement, including the 1999 target level, 1999 projections and required emission reductions as illustrated in the table above.

The Act requires that the ROP baseline be ''adjusted'' to exclude emissions eliminated by the Federal Motor Vehicle Control Program (FMVCP), Federal Reid Vapor Pressure (RVP) regulations promulgated before November 15, 1990, state regulations required to correct deficiencies in existing VOC RACT regulations, and state regulations required to correct deficiencies in existing I/M programs. Because these regulations were promulgated or required before the 1990 amendments to the Act, the Act prohibits states from claiming ROP reductions from these regulations. To achieve an accurate ROP target, the state must subtract these noncreditable reductions from the baseline to reflect the impact of these reductions on 1999 emissions. The resulting inventory is called the ''adjusted base year inventory.''

Wisconsin determined the emission reductions associated with the noncreditable FMVCP and RVP programs by using the MOBILE emission factors program.

Wisconsin determined that its VOC RACT rule corrections were technical in nature and, therefore, did not require any adjustments to the 1990 emission inventory. Wisconsin was not required to implement an I/M program before the 1990 amendments, and thus did not make adjustments to the 1990 emission inventory for I/M corrections, either.

2. 1999 Emission Target Level to Meet ROP Emission Reduction Requirement

After the adjusted base year emission inventory is established, the next step is to calculate the VOC emission target level for 1999. Our post-1996 policy provides the method for calculating target levels. To calculate the VOC target, the previous milestone target must first be identified; in this case it is the 1996 target level. From the 1996 target level, subtract, (1) the percent reduction required to meet the ROP requirement, and (2) the fleet turnover correction factor.

For the Milwaukee-Racine area's post-1996 ROP plan, it would not be appropriate to use the 1996 target level from the 15 percent plan because the 15 percent plan covered a different geographic area than the post-1996 ROP plan. Thus, the 1996 target level must be recalculated by reducing the 1990 adjusted ROP base year inventory for 1996 for this geographic area by 15 percent.

The fleet turnover correction factor represents the emission reduction that has occurred under the pre-1990 Act FMVCP and RVP regulations between consecutive milestone years, for the post-1996 plan, from 1996 to 1999. Since the 1996 target level and the 9 percent ROP reduction do not factor in these reductions, the fleet turnover correction factor is necessary to accurately calculate the emission level that must be achieved by 1999.

Performing the 1999 target level calculations consistent with this methodology results in a 1999 target level of 242.07 tpd. However, Wisconsin used a different methodology to calculate the 1999 target level. Wisconsin calculated the 1999 target level by subtracting the fleet turnover correction factor from 76% (100%-15%-9%) of the 1990 adjusted ROP base year inventory for 1999. Wisconsin's methodology yields a 1999 target level of 237.57 tpd.

Wisconsin's calculation methodology is not consistent with the Act or our policy. However, we will accept the 1999 target level value resulting from application of Wisconsin's methodology, 237.57 tpd, because it is a value that is less than, and thus, more stringent, than what would otherwise be allowed based on the Act and our policy.

3. 1999 Projected Growth Level

To account for source emission growth between 1990 and 1999, the state must develop projected emission inventories for VOC. The projected emission inventories represent the expected emissions in 1999 if no post-1996 ROP control measures had been implemented.

Wisconsin established the projected emission inventories for point, area, and nonroad source categories by taking the 1990 emission inventories and applying either EPA growth factors, or state-derived growth factors. Projected vehicle emissions were established using the MOBILE model. Our TSD for this proposed rulemaking contains more details about the growth factors used in Wisconsin's post-1996 plan. You may obtain a copy of the TSD by contacting the Region 5 office as indicated above.

The projected VOC emissions for 1999 are 402.5 tpd for point, area, on-road mobile, and non-road mobile.

4. Emission Reduction Needed for ROP Reduction Net-Of-Growth

Based on the emissions inventory and calculations, a 164.93 TPD VOC emission reduction is needed for the Milwaukee-Racine ozone nonattainment area to meet the 9 percent requirement.

V. Wisconsin's Post-1996 ROP Plan Control Strategies

A. What are the Criteria for Acceptable Control Strategies?

Under section 182(b)(1)(C) of the Act, emission reductions claimed for ROP must be creditable to the extent that the reductions have actually occurred before the applicable ROP milestone date, in this case November 15, 1999.

To meet this requirement, our policy provides that all credited emission reductions must be real, permanent, and enforceable. In addition, the plan's control measures must be adopted and implemented before November 15, 1999.

The post-1996 plan must also adequately document the methods used to calculate the emission reduction for each control measure. Our policy as described in the General Preamble to the Act (April 16, 1992, 57 FR 13567) provides that, at a minimum, the methods should meet the following four principles: (1) Emission reductions from control measures must be quantifiable; (2) control measures must be enforceable; (3) interpretation of the control measures must be replicable; and, (4) control measures must be accountable.

Section 182(b)(1)(D) of the Act prescribes limits on what control measures states can include in ROP plans. All permanent and enforceable control measures occurring after 1990 are creditable with the following exceptions: (1) FMVCP requirements promulgated by January 1, 1990; (2) RVP regulations promulgated by November 15, 1990; (3) Reasonably Available Control Technology (RACT) ''Fix-Up'' regulations required under section 182(a)(2)(A) of the Act; and (4) Inspection and Maintenance (I/M) program ''Fix-Ups'' as required under section 182(a)(2)(B) of the Act.

B. What are the Control Measures in the Wisconsin Post-1996 ROP Plan?

1. Point/Area Sources

a. Wood Furniture Coating.

Wisconsin's rule (NR 422.125) limits the VOC emissions from wood furniture finishing operations in the Milwaukee-Racine area as well as Sheboygan, Manitowoc and Kewaunee Counties. The rule was effective on September 1, 1995 with a compliance date of September 1, 1996. The rule will achieve a control efficiency of 20% and 0.26 tpd in emission reductions through 1999.

b. Yeast Manufacturing.

Wisconsin's rule (NR 424.05) limits the VOC emissions from yeast manufacturing operations in the Milwaukee-Racine area. The rule was effective on July 1, 1994 with compliance dates of May 31 and November 30, 1995. The rule will achieve a control efficiency of 47% and 0.36 tpd in emission reductions through 1999.

c. Screen Printing.

Wisconsin's rule (NR 422.145) limits VOC emission from screen printing units at screen printing facilities. The rule was effective on July 1, 1994 with compliance dates of July 1, 1994 and May 31, 1995. The rule will achieve a control efficiency of 4.5% and 0.5 tpd in emission reductions through 1999.

d. Gray Iron and Steel Foundries.

Wisconsin's rule (NR 419.08) limits VOC emissions at facilities that manufacture cores or molds for use at iron and steel foundries. The rule was effective on July 1, 1994 with a compliance date of May 31, 1995. The rule will achieve a control efficiency of 7% and 0.07 tpd in emission reductions through 1999.

e. Industrial Adhesives.

Wisconsin's rule (NR 422.127) limits VOC emissions from processes using adhesives or adhesive primers on wood furniture, office partitions, or wood entry/passage doors. The rule was effective on September 1, 1995 with a compliance date of June 30, 1996. The rule will achieve a control efficiency of 4.5% and 0.02 tpd in emission reductions through 1999.

f. Lithographic Printing.

Wisconsin's rule (NR 422.142) limits VOC emissions from lithographic printing presses. The rule was effective on July 1, 1995 with a compliance date of July 1, 1996. The rule will achieve a control efficiency of 11.2% in the graphic arts category and 8.8% for the printing and publishing category with a total of 0.64 tpd in emission reductions through 1999. In addition, Wisconsin included 4.7 tpd of VOC reductions achieved at a Quad Graphics facility in Dodge County whose emissions in 1990 were 6.7 tpd. Permitted changes to the facility's rotogravure presses in 1994 achieved a 4.7 tpd emission reduction. Thus, the total emission reduction for this category is 5.34 tpd.

g. Degreasing.

Wisconsin's rule (NR 423.03) further limits VOC emissions from the four main types of degreasing equipment used in Wisconsin, namely, cold cleaners, open top vapor degreasers (OTVD), conveyorized vapor degreasers and conveyorized non-vapor degreasers. The revised rule was effective on September 1, 1994 with a compliance date of May 15, 1995. The rule will achieve a control efficiency of 30% in the degreasing category and 2.7 tpd in emission reductions through 1999. However, Wisconsin also includes emission reductions from the organic solvents category due to the Federal Consumer and Commercial Products rule. Wisconsin assumes a 25% control efficiency and 1.12 tpd of emission reductions for a total of 3.82 tpd of reductions for the degreasing category. However, our current policy only allows a 20% control efficiency assumption for that category based on the national rule for consumer products. Consequently, Wisconsin's emission reduction credit of 1.12 tpd is not approvable. We will, however, approve a 20% emission reduction yielding a 0.9 tpd reduction. In total, the emission reductions approvable for the degreasing category is 3.6 tpd.

h. Federal Architectural and Industrial Maintenance (AIM) Coating (Industrial).

This federal rule applies to commercial coatings which are applied in the field by industry, contractors, businesses, and homeowners. VOC emissions are limited by product reformulation to lower VOC content, product substitution and consumer education in using techniques for application, storage and disposal.

Wisconsin's December 1997 submittal estimated that the anticipated federal rule for architectural coatings would provide for a 20% control from 1990–1996 and a 25% control from 1996 to 1999. The state's supplemental submittal, however, now estimates a 20% control through 1999. This is consistent with our policy memorandum which allows a 20% control assumption. The emission reductions from this category from industrial sources is estimated at 1.1 tpd.

i. Federal AIM Coating.

Again, this federal rule applies to commercial coatings which are applied in the field by industry, contractors, businesses, and homeowners. VOC emissions are limited by product reformulation to lower VOC content, product substitution and consumer education in using techniques for application, storage and disposal.

The state's December 1997 submittal estimated that the anticipated federal rule for architectural coatings would provide for a 20% control from 1990–1996 and a 25% control from 1996 to 1999. The state's supplemental submittal, however, now estimates a 20% control through 1999. This is consistent with our policy memorandum which allows a 20% control assumption. The emission reductions from this category are 2.91 tpd for sources other than industrial which are accounted for above.

j. Autobody Refinishing.

Our policy allows a 37% emission reduction from this category. The state's December 1997 post-1996 ROP plan submittal assumed a 30% emission reduction based on a state-adopted rule, NR 422.095, which was effective on September 1, 1995 and a compliance date of September 1, 1995. Wisconsin's rule limits VOC emissions from motor vehicle refinishing operations. However, the state's supplemental submittal applies a control efficiency of 67.4% to emissions from within the nonattainment area based on the state's analysis of the rule's control efficiency for a resulting emissions reduction of 6.64 tpd. Furthermore, a control efficiency of 37% was applied to emissions for this category within the 100 kilometer area as allowed by our policy for an emission reduction of 2.91 tpd. The total emissions reduction from this category are 9.55 tpd.

k. Stage 2 Vapor Recovery.

Wisconsin's rule (NR 420.045) limits VOC emissions from gasoline dispensing facilities during vehicle refueling. The rule was effective on February 1, 1993 with a full compliance date of March 31, 1995. The emission reduction for this category is 6.61 tpd.

l. Traffic Markings.

Wisconsin's rule (NR 422.17) limits the VOC emissions of traffic markings on any paved surface during the ozone season in the ozone nonattainment area. The rule was effective on August 1, 1994 with a compliance date of April 30, 1996. The rule will achieve a control efficiency of 75.9% and 3.11 tpd in emissions reduction through 1999 in the ozone nonattainment area. Wisconsin also applied the same control efficiency to VOC emissions from traffic marking coating used within in the 100 km area resulting in an additional 2.46 tpd of emission reductions. Wisconsin provided documentation that the Wisconsin Department of Transportation was employing NR 422.17 compliant traffic markings in counties within the 100 kilometers. The Act requires that creditable emission reductions be permanent and enforceable. Since NR 422.17 does not cover the counties within the 100 kilometers, the emission reductions resulting from that rule as applied to emissions in the 100 kilometer area cannot be approved into the SIP. We acknowledge that emissions reductions have likely occurred as a result of the state's decision to employ compliant traffic marking coatings outside the nonattainment area. However, these emission reductions are not creditable towards the post-1996 ROP plan.

Consequently, the total creditable emission reduction from this category is 3.11 tpd.

m. Underground Gasoline Tank Vent Valves.

The state rule (NR 420.035) requires gasoline dispensing facilities with gasoline storage tanks with a capacity of 2000 gallons or more all ensure that each pressure vacuum valve installed on a storage tank vent pipe is certified by the California air resources board and is maintained in good working order. The rule was effective on August 1, 1994 with a compliance date of March 31, 1995. The rule will achieve 0.67 tpd in emissions reduction through 1999 as determined by the MOBILE5a model.

n. Federal Commercial and Consumer Solvents.

We promulgated this federal rule on September 11, 1998, which has a compliance date of December 10, 1998.

Our policy allows for a 20% emission reduction assumption for this category, which results in a 3.06 tpd emission reduction in Wisconsin's post-1996 ROP plan.

o. Reformulated Gasoline-Area Petroleum Sources.

Reformulated gasoline is discussed below. These emissions reductions come from using reformulated gasoline at area sources, namely, underground tank breathing, automobile refueling, Stage I and Gasoline Truck Transport activities. The emission reduction estimates for this category is 2.73 tpd.

2. Mobile Sources.

a. Federal Tier I Vehicle Tailpipe Standards.

Section 202 of the Act sets new Tier 1 emission standards for motor vehicles. We have promulgated standards for 1994 and later model year light-duty cars and light-duty trucks (56 FR 25724, June 5, 1991). For passenger cars and light-duty vehicle trucks weighing up to 6,000 pounds, the implementation of the standards was to be phased in over three years: 40 percent of the manufactured vehicles for model year 1994, 80 percent of the manufactured vehicles in model year 1995, and 100 percent of the manufactured vehicles in

model years 1996 and later. For gasoline and diesel powered light-duty trucks weighing more than 6,000 pounds, the Tier 1 standards were to be met in 50 percent of the manufactured vehicles in model year 1996 and in 100 percent of the manufactured vehicles thereafter.

Wisconsin used the MOBILE5a emission factor model to calculate the VOC emission reductions for this control measures. Wisconsin's emission reduction estimates are adequately documented and acceptable for credit towards the post-1996 ROP plan. A total of 5.17 tpd of emission reductions will be achieved from the program through 1999.

b. Reformulated Gasoline.

The Act requires EPA to adopt and enforce a reformulated gasoline program for severe and worse ozone areas by the 1995 ozone season. The RFG regulations will further reduce gasoline volatility.

Wisconsin used the MOBILE5a emission factor model to calculate the VOC emission reductions for this control measure. Wisconsin's emission reduction estimates are adequately documented and acceptable for credit towards the post-1996 ROP plan. A total of 14.77 tpd of emission reductions will be achieved from the program through 1999.

c. Enhanced Motor Vehicle Inspection/Maintenance Program.

The Enhanced I/M program began operation in the Milwaukee-Racine area in December 1995. The program is a biennial testing program which requires two years of testing to complete one test cycle. The program achieved its full emissions reduction potential upon completion of a cycle in December 1997.

Wisconsin used the MOBILE5a emission factor model to calculate the VOC emission reductions for this control measure. Wisconsin's emission reduction estimates are adequately documented and acceptable for credit towards the post-1996 ROP plan. Wisconsin's initial emission reduction claim of 24.09 tpd was adjusted to account for the pressure test correction amounting to 4.01 tpd. Thus, a total of 20.08 tpd of emission reductions will be achieved from the program though 1999.

d. Federal Gasoline Detergent Additive.

Beginning January 1, 1995, federal regulations required that gasoline sold nationwide contain additives to prevent accumulation of deposits in engines and fuel systems. Preventing such deposits maintains the efficiency of engine systems and reduces VOC emissions.

The state used our guidance to determine that the use of gasoline containing the required additives will reduce vehicle VOC emissions by 0.52 tpd.

e. Federal On-Board Vapor Recovery Canisters.

In 1994, we published regulations that require vehicles to capture vehicle refueling emissions. These regulations require that 40 percent of 1998 passenger cars meet Onboard Refueling Vapor Recovery (ORVR or OVR) emission standards. Eighty percent of 1999 model year cars and 100 percent of 2000 and later model year cars must meet ORVR requirements.

Emissions reduction from this category are 1.41 tpd.

f. Reformulated Gasoline—Off-Road Source.

Reformulated gasoline is discussed above. The emission reduction estimates resulting from reformulated gasoline use in off road mobile sources is 1.4 tpd.

g. Federal Off-Road Engine Standards.

Federal standards for non-road engines were promulgated on July 3, 1995 (60 FR 34582). States may take credit for this measures in their ROP plans pursuant to our policy memoranda, ''Guidance on Projection of Nonroad Inventories to Future Years,'' dated February 4, 1994, and ''Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards,'' dated November 28, 1994. Based on these policies, Wisconsin concluded that the emission reductions that would occur by 1999 were 5.58 tpd.

*C. What are the **Federal Register** Citations for the Federal Approval or Promulgation of the Control Measures?*

FEDERAL APPROVAL OR PROMULGATION OF CONTROL MEASURES IN THE MILWAUKEE-RACINE AREA 9 PERCENT RATE-OF-PROGRESS PLAN

Control measure	Date of EPA SIP approval or promulgation
Wood Furniture Coating	April 4, 1996 (61 FR 14972).
Yeast Manufacturing	June 30,1995 (60 FR 34170).
Screen Printing	July 28, 1995 (60 FR 38722), Technical Correction on February 12, 1996 (61 FR 5307).
Gray Iron and Steel Foundries	February 13, 1996 (61 FR 5514).
Industrial Adhesives	April 25, 1996 (61 FR 18257).
Lithographic Printing	April 9, 1996 (61 FR 15706).
Degreasing	April 29, 1996 (61 FR 18681).
Federal Tier 1 Vehicle Tailpipe Standards	Federal Regulation, 40 CFR 86, June 5, 1991 (56 FR 25724).
Reformulated Gasoline	Federal Regulation, 40 CFR 80, Subpart D, February 16, 1994 (59 FR 7716).
Motor Vehicle Inspection and Maintenance	Conditional Approval on January 12, 1995 (60 FR 2881). Revision submitted on December 30, 1998. EPA must finally approve prior to full and final approval of this post-1996 ROP plan.
Federal Gasoline Detergent Additives	Federal Regulation, 40 CFR 80, Subpart G, November 1, 1994 (59 FR 54706).
Federal Architectural and Industrial Maintenance Coating	Federal Regulation, 40 CFR Part 59 Subpart D, and September 11, 1998 (63 FR 48848). Also see ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Maintenance Architectural and Industrial Maintenance Coatings Rule,'' 3/22/95, and ''Update on the Credit for the 15% Rate-of- progress Plans for Reductions from Architectural and Industrial Maintenance Coatings Rule,'' 3/7/96.
Autobody Refinishing	February 12, 1996 (61 FR 5306).
Stage 2 Vapor Recovery	August 13, 1993 (58 FR 43082).
Federal On-Board Vapor Recovery Canisters	Federal Regulation, 40 CFR 86, 88 and 600, April 16, 1994 (59 R 16262).
Traffic Marking	April 29, 1996 (61 FR 18681).
Underground Gas Tank Vent Valves	April 29, 1996 (61 FR 18681).

FEDERAL APPROVAL OR PROMULGATION OF CONTROL MEASURES IN THE MILWAUKEE-RACINE AREA 9 PERCENT RATE-OF-PROGRESS PLAN—Continued

Control measure	Date of EPA SIP approval or promulgation
Federal Commercial and Consumer Solvents	Federal Regulation, 40 CFR Part 59 Subpart C, September 11, 1998 (63 FR 48791). Also see ''Regulatory Schedule for Consumer and Commercial Products under Section 183(e) of the Clean Air Act,'' 6/22/95.
Reformulated Gasoline (area source petroleum activities)	Federal Regulation, 40 CFR 80, Subpart D, February 16, 1994 (59 FR 7716).
Reformulated Gasoline (off-road)	Federal Regulation 40 CFR 80, Subpart D, February 16, 1994 (59 FR 7716).
Federal Off-Road Engine Standards	Federal Regulation, 40 CFR 90, July 3, 1995 (60 FR 34582).

D. How did Wisconsin Calculate the Emission Reductions for the Control Strategies?

We have issued several policy documents, listed in the TSD for this proposed rulemaking, which provide assumptions for states to use in quantifying emission reductions. We have also developed the MOBILE model for the states to calculate emission reductions from mobile sources.

Wisconsin appropriately used our policy documents and MOBILE model for calculating emission reductions. Wisconsin obtained the necessary data for quantifying the source baselines and emission reductions from its 1990 emission inventory, permit information, and emissions reporting data from affected industries. Where Wisconsin had to develop its own assumptions regarding emission reductions, the assumptions were adequately justified based on existing data.

The Wisconsin post-1996 ROP plan does not contain any new state rules, it merely accounts for the emission reductions achieved from existing creditable state and federal measures occurring from 1990–1999. Many of the point, area, on-road and off-road source measures for which Wisconsin is claiming post-1996 ROP credit were part of the 15 percent ROP plan, including Tier 1, reformulated gasoline for on-road and off-road mobile and area sources, off-road small engine standards, federal detergent additive, wood furniture coating, yeast manufacturing, screen printing controls, gray iron and steel foundries, industrial adhesives, lithographic printing, degreasing, AIM, autobody refinishing, Stage II, traffic markings, gas station tank breathing, and consumer and commercial products.

E. What Amount of Emission Reduction Does Each Control Strategy Achieve?

The following table summarizes the state's VOC reduction claims for the post-1996 ROP control measures, and the amount of reductions we find approvable.

There are two categories for which emission reductions claimed by the state are determined not to be approvable. First, the state claims a 25% control efficiency for the organic solvents category based on the Federal Consumer and Commercial Products rule. However, our more current policy only allows a 20% control efficiency assumption for that category based on the national rule for consumer products. Thus, Wisconsin's emission reduction credit of 1.12 tpd is not approvable. However, a 20% reduction yielding a 0.9 tpd reduction is approvable. Secondly, Wisconsin claims 75.9% control efficiency for the traffic markings category based on the state's rule (NR 422.17) for emissions within the ozone nonattainment area boundary and the 100 kilometer area. However, Wisconsin's rule 422.17 is not applicable and enforceable in the 100 kilometer area. Thus, Wisconsin's emission reduction credit of 5.57 tpd is not approvable, although emission reductions for this category within the nonattainment area boundary of 3.11 tpd are approvable.

Control measure	VOC Reduction State Claimed Tons/Day	VOC Reduction Credit Approvable Tons/Day
Mobile source measures:		
Federal Tier 1 Vehicle Tailpipe Standards	5.17	5.17
Reformulated Gasoline	14.77	14.77
Motor Vehicle Inspection and Maintenance	20.08	20.08
Federal Gasoline Detergent Additive	0.52	0.52
Reformulated Gasoline (off-road)	1.4	1.4
Federal Off-Road Engine Standards	5.58	5.58
Subtotal	47.52	47.52
Industrial source measures:		
Yeast Manufacturing	0.36	0.36
Screen Printing	0.5	0.5
Gray Iron and Steel Foundries	0.07	0.07
Industrial Adhesives	0.02	0.02
Lithographic Printing	5.34	5.34
Subtotal	6.29	6.29
Area source measures:		
Wood Furniture Coating	0.26	0.26
Degreasing	3.82	3.6
Federal AIM Coating (Industrial)	1.1	1.1
Federal AIM Coating	2.91	2.91
Autobody Refinishing	9.55	9.55

Control measure	VOC Reduction State Claimed Tons/Day	VOC Reduction Credit Approvable Tons/Day
Stage 2 Vapor Recovery	6.61	6.61
Federal On-Board Vapor Recovery Canisters	1.41	1.41
Traffic Marking	5.57	3.11
Underground Gas Tank Vent Valves	0.67	0.67
Federal Commercial and Consumer Solvents	3.06	3.06
Reformulated Gasoline (area petroleum activities)	2.73	2.73
Subtotal	36.72	35.01
Total FMVCP non-creditable emissions reductions grown to 1999	81.6	81.6
Total RVP non-creditable emissions reductions grown to 1999	1.5	1.5
Total 1999 VOC reductions	173.63	171.92

VI. EPA Review of Wisconsin's Post-1996 ROP Plan

A. Why is the Wisconsin post-1996 ROP Plan Approvable?

We reviewed the documentation submitted with the Wisconsin post-1996 ROP plan. From this review, we find that the plan is approvable.

Wisconsin provided sufficient justification that the nonattainment area VOC emission reductions in conjunction with the VOC emission reductions from certain sources outside the ozone nonattainment area boundary but within 100 kilometers of that boundary will reduce ozone precursor emissions and, therefore, ozone concentrations in the Milwaukee-Racine ozone nonattainment area. Although Wisconsin did not calculate the emissions reduction needed to meet the 9 percent ROP reduction requirement consistent with our guidance, we will accept Wisconsin's reduction requirement because it is more stringent than what would otherwise be allowable under our guidance.

The post-1996 plan's control measures are creditable because the emissions reductions achieved are real, permanent, and enforceable. All claimed emission reductions from the plan's control measures occurred by November 15, 1999, the Act's deadline by which creditable reductions are to occur.

The state's emission reduction estimates for the control strategies follow our guidance documents, where applicable, and are adequately documented with acceptable emission control assumptions.

Finally, the post-1996 ROP plan shows that it will achieve a reduction of ozone precursor emissions sufficient to achieve the required ROP toward attaining the 1-hour ozone NAAQS in the Milwaukee-Racine ozone nonattainment area.

COMPARISON OF NEEDED AND CREDITABLE EMISSION REDUCTIONS

	TPD
VOC Reduction Needed to Meet 9 percent ROP	164.93
Total Creditable VOC Reduction	171.92

For these reasons, we are proposing approval of Wisconsin's Milwaukee-Racine area post-1996 ROP plan, as meeting the requirements of section 182(c)(2)(B).

VII. What Action Are We Proposing Today?

In this rulemaking action, we are proposing to approve Wisconsin's SIP revision, submitted on December 11, 1997, and subsequent supplemental information submitted on August 5, 1999, January 31, 2000, March 3, 2000, and February 2001, establishing a post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area. It should be noted that final approval of Wisconsin's post-1996 ROP plan is contingent on final approval of the motor vehicle I/M SIP revisions.

VIII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

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

This proposed rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

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

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of

Executive Order 13084 do not apply to this proposed rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This proposed rule 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, 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 Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the federal-state relationship under the Act, preparation of flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this proposed approval action does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action proposes to approve pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this proposed action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile Organic Compounds.

Dated: June 13, 2001.

David Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–15619 Filed 6–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH148–1b; FRL–7001–5]

Approval and Promulgation of Maintenance Plan Revisions; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a May 31, 2001, request from Ohio for a State Implementation Plan (SIP) revision of the Cleveland/Akron/Lorain, Ohio ozone maintenance plan. The maintenance plan revision allocates a portion of the safety margin to the transportation conformity mobile source emissions budget for the year 2006. EPA is proposing to approve the allocation of 10 tons per day of volatile organic compounds (VOC) to the area's 2006 mobile source emissions budget for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no written adverse comments in response to that direct final rule we plan to take no further activity in relation to this proposed rule. If EPA receives significant adverse comments, in writing, which have not been addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Written comments must be received on or before July 23, 2001.

ADDRESSES: Send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during

normal business hours at the following location:

Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Patricia Morris at (312) 353–8656 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

This Supplementary Information section is organized as follows:

What action is EPA taking today?

Where can I find more information about this proposal and the corresponding direct final rule?

What Action is EPA Taking Today?

In this action, we are proposing to approve a revision to the ozone maintenance plan for Cleveland/Akron/Lorain, Ohio. The revision will change the mobile source VOC emissions budget that is used for transportation conformity purposes. The revision will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to maintain air quality while providing for transportation growth.

Where Can I Find More Information About this Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: June 14, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–15750 Filed 6–21–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[KY–126–200113; IN–121–2; FRL–7001–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; KY and IN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 30, 2001, the Commonwealth of Kentucky's Natural Resources and Environmental Protection Cabinet submitted: a request to redesignate the Kentucky portion of the Louisville moderate ozone nonattainment area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS), a plan to maintain the 1-hour ozone NAAQS for at least the next 10 years, and the regional motor vehicle emission budgets (MVEBs) for transportation conformity purposes. In addition, on November 12, 1999, and May 23, 2001, Kentucky submitted source-specific Board Orders adopted by the Air Pollution Control Board of Jefferson County to control sources of nitrogen oxides (NO_X) at eleven sources in Jefferson County, Kentucky. On April 11, 2001, the State of Indiana's Department of Environmental Management submitted: a request to redesignate the Indiana portion of the Louisville moderate ozone nonattainment area to attainment for the 1-hour ozone NAAQS, the regional MVEBs for transportation conformity purposes, and a plan to maintain the 1-hour ozone NAAQS for at least the next 10 years. The Louisville moderate ozone nonattainment area (Louisville area) includes Jefferson County and portions of Bullitt and Oldham Counties, Kentucky, and Clark and Floyd Counties, Indiana.

Since Kentucky and Indiana had not completed public participation requirements for the submittals of March 30, 2001 and April 11, 2001, they requested that the EPA parallel process the redesignation requests, maintenance plans, and associated regional MVEBs.

EPA is proposing to approve Kentucky's and Indiana's requests to redesignate the Louisville area to attainment for the 1-hour ozone NAAQS. In proposing to approve this request, the EPA is also proposing to approve the States' plans for maintaining the 1-hour ozone NAAQS through 2012, as revisions to the Kentucky and Indiana State Implementation Plans (SIPs). EPA is also proposing to approve the MVEBs for VOC and NO_X in the submitted maintenance plans for conformity purposes. Finally, the EPA is proposing to approve the source-specific Board Orders to control NO_X emissions from eleven sources in Jefferson County, Kentucky.

DATES: Comments on the EPA's proposed action must be received by July 23, 2001.

ADDRESSES: Written comments should be addressed to: Richard A. Schutt, Acting Chief, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303. J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of Kentucky's submittals, as well as other information, are available for inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day and reference files KY–126. U.S. Environmental Protection Agency, Region 4, Air Planning Branch, Regulatory Planning Section, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. Air Pollution Control District of Jefferson County, 850 Barret Avenue, Louisville, Kentucky 40204.

Copies of Indiana's submittals, as well as other information, are available for inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day and reference files IN–121–2. Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Indiana Department of Environmental Management, Office of Air Quality, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206–6015.

FOR FURTHER INFORMATION CONTACT: Allison Humphris, Environmental Scientist, or Raymond Gregory, Environmental Engineer, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303, (404) 562–9030, (404) 562–9116, (*Humphris.Allison@epa.gov*) (*Gregory.Ray@epa.gov*). Ryan Bahr, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–4366, (*bahr.ryan@epa.gov*).

SUPPLEMENTARY INFORMATION:

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III. Administrative Requirements

I. Determination of Attainment

On May 17, 2001, (66 FR 27483) EPA proposed to determine that the Louisville moderate ozone nonattainment area has attained the 1-hour ozone NAAQS. On the basis of this determination, EPA also proposed to determine that certain attainment demonstration requirements (section 172(c)(1)), along with certain other related requirements of part D of Title I of the Clean Air Act (CAA), specifically the section 172(c)(9) contingency measure requirement, the section 182(b)(1) attainment demonstration requirement, and the section 182(j) multi-state attainment demonstration requirement, are not applicable to the Louisville area, as long as it continues to attain the 1-hour ozone NAAQS. EPA did not propose to determine, however, that the regulations submitted by Kentucky with its 15 percent plan were inapplicable, since these regulations were adopted by Kentucky or the Air Pollution Control District of Jefferson County (APCDJC) prior to 1998 and provided permanent and enforceable reductions for the Louisville area during the 1998 to 2000 ozone seasons. EPA intends to approve these regulations in a separate action. Likewise, the May 17, 2001, **Federal Register** action also noted that previously-approved SIP revisions must continue to be implemented and enforced, and are not affected by this action.

EPA based this proposed determination upon three years of complete, quality-assured, ambient air monitoring data for the 1998, 1999, and 2000 ozone seasons that demonstrate that the 1-hour ozone NAAQS has been attained in the entire Louisville area. This data is summarized in Table 1. A complete discussion of the data and background that provides the basis for this proposed action can be found in the above-cited May 17, 2001, **Federal Register** action.

TABLE 1.—1-HOUR OZONE NAAQS EXCEEDANCES IN THE LOUISVILLE, KENTUCKY-INDIANA AREA FROM 1998 TO 2000

Site	County	Year	Exceedances measured	Expected exceedances
Charlestown	Clark, IN	1998	3	3.1
		1999	0	0.0
		2000	0	0.0
New Albany	Floyd, IN	1998	2	2.0
		1999	0	0.0
		2000	0	0.0
Bates	Jefferson, KY	1998	1	1.2
		1999	0	0.0
		2000	0	0.0
Buckner	Oldham, KY	1998	1	1.1
		1999	1	1.2
		2000	0	0.0
Sheperdsville	Bullitt, KY	1998	0	0.0
		1999	0	0.0
		2000	0	0.0
Watson	Jefferson, KY	1998	1	1.2
		1999	0	0.0
		2000	0	0.0
WLKY–TV	Jefferson, KY	1998	1	1.1
		1999	0	0.0
		2000	0	0.0

As indicated in the May 17, 2001, **Federal Register** action, the States must continue to operate appropriate air quality monitoring networks, in accordance with 40 CFR part 58, to verify the attainment status of the area. The air quality data relied upon to determine that the area is attaining the 1-hour ozone NAAQS must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in the EPA's Aerometric Information Retrieval System (AIRS).

As further indicated in the May 17, 2001, **Federal Register** action, the proposed determination is not equivalent to redesignation of this area to attainment. Attainment of the ozone 1-hour ozone NAAQS is only one of the criteria set forth in section 107(d)(3)(E) that must be satisfied for an area to be redesignated to attainment. To be redesignated, the State must submit and receive full approval of a redesignation request for the area that satisfies all of the remaining criteria of section 107(d)(3)(E), including a demonstration that: the improvement in the area's air quality is due to permanent and enforceable reductions; the area has a fully approved SIP under 110(k); the State has met the applicable requirements under section 110 and part D; and the area has a fully-approved maintenance plan.

II. Redesignation Request

A. What Action is EPA Proposing to Take?

EPA is proposing to approve Kentucky's and Indiana's requests to redesignate the Louisville area to attainment for the 1-hour ozone NAAQS, provided both States revise their maintenance plans to include an enforceable commitment to revise the MVEBs using MOBILE6 (once it becomes available) and to revise the VOC MVEB so that the area's 2012 projected emissions do not exceed the 1999 attainment year emissions. In proposing to approve these requests, EPA is also proposing to approve Kentucky's and Indiana's plans for maintaining the 1-hour ozone NAAQS through 2012, as revisions to the

Kentucky and Indiana SIPs. The EPA is also proposing to approve the MVEBs for VOC and NO_X in the submitted maintenance plan as adequate for conformity purposes. Final EPA approval of the maintenance plan, including the MVEBs, is contingent on Kentucky's and Indiana's final submittal of the above-cited revisions. Finally, the EPA is proposing to approve the source-specific Board Orders submitted by Kentucky to control NO_X emissions from eleven sources in Jefferson County, Kentucky, as fulfilling the remaining NO_X reasonably available control technology (RACT) requirements of section 182(f) of the CAA for the Kentucky portion of the Louisville area.

B. What Would be the Effect of the Redesignation?

The redesignation would change the official designation under 40 CFR 81.315 of the Louisville area, including the Kentucky Counties of Jefferson, Bullitt and Oldham, and the Indiana Counties of Clark and Floyd, from nonattainment to attainment for the 1-hour ozone NAAQS. It would also put into place plans for maintaining the 1-hour ozone NAAQS through 2012. These plans include contingency measures to remedy any future violations of the 1-hour ozone NAAQS. These plans also include the following MVEBs for 2012, which must be revised as indicated in Table 2, before the EPA can take final action to approve the MVEBs, the maintenance plans and redesignation requests.

TABLE 2.—PROPOSED 2012 MVEBS FOR LOUISVILLE NONATTAINMENT AREA

Pollutant	2012 MVEB as submitted by States (Tons/day)	2012 MVEB proposed for approval provided States revise their maintenance plan submittal (see analysis for more detail)
VOC	50.93	48.17
NO_X	92.93	92.93

C. What Is the Background for This Action?

Under section 107(d) of the 1977 CAA, EPA promulgated the ozone attainment status for each geographic area of the country. The Louisville area was designated as an ozone nonattainment area in March 1978 (43 FR 8962). On November 15, 1990, the CAA Amendments of 1990 were enacted. Under section 107(d)(4)(A), on November 6, 1991 (56 FR 56694), the Kentucky Counties of Jefferson, Bullitt and Oldham, and the Indiana Counties of Clark and Floyd were designated as the Louisville moderate ozone nonattainment area, as a result of monitored violations of the 1-hour ozone NAAQS during the 1987–1989 time frame. On September 20, 1995, in response to a request by Kentucky, EPA published (60 FR 48653) corrections to the boundaries of the Louisville area for Bullitt and Oldham Counties to include additional sources which contributed to violation of the 1-hour ozone NAAQS.

Since that time, Kentucky, Indiana and the APCDJC have adopted and implemented programs required under the CAA for a moderate 1-hour ozone nonattainment area to reduce emissions of VOC and NO_X. These programs include stationary source RACT, vehicle inspection and maintenance (I/M) programs, mobile source conformity and other measures (See EPA's analysis for specific measures in section II.E., below). As a result of these programs, monitors in the Louisville area have recorded three years of complete, quality-assured, ambient air quality monitoring data for the 1998, 1999, and 2000 ozone seasons, thereby demonstrating that the area has attained the 1-hour ozone NAAQS. On March 30, 2001, Kentucky submitted: a request to redesignate the Kentucky portion of the Louisville area to attainment for the 1-hour ozone NAAQS, a plan to maintain the 1-hour ozone NAAQS through 2012, and the regional MVEBs for transportation conformity purposes. On November 12, 1999, and May 23, 2001, Kentucky submitted source-specific Board Orders specifying NO_X RACT requirements for eleven sources in Jefferson County, Kentucky. On April 11, 2001, Indiana submitted: a request to redesignate the Indiana portion of the Louisville area to attainment for the 1-hour ozone NAAQS, a plan to maintain the 1-hour NAAQS through 2012, and the regional MVEBs for transportation conformity purposes.

Both Kentucky and Indiana requested that EPA parallel process the submittals. Since Kentucky and Indiana had not completed public participation requirements at the time of submittal of the March 30, 2001, and April 11, 2001, redesignation requests, these submittals were considered to be drafts. Kentucky and Indiana therefore requested that the EPA parallel process the redesignation request, maintenance plans, and associated regional MVEBs. The parallel processing provision of 40 CFR part 51, appendix V, allows EPA to propose action on the draft revisions prior to submission of State-adopted SIP revisions. At the time of final EPA action, the completed revisions must have been submitted to EPA.

D. What Are the Redesignation Review Criteria?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) The Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175(A); and, (5) The State containing such area has met all requirements applicable to the area under section 110 and part D.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994. (Nichols, October 1994)

2. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

3. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.

4. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act Deadlines,'' John Calcagni, Director, Air Quality Management

Division, October 28, 1992. (Calcagni, October 1992)

5. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992.

6. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

7. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498), April 16, 1992.

E. What is the EPA's Analysis of the Request?

Criterion (1): The Area Must be Attaining the 1-hour Ozone NAAQS

For ozone, an area may be considered attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and Appendix H, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. A violation of the 1-hour ozone NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1.05 per year at a monitoring site. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is 0.125 parts per million (ppm) or higher. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in AIRS. The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

EPA published a proposal on May 17, 2001 (66 FR 27483), to make a Determination of Attainment for the Louisville area. This determination is based on ozone air quality data for 1998, 1999, and 2000 which were quality-assured in accordance with 40 CFR part 58, and recorded in AIRS, and which showed attainment of the 1-hour ozone NAAQS in the Louisville area.

Criteria (2) and (5): The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have met all Applicable Requirements Under Section 110 and Part D.

Before the Louisville area may be redesignated to attainment for ozone, Kentucky and Indiana must have fulfilled the applicable requirements of section 110 and part D. The Calcagni memorandum dated September 4, 1992, provides that States requesting that areas be redesignated to attainment have to fully adopt rules and programs that come due prior to the submittal of a complete redesignation request. However, based on the Seitz memorandum (see ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standards,'' John Seitz, Director, Office of Air Quality Standards, May 10, 1995.), and the May 17, 2001 (66 FR 27483), proposed determination that the Louisville area has attained the 1-hour ozone NAAQS, SIP revisions to address some of these requirements need not be submitted for EPA to approve the request for redesignation of the Louisville area, since they would no longer be considered applicable requirements under section 107(d)(3)(E) for so long as the area continues to attain the 1-hour ozone NAAQS. These requirements include reasonable further progress (RFP) (see the general requirement of section 172(c)(2) and the more specific requirement of section 182(b)(1) for a plan that reduces VOC emissions by 15 percent), attainment demonstration (see the general requirement of section 172(c)(1) and the specific requirement of section 182(j) for a multi-state attainment demonstration) and contingency measures (see the general requirement of section 172(c)(9)).

Since these elements are no longer required, EPA will not need to act on the following: Indiana's Attainment Demonstration for the Indiana Portion of the Louisville Nonattainment Area submitted November 15, 1999; the 3 percent contingency requirement associated with Indiana's 15 percent Rate of Progress (ROP) requirements, submitted December 20, 1993; Kentucky's Attainment Demonstration for the Kentucky Portion of the Louisville Nonattainment Area submitted November 12, 1999; and the Kentucky 15 percent ROP planning SIP submitted on November 12, 1993, and amended on April 5, 1994, June 30, 1997, and March 21, 2000. A final redesignation action would permanently make these requirements no longer applicable. However, all previously-approved SIP revisions must continue to be implemented and enforced and are not affected by this action. In addition, EPA will continue to process any submittals that have not yet been approved and revise the SIP to incorporate State- and locally-adopted rules and other legally-enforceable requirements which have helped the area come into attainment prior to the effective date for this rule. This will ensure that the rules the area has depended on for attainment are permanent and enforceable as part of the SIP.

If the area violates the 1-hour ozone NAAQS prior to final action on the redesignation request, however, not only would the requirements again become applicable, but the redesignation request could not be approved because the area would no longer meet the criterion of having attained the 1-hour NAAQS. (Seitz memorandum dated May 10, 1995)

Furthermore, requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request would continue to be applicable to the area until a redesignation is approved, but are not required as a prerequisite for redesignation (see section 175A(c)). If the redesignation were to be disapproved, the States remain obligated to fulfill those requirements.

Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of Title I, part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the State after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program; provisions for part C, Prevention of Significant Deterioration (PSD); and part D, New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting; provisions for modeling; and provisions for public and local agency participation. For purposes of redesignation, the Kentucky and the Indiana SIPs were reviewed to ensure that all requirements under the amended CAA were satisfied through previously-approved SIP provisions or SIP revisions that are in the process of being reviewed or on which the EPA is in the process of taking action. The EPA must take final action on the required SIP revisions presently in the process of EPA review or action, before this redesignation can be approved.

The EPA is proposing to approve revisions submitted by Kentucky to address the NO_X RACT requirements of section 182(f) of the CAA for the Jefferson County portion of the Louisville area in this **Federal Register** action. These revisions are source-specific Board Orders that establish NO_X RACT requirements for eleven sources in Jefferson County, Kentucky.

In a future **Federal Register** action, the EPA intends to propose action on regulations submitted by Kentucky to address outstanding VOC RACT requirements of section 182(b)(2) of the CAA for a specific source category and a specific source. These regulations include a regulation to address sources, located in Jefferson County, subject to the EPA's Control Techniques Guideline (CTG) published May 1993 ''Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry'' (SOCMI) and source-specific requirements for a lithographic printing operation, Publisher's Printing, Inc., located in Bullitt County, Kentucky. EPA also intends to take final action on the underlying regulations that were a part of the Kentucky 15 percent plan and propose action on other miscellaneous revisions to update the Jefferson County portion of the Kentucky SIP.

Transport of Ozone Precursors to Downwind Areas

Modeling results utilizing the EPA's regional oxidant model indicate that ozone precursor emissions from various States west and southeast of the ozone transport region (OTR) in the Northeastern United States contribute to increases in ozone concentrations in the OTR. EPA issued a NO_X SIP Call on October 27, 1998 (63 FR 57356), requiring the District of Columbia and 22 States, including Indiana and Kentucky, to reduce their emissions of NO_X in order to reduce the transport of ozone and ozone precursors. EPA's initial NO_X SIP Call submittal date of September 1999, was stayed by the United States Court of Appeals for the District of Columbia Circuit Court. The Court lifted this stay on June 22, 2000, and established an October 30, 2000, date for the submittal of State SIPs to address the NO_X SIP Call requirements. Due to the length of Kentucky's regulation promulgation process, the Commonwealth of Kentucky was unable to meet this deadline, but submitted a NO_X SIP Call SIP for parallel processing on February 20, 2001. Similarly, while Indiana has been working on a rule in response to the NO_X SIP Call since July 1999, Indiana was unable to submit a SIP to meet the deadline; however, Indiana submitted a draft NO_X SIP and requested parallel processing on March 30, 2001.

The States are in the process of finalizing NO_X SIPs and intend to submit final, adopted NO_X SIPs by August 2001. However, given that affected States are not required to implement the NO_X SIP Call until 2004 (i.e., well after the date on which Kentucky and Indiana submitted redesignation requests), the EPA believes that the requirement to submit a NO_X SIP cannot reasonably be considered a prerequisite for redesignation of the Louisville area. NO_X SIP Call controls have not yet been implemented in this area. The fact that Louisville is monitoring attainment of the 1-hour ozone standard, even though NO_X SIP Call controls have not been implemented, does not imply that NO_X SIP Call controls are not needed to allow other, downwind areas to attain the 1-hour ozone NAAQS. Furthermore, this analysis does not address to what extent the NO_X SIP Call controls may be needed to attain the new 8-hour ozone, promulgated July 18, 1997 (62 FR 38855), in any areas that may be designated nonattainment under that standard. Therefore, EPA believes that Kentucky and Indiana need not have final NO_X SIP Call regulations in place to qualify for redesignation.

EPA has determined that the Kentucky and Indiana SIPs for the Louisville 1-hour ozone nonattainment area satisfy all of the section 110 SIP requirements of the CAA.

Part D: General Provisions for Nonattainment Areas

Before the Louisville area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D of the CAA. Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under Table 1 of section 181(a). As described in the General Preamble for the Implementation of Title I, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501, April 16, 1992). The Louisville area was classified as moderate ozone nonattainment. Therefore, in order to be redesignated, Kentucky and Indiana must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D.

Section 172(c) Requirements

EPA has determined that the redesignation requests received from Kentucky and Indiana for the Louisville area have satisfied all of the relevant submittal requirements under section 172(c) necessary for the area to be redesignated to attainment. On May 17, 2001 (66 FR 27483), the EPA proposed to determine that certain CAA requirements were no longer needed because the area was attaining the ozone NAAQS. These included a SIP revision providing a 15 percent VOC emission reduction plan, an ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures for RFP or attainment to meet the requirements of section 172(c)(1), 172(c)(2), 182(b)(1) and 182(j). Kentucky has submitted an RFP plan. EPA intends to take final action on the underlying regulations that were submitted with the RFP plan before taking final action on this proposal, since emission reductions resulting from implementation of these regulations occurred during the 1998 through 2000 period. Indiana submitted an RFP plan on December 20, 1993, and supplemented the submittal on July 12, 1995, for Clark and Floyd Counties which the EPA approved on May 7, 1997 (62 FR 24815). Since new submittals of these elements would no longer be required if this action is finalized, a final approval action would mean that EPA would not require Indiana to submit the 3 percent contingency requirement associated with Indiana's 15 percent ROP requirements, submitted December 20, 1993, and July 12, 1995. Furthermore, since the area would be redesignated to attainment, the EPA approval of the Kentucky 15 percent ROP planning SIP, which was submitted on November 12, 1993, and amended on April 5, 1994, June 30, 1997, and March 21, 2000, would also no longer be required.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Kentucky submitted, on November 12, 1993 (amended April 5, 1994, and June 30, 1997), an actual emission inventory under section 182(a)(1) for the Kentucky counties of Jefferson, Bullitt and Oldham. The EPA intends to take final action on this inventory in the same **Federal Register** that addresses the underlying regulations submitted with the RFP plan. Indiana submitted, on January 15, 1994, the 1990 base year inventory for the Indiana Counties of Clark and Floyd, and EPA approved the submittal on June 20, 1994 (59 FR 31544). EPA has determined that upon final approval of Kentucky's actual emission inventory, the requirement of 172(c)(3) for Kentucky and Indiana will be satisfied.

Section 172(c)(5) mandates that SIPs require permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. Section 182(b)(5)

requires all major new sources or modifications in a moderate nonattainment area to achieve offsetting reductions of VOCs at a ratio of at least 1.15 to 1.0. EPA has determined that areas being redesignated to attainment do not need to comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the applicable NAAQS without part D NSR in effect. The rationale for this decision is described in a memorandum from Mary Nichols dated October 14, 1994. See also the discussion in the Grand Rapids, Michigan, action published on June 21, 1996 (61 FR 31834). The States have demonstrated that the Louisville area will be able to maintain the 1-hour NAAQS without part D NSR in effect, and, therefore, need not have fully-approved part D NSR programs prior to approval of the redesignation request for the Louisville area. Kentucky's and Indiana's PSD requirements will remain enforceable after the redesignation of the Louisville area.

Section 176 Conformity Requirements

Section 176(c) of the CAA requires States to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. of the Federal Transit Act (''transportation conformity''), as well as to all other federally supported or funded projects (''general conformity''). Section 176 further provides that State conformity revisions must be consistent with federal conformity regulations that the CAA required the EPA to promulgate. The EPA believes it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Second, the EPA's federal conformity rules require the performance of conformity analyses in the absence of federally approved State rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under federal rules if State rules are not yet approved, the EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. Consequently, the EPA may approve the ozone redesignation request for the Kentucky and Indiana portions of the Louisville area without a fully-approved conformity SIP. See Detroit, Michigan, carbon monoxide redesignation published on June 30, 1999 (64 FR 35017), Cleveland-Akron-Lorain ozone redesignation published on May 7, 1996 (61 FR 20458), and Tampa, Florida ozone redesignation published on December 7, 1995 (60 FR 62748).

Subpart 2 Section 182 Requirements

The Louisville area is classified moderate nonattainment: therefore, part D, subpart 2, section 182(b) requirements apply. In accordance with the September 17, 1993, EPA guidance memorandum, the requirements which came due prior to the submission of the request to redesignate the area must be fully approved into the SIP before or at the time of the request to redesignate the area to attainment. Those requirements are discussed below.

1990 Base Year Inventory

The 1990 base year emissions inventory, as required by sections 172(c)(3) and 182(b)(1)(B), was due on November 15, 1992. Kentucky submitted its 1990 base year emissions inventory on November 12, 1993, and submitted revisions on April 5, 1994, and June 30, 1997. The EPA is processing and intends to publish a final **Federal Register** action on this inventory before taking final action approving today's proposal. Indiana submitted its 1990 base year inventory on June 20, 1994 (59 FR 31544). The EPA approved this inventory, including the baseline for the Indiana portion of the Louisville area, on January 4, 1995 (60 FR 375). The EPA approved revisions to the 1990 base year inventory for the Indiana portion of the Louisville area as part of its May 7, 1997, approval of the 15 percent plan (62 FR 24815).

Periodic Emissions Inventory

Periodic inventories, as required by section 182(a)(3)(A), were due on November 15, 1995, and November 15, 1998, providing an estimate of emissions for 1993 and 1996, respectively. These inventories are not considered SIP requirements, and therefore they do not need to be approved into the SIP. Kentucky provided the EPA with periodic emissions for 1993 and 1996 on November 3, 1996, and November 13, 1998, respectively. Indiana also provided its estimates of periodic emissions for 1996 on February 18, 1999.

Emission Statements

The emission statement SIP, as required by section 182(a)(3)(B), was due on November 15, 1992. An emission statement SIP requires source owners to submit information annually to the State concerning actual emissions. Kentucky submitted its emission statement SIP on January 15, 1993, and supplemented the submittal on December 29, 1994, to satisfy the federal requirements. The EPA published approval of the Kentucky emission statement SIP on May 2, 1995 (60 FR 21445). Kentucky submitted the emission statement SIP for Jefferson County on March 4, 1993, to satisfy the same requirements. The EPA published approval of the Jefferson County emission statement SIP on June 23, 1994 (59 FR 32343). Indiana submitted its emission statement SIP on January 6, 1994, and the EPA approved it on June 10, 1994 (59 FR 29953).

15 Percent Plan

As discussed above, EPA believes it is reasonable to interpret certain provisions of the CAA, including section 182(b)(1)(A), as not being required if an area is monitoring attainment of the 1-hour ozone NAAQS (i.e., attainment of the 1-hour ozone NAAQS is demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). Since it has now attained the 1-hour ozone NAAQS, the 15 percent VOC emission reduction plan is one of these requirements that will not be applicable to the Louisville area. Indiana submitted the Clark and Floyd County 15 percent plan on December 20, 1993. EPA approved it as part of the SIP on May 7, 1997 (62 FR 24815). Kentucky submitted its 15 percent plan on November 12, 1993, and amended this plan on April 5, 1994, June 30, 1997, and March 21, 2000. For so long as the area continues to attain the 1-hour ozone NAAQS, however, EPA will not take action on the Kentucky submittals.

VOC RACT Requirements

SIP revisions requiring RACT for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) all sources covered by a CTG document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all other major non-CTG stationary sources. The non-CTG rules were due by November 15, 1992, and

apply to the Kentucky and Indiana submittals.

Section 183 of the CAA required EPA to issue CTGs for 13 source categories by November 15, 1993. EPA published a CTG by this date for the following source categories: Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operation, shipbuilding and ship repair coating operations, and wood furniture coating operation; however, EPA has not completed the CTGs for the remaining source categories. The CAA requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document. EPA created a CTG document as appendix E to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990. (57 FR 18070, 18077, April 28, 1992). In appendix E, EPA interpreted the CAA to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs EPA expected to issue to meet the requirement in section 183. Appendix E states that if EPA fails to issue a CTG by November 15, 1993 (which it failed to do for 11 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule or negative declaration for those sources by November 15, 1994.

EPA approved certain VOC RACT rules as part of the Kentucky SIP on January 25, 1980 (45 FR 6092), August 7, 1981 (46 FR 40188), February 7, 1990 (55 FR 4169), June 23, 1994, (59 FR 32344), and June 28, 1996 (61 FR 33674). EPA approved certain VOC RACT rules as part of the Jefferson County portion of the Kentucky SIP on January 25, 1980 (45 FR 6092), June 9, 1982 (47 FR 25010), January 11, 1984 (49 FR 1341), April 27, 1989 (54 FR 18103), and October 22, 1993 (58 FR 54516). EPA is processing and intends to take final action on certain revisions to Jefferson County VOC RACT rules prior to taking final action on today's proposal. For the Kentucky portion of the Louisville area, these actions fulfilled the RACT ''fix up'' and ''catch up'' requirements such that identified deficiencies in their pre-1990 RACT program were addressed, satisfying requirement (2) above that RACT be established for all sources covered by a CTG issued prior to November 15, 1990. EPA intends to propose action on a source-specific non-CTG RACT determination for Publisher's Printing, Inc., submitted by Kentucky on April 16, 2001, and supplemented on May 4, 2001. This RACT determination must receive final approval before today's action on this redesignation can be finally approved by the EPA. Final approval of this action will satisfy requirement (3) above for the Kentucky portion of the Louisville area.

To satisfy the requirement of (1) above, Kentucky submitted a negative declaration on December 14, 1999, for the CTG categories of aerospace, SOCMI reactor and distillation processes, shipbuilding, and wood furniture. The APCDJC submitted a negative declaration for Jefferson County for all four CTG categories on February 26, 2001. The APCDJC withdrew the negative declaration for the SOCMI category on May 1, 2001, and submitted a SOCMI regulation for parallel processing on May 10, 2001. Before the EPA can take final action on today's proposal, the APCDJC's SOCMI regulation must be approved by EPA.

Regarding the Indiana portion of the nonattainment area, EPA has likewise taken numerous actions since the 1990 CAA Amendments approving Indiana VOC RACT rules including March 6, 1992 (57 FR 8082), July 5, 1995 (60 FR 34857), and June 29, 1998 (63 FR 35141). For the Indiana portion of the Louisville area, these actions fulfilled the RACT ''fix up'' and ''catch up'' requirements such that identified deficiencies in their pre-1990 RACT program were addressed, satisfying requirement (2) above that RACT be established for all sources covered by a CTG issued prior to November 15, 1990. The July 5, 1995, action also approved a non-CTG RACT rule, partially fulfilling requirement (3) above. However, Indiana's non-CTG RACT rule exempted the 13 categories for which EPA had intended to develop CTGs (per section 183). Indiana subsequently submitted rules for four of these categories: autobody refinishing, shipbuilding, wood furniture, and volatile organic storage tanks. EPA approved these rules as revisions to the SIP on June 13, 1996 (61 FR 29965), October 30, 1996 (61 FR 55889), January 17, 1997 (62 FR 2593), and January 22, 1997 (62 FR 3216), respectively. For the remaining RACT categories, Indiana submitted negative declarations on November 8, 1999. On June 8, 2000 (65 FR 36346), EPA approved these negative declarations recognizing that, for the nine source categories identified, there were no sources with the potential to emit 100 tons or more of VOC on an annual basis.

As a result of these approved rules, rules on which EPA is in the process of taking action, and negative declarations, Kentucky and Indiana have addressed all sources covered by a CTG since November 15, 1990 (Requirement 1 above), all sources covered by a CTG issued prior to November 15, 1990 (Requirement 2 above), and all other major non-CTG stationary sources (requirement 3 above), thus fully satisfying the VOC RACT requirements. Upon redesignation of the area, all new major VOC sources locating in the Louisville area, and all major modifications to existing major VOC sources in the Louisville area, will continue to be subject to the RACT requirements.

Stage II Vapor Recovery

Section 182(b)(3) requires States to submit Stage II vapor recovery rules no later than November 15, 1992. EPA originally approved Stage II requirements for Jefferson County, Kentucky, on March 6, 1996 (61 FR 8875). EPA is currently reviewing and intends to take action on minor revisions to Jefferson County's Stage II regulations prior to taking final action on today's proposal. Indiana submitted Stage II vapor recovery rules as a SIP revision on February 25, 1994. EPA approved those rules on April 28, 1994 (59 FR 21942). Indiana submitted amendments to its Stage II rules on April 6, 1999. EPA approved these amendments as revisions to the SIP on November 3, 1999 (64 FR 59642). The September 17, 1993, ''Enforcement Guidance for Stage II Vehicle Refueling Control Programs,'' guidance memorandum states that once onboard vapor recovery regulations are promulgated, the Stage II regulations are no longer applicable for moderate ozone nonattainment areas. EPA promulgated onboard vapor recovery rules in February 1994. Therefore, under section 202(a)(6) of the CAA, Stage II would no longer be required. However, both Kentucky and Indiana have opted to include reductions in VOCs from the Stage II program as part of the submitted maintenance plan.

Vehicle I/M

EPA's final I/M regulations in 40 CFR part 85 require the States to submit a fully adopted I/M program by November 15, 1993. On September 11, 1998, Kentucky submitted its I/M program and the EPA approved the program rule on December 8, 1998 (63 FR 67586). Kentucky also submitted the Jefferson County I/M regulation for approval on November 12, 1993. EPA approved this regulation on July 28, 1995 (60 FR 38700). EPA has approved several additional revisions to the Jefferson County I/M program, including actions taken on January 5, 1999 (64 FR 415),

and March 15, 1999 (64 FR 12749); and is in the process of taking action on several additional minor revisions. Indiana submitted rules for its improved basic I/M program on September 28, 1995, and EPA published approval of the rules on March 19, 1996 (61 FR 11142).

NO_X Requirements

Section 182(f) establishes NO_X requirements for ozone nonattainment areas which require the same provisions for major stationary sources of NO_X as apply to major stationary sources of VOCs. One of the requirements for major sources of VOCs is RACT. Therefore, pursuant to section 182(f) of the CAA, RACT is a requirement for major sources of NO_X in an ozone nonattainment area.

On May 21, 1999, Kentucky submitted to EPA for approval APCDJC Regulation 6.42, Reasonably Available Control Technology Requirements for Major Volatile Organic Compound and Nitrogen Oxides-Emitting Facilities. EPA is reviewing and intends to take a separate action on Regulation 6.42 before taking final action on this proposal. Regulation 6.42 requires the establishment and implementation of RACT for the major stationary sources of NO_X in Jefferson County, Kentucky. For the 11 major sources of NO_X in Jefferson County, Regulation 6.42 has been implemented by means of Board Orders adopted by the Air Pollution Control Board of Jefferson County. A Board Order is a regulatory instrument adopted by an air pollution control board which specifies air pollution control limits or requirements for a specific source or company. The following is a summary of the NO_X RACT requirements for each of the 11 Board Orders.

1. American Synthetic Rubber Company, LLC (ASRC): The Board Order submitted to the EPA on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from Boiler #1 and Boiler #2 are not to exceed 0.50 pound per million Btu of heat input, based upon a 30-day rolling average.

(b) The ASRC is required to have continuous emission monitoring system (CEMS) for measuring NO_X emissions from Boiler #1 and Boiler #2.

(c) The ASRC is required to maintain the records listed in 40 CFR 60.49b (g) for Boiler #1 and Boiler #2.

(d) The NO_X emissions from each of Boiler #3 and Boiler #4 are not to exceed 0.20 pound per million Btu of heat input. Neither boiler is to combust a fuel other than natural gas except that Boiler #4 may also combust No. 2 fuel oil.

(e) The ASRC is required to conduct a periodic performance test for NO_X for each of Boiler #3 and Boiler #4.

(f) The ASRC is required to keep a record identifying all deviations from the requirements of the NO_X RACT Plan and is required to submit to the APCDJC a written report of all deviations that occurred during the preceding semi-annual period.

2. E. I. du Pont de Nemours & Company (DuPont): The Board Order submitted on November 12, 1999, contains the following NO_X RACT requirements:

(a) The NO_X emissions from Boiler #4 and Boiler #5 are not to exceed 0.20 pound per million Btu of heat input, based upon a 30-day rolling average.

(b) DuPont is required to install, calibrate, maintain, and operate a CEMS, and record the output of the system, for measuring NO_X emissions from each boiler.

(c) DuPont is required to maintain records listed in 40 CFR § 60.49b(g).

(d) DuPont is required to submit to the APCDJC excess emission reports for any excess emissions that occurred during the reporting period.

3. Ford Louisville Assembly Plant (Ford LAP): The Board Order originally submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from each of Boiler #4 and Boiler #5 are not to exceed 0.20 pound per million Btu of heat input.

(b) Ford LAP is required to conduct a periodic performance test for NO_X for each of Boiler #4 and Boiler #5.

(c) Ford LAP is required each year to perform and make a record of the following non-routine boiler maintenance activities for Boiler #4 and Boiler #5: inspect the fuel combustion system, adjust the system to minimize total emissions of NO_X and carbon monoxide (CO), minimize excess air and maximize boiler efficiency, and make any needed adjustments or repairs to improve boiler efficiency.

(d) Ford LAP was required to submit to the APCDJC a one-time written description of daily activities and procedures that may be conducted by the boiler operators to ensure optimum operating efficiency of Boiler #4 and Boiler #5.

(e) Ford LAP is required to ensure that Boiler #1, Boiler #2, and Boiler #3 comply with the following requirements: No boiler is to have a monthly capacity factor greater than 10.0 percent for any month during the period March 1 to October 31, and no boiler is to combust a fuel other than natural gas, distillate oil, or residual oil.

(f) Ford LAP is required to make a record of the type and amount of fuel combusted during each day of operation of Boiler #1, Boiler #2, or Boiler #3 during the period March 1 to October 31.

(g) Ford LAP is required to keep a record identifying all deviations from the requirements of the NO_X RACT Plan and is required to submit to the APCDJC a written report of all deviations that occurred during the preceding semi-annual period as well as a summary of the non-routine boiler maintenance activities for Boiler #4 and Boiler #5.

4. General Electric Company (GE Appliances): The Board Order originally submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from each of Boiler #6 and Boiler #7 are not to exceed 0.20 pound per million Btu of heat input.

(b) If either of Boiler #6 or Boiler #7 has a seasonal capacity factor greater than 15.0 percent, then GE Appliances is required, prior to operating that boiler during any subsequent ozone control season, to conduct a performance test for NO_X for that boiler.

(c) Each boiler of the group Boiler #1, Boiler #2, Boiler #3, Boiler #4, and Boiler #5 shall comply with one of the following options: Option 1: The boiler shall not have a seasonal capacity factor greater than 10.0 percent, or Option 2: The NO_X emissions from the boiler are not to exceed 0.70 pound per million Btu of heat input. If one of these boilers has a seasonal capacity factor greater than 10.0 percent, then GE Appliances is required, prior to operating that boiler during any subsequent ozone control season, to conduct a performance test for NO_X.

(d) GE Appliances was required to submit to the APCDJC a written description of daily activities and procedures that may be conducted by the boiler operators to ensure optimum operating efficiency of the boilers used during the ozone control season.

(e) GE Appliances is required to make a record of the type, heat content, and amount of fuel combusted during each day of operation during the ozone control season of each boiler identified above. GE Appliances is required to keep a record identifying all deviations from the requirements of this NO_X RACT Plan and is required to submit to the APCDJC a written report of all deviations that occurred during the preceding semi-annual period as well as a summary of the non-routine boiler

maintenance activities for Boiler #6 and the designated primary backup boiler.

5. Kosmos Cement Company (Kosmos): The Board Order originally submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from the cement kiln shall not exceed 6.6 pounds per ton of clinker produced by the kiln, based upon a rolling 30-day average.

(b) Kosmos is required to install, calibrate, maintain, and operate a NO_X CEMS for the cement kiln. Kosmos is required to keep records and submit required CEMS reports.

(c) Kosmos is required to keep a record identifying all deviations from these requirements and is required to submit a written report of all deviations to the APCDJC.

6. Louisville Gas and Electric Company, Cane Run Generating Station (LG&E/CRGS): The Board Order originally submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from each utility boiler are required to be below the rate as specified in the following, based upon a rolling 30-day average: Unit 4, 0.52 lb/mmBtu of heat input; Unit 5, 0.52 lb/mmBtu of heat input; and Unit 6, 0.47 lb/mmBtu of heat input.

(b) LG&E/CRGS is required to install, maintain, and operate a NO_X CEMS for each utility boiler and is required to keep records and submit reports and other notifications as specified in the approved Board Order.

(c) The GT–11 turbine is not to be operated for more than 500 hours per calendar year. LG&E/CRGS is required to make a record of the hours of operation during each day of operation and submit a quarterly report summarizing the monthly and calendar-year-to-date hours of operation.

(d) LG&E/CRGS is required to keep a record identifying all deviations and submit to the APCDJC a written report of all deviations that occurred during the preceding calendar quarter.

7. Louisville Gas and Electric Company, Mill Creek Generating Station (LG&E/MCGS): The Board Order originally submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from each utility boiler are required to be below the rate as specified in the following, based upon a rolling 30-day average: Unit 1, 0.47 lb/mmBtu of heat input; Unit 2, 0.47 lb/mmBtu of heat input; Unit 3, 0.52 lb/mmBtu of heat input; and Unit 4, 0.52 lb/mmBtu of heat input.

(b) LG&E/MCGS is required to install, maintain, and operate a NO_X CEMS for each utility boiler and shall keep records and submit reports and other notifications as specified in the approved Board Order.

(c) LG&E/MCGS is required to keep a record identifying all deviations and submit to the APCDJC a written report of all deviations that occurred during the preceding calendar quarter.

8. Louisville Medical Center Steam Plant (Medical Center): The Board Order submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from each of Boiler #2, Boiler #4, and Boiler #5 while natural gas is combusted in that boiler are not to exceed 0.20 pound per million Btu of heat input.

(b) The NO_X emissions from each of Boiler #4, Boiler #5, and Boiler #6 while coal is combusted in that boiler are not to exceed 0.50 pound per million Btu of heat input.

(c) The Medical Center is required to conduct a periodic performance test for NO_X for each of Boiler #2, Boiler #4, Boiler #5, and Boiler #6.

(d) The Medical Center is required annually to perform and make a record of non-routine boiler maintenance activities for Boiler #2, Boiler #4, Boiler #5, and Boiler #6. Also, the Medical Center was required to submit to the APCDJC a one-time written description of daily activities and procedures that may be conducted by the boiler operators to ensure optimum operating efficiency of Boiler #2, Boiler #4, Boiler #5, and Boiler #6.

(e) Neither Boiler #1 nor Boiler #3 is to have a seasonal capacity factor greater than 10.0 percent. Also, the Medical Center is required to make a record of the type and amount of fuel combusted during each day of operation of Boiler #1 or Boiler #3 during the period April 1 through October 31.

(f) The Medical Center is required to keep a record identifying all deviations from the requirements of these NO_X RACT requirements and is required to submit to the District a written report of all deviations.

9. Oxy Vinyls, LP (Oxy Vinyls): The Board Order originally submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from Boiler #4 are not to exceed 0.60 pound per million Btu of heat input.

(b) The NO_X emissions from Boiler #6 are not to exceed 0.70 pound per million Btu of heat input.

(c) Oxy Vinyls is required to conduct a periodic performance test for NO_X for each of Boiler #4 and Boiler #6.

(d) Oxy Vinyls is required to include in each related report to the APCDJC a summary of non-routine boiler maintenance activities for Boiler #4 and Boiler #6, and submit a one-time written description of daily activities and procedures conducted by the boiler operators to ensure optimum operating efficiency of Boiler #4 and Boiler #6.

(e) Boiler #1 is required to comply with the following requirements: Boiler #1 is not to have an annual capacity factor greater than 10.0 percent for any consecutive 12-month period, and Boiler #1 is not to combust a fuel other than natural gas, distillate oil, or residual oil.

(f) Oxy Vinyls is required to make a record of the type, heat content, and amount of fuel combusted during each day of operation of Boiler #1.

(g) The NO_X emissions from Boiler #5 are not to exceed 0.20 pound per million Btu of heat input. Oxy Vinyls is required to make a record of the type, heat content, and amount of fuel combusted during each day of operation of Boiler #5.

(h) Oxy Vinyls is required to keep a record identifying all deviations from the requirements of the NO_X RACT Plan and is required to submit to the APCDJC a written report of all deviations that occurred during the preceding semi-annual period.

10. Rohm and Haas Company (Rohm & Haas): The Board Order submitted on November 12, 1999, contains the following NO_X RACT requirements:

(a) When fossil fuel (natural gas or distillate fuel oil) alone is combusted, the NO_X emissions from Boiler No. 100 are not to exceed 0.20 pounds per million Btu of heat input, based upon a 30-day rolling average.

(b) When fossil fuel (natural gas or distillate fuel oil) and chemical by-product waste are simultaneously combusted in Boiler No. 100, NO_X emissions from the boiler are not to exceed 1.1 pounds per million Btu of heat input, based upon a 30-day rolling average.

(c) Rohm & Haas was required to install, calibrate, maintain, and operate a CEMS, and record the output of the system, for measuring NO_X emissions from Boiler No. 100 and submit the performance evaluation of the CEMS for Boiler No. 100.

(d) Boiler No. 500 is required to either have an annual capacity factor not greater than 10.0 percent for any

consecutive 12-month period and keep a record of the type and amount of fuel combusted during each day of operation, or to not have the NO_X emissions exceed 0.20 pound per million Btu of heat input, based upon a 30-day rolling average.

(e) Rohm & Haas is required to submit excess emission reports to the APCDJC.

11. Texas Gas Transmission (Texas Gas): The Board Order submitted on November 12, 1999, amended and resubmitted on May 23, 2001, contains the following NO_X RACT requirements:

(a) The NO_X emissions from each of Internal Combustion (IC) Engines #1 through #9 are not to exceed 3 grams per brake-horsepower-hour (g/bhp-hr), according to the following schedule: four IC engines by no later than November 15, 2001, and the other five IC engines by no later than November 15, 2002. Until an individual IC engine is subject to the 3 g/bhp-hr NO_X emissions limit, Texas Gas is required to restrict the operation of that IC engine to less than or equal to 1350 brake horsepower during the time period of May 1 through September 30 each year.

(b) Until October 1, 2004, the NO_X emissions from Turbine T–1 are not to exceed 100 pounds per hour, and the exhaust temperature is not to exceed 1006 °F. On and after October 1, 2004, the NO_X emissions from Turbine T–1 is not to exceed 75 parts per million by volume on a dry gas basis (ppmvd) corrected to 15 percent O_2. Additionally, Texas Gas is required to submit a construction permit application for Turbine T–1 by March 1, 2003, for Dry Low NO_X (DLN) controls and begin operation of DLN controls by October 1, 2004.

(c) The NO_X emissions from the Emergency Generator Engine are not to exceed 2.6 grams per brake horsepower-hour.

(d) Texas Gas is required to monitor and record the operational parameters for each IC engine, the Emergency Generator Engine, and Turbine T–1, and conduct NO_X performance tests as follows: annually one IC engine from the group of IC Engines #1 through #6 (alternating such that each IC engine in this group has been tested in a six-year period), annually one IC engine from the group of IC Engines #7 through #9 (alternating such that each IC engine in this group has been tested in a three-year period), and periodically, starting in 2005, Turbine T–1.

(e) Texas Gas is required to keep a record identifying all deviations from the requirements of the NO_X RACT Plan and is required to submit to the APCDJC a written report of all deviations that occurred during the preceding semi-annual period.

The EPA is proposing today to approve the eleven Board Orders discussed above. These Board Orders are necessary to satisfy the requirements of section 182(f) for the Kentucky's portion of the Louisville area. Kentucky made a negative declaration in the redesignation request that there were no major sources of NO_X in the nonattainment portions of Bullitt and Oldham Counties.

Indiana submitted the required NO_X RACT rules on August 26, 1996. In addition, on April 30, 1997, Indiana submitted a negative declaration that there were no remaining major sources of NO_X in Clark and Floyd Counties. The EPA approved Indiana's NO_X revisions as meeting the requirements of section 182(f) for the Indiana portion of the Louisville area on June 3, 1997 (62 FR 30253).

Final action approving all items needed to satisfy the requirements identified above will enable Kentucky and Indiana to have a fully-approved SIP under section 110(k), and to meet met all applicable requirements under section 110 and part D.

Criterion (3): The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions

The improvement in air quality must be due to permanent and enforceable reductions in emissions resulting from the SIP, federal measures, and other State-adopted measures. VOC emissions in the Kentucky portion of the Louisville area were reduced by 4.93 tons per day between 1996 and 1999. Regulatory programs which contributed to these emission reductions include: rule effectiveness (APCDJC Regulation 1.18); stage II gasoline vapor recovery and control (APCDJC Regulation 6.40), VOC emission reduction (APCDJC Regulation 6.43), performance standards for existing solid waste land fills (APCDJC Regulation 6.45), an improved vehicle I/M program (APCDJC Regulations 8.01, 802, and 8.03), a ban on most types of open burning (401 KAR 63:005), federal rules for Architectural Coatings, Traffic Paints, Auto Body Refinishing, and Commercial/Consumer Products; Kentucky and APCDJC opt-in to the federally-enforceable reformulated gasoline program, federal rules establishing maximum allowable Reid Vapor Pressure, and the Federal Motor Vehicle Control Program (FMVCP).

In the Indiana portion of the nonattainment area, VOC emissions were reduced by 4.4 tons per day between 1996 and 1999. Regulatory programs contributing to the reductions in emissions in the Indiana portion of the Louisville area include the volatile organic storage tanks rule (326 IAC 8–9), the shipbuilding and ship repair rule (326 IAC 8–12), the wood furniture coating rule (326 IAC 8–11), the automobile refinishing rule (326 IAC 8–10), the stage II gasoline vapor recovery rule (326 IAC 8–4–6), lower Reid Vapor Pressure gasoline rule (326 IAC 13–3), a ban on residential open burning (326 IAC 4–1), installation of gas collection and combustion equipment at municipal solid waste landfills (326 IAC 8–8), an improved vehicle I/M program (326 IAC 13–1), a ridesharing program and, the installation of thermal incinerators at a printing facility in Clark County. The 15 percent plan and all of the reductions in the above list have been approved into the SIP. Federal programs contributing to reductions include: the FMVCP, the federal architectural and industrial maintenance coatings rule, and VOC (326 IAC 8–7) and NO_X RACT (326 IAC 10–1) regulations.

Based on the listed programs, Kentucky and Indiana have shown that the improvement in air quality is based on permanent and enforceable reductions in emissions, thus meeting this requirement.

Criterion (4): The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision that provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The Calcagni memorandum dated September 4, 1992, provides additional guidance on the required content of a maintenance plan. An ozone maintenance plan should address the following five areas: the attainment emissions inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The attainment emissions inventory identifies the emissions level in the area that is sufficient to attain the 1-hour ozone NAAQS, based on emissions during a three year period which had no monitored violations. Maintenance is demonstrated by showing that future emissions will not exceed the level established by the attainment inventory. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The State must show how it will track and verify the progress

of the maintenance plan. Finally, the maintenance plan must include a list of potential contingency measures which ensure prompt correction of any violation of the 1-hour ozone NAAQS.

Kentucky and Indiana, in their submittals, included their 1999 emissions inventories as their attainment year inventories. Both Kentucky's and Indiana's maintenance plans provided emissions estimates from 1999 to 2012 for VOCs and NO_X, and indicate that these emissions in the Louisville area are projected to decrease from 1999 levels. Considering only the projected emissions, the results of this analysis show that the area is expected to maintain the air quality standard for at least 10 years into the future after redesignation. However, as shown in tables 7 and 8, Kentucky and Indiana also chose to include a safety margin, in addition to projected emissions, for both the VOC and NO_X MVEBs.

The transportation conformity regulations allow for a safety margin to be allocated to a MVEB to the extent that the projected emissions are less than the attainment year emissions. However, when the VOC safety margin calculated by the States is included in the 2012 projections in these draft plans, the 2012 projected VOC emissions will exceed the 1999 emissions by 2.76 tons/day. The total projected 2012 emissions, taking the safety margin into account, total 148.40 tons/day, or 2.76 tons/day more than the 1999 emissions. Therefore, the draft maintenance plans must be revised to control VOC emissions such that the 2012 projected inventories, including the safety margin being used for the VOC MVEB, are 2.76 tons/day less than shown in the draft maintenance plans. To remedy this issue, Indiana submitted a letter on May 29, 2001, and Kentucky submitted a letter on May 17, 2001, indicating their intent to revise the draft maintenance plans so that the final maintenance plans will include a VOC MVEB of 48.17 tons/day, 2.76 tons/day less than the MVEB included in the draft. For a more detailed discussion of the revision to the VOC MVEB, please see the following section on MVEBs. EPA is proposing to approve the maintenance plan as long as the final plan is revised so that the projected 2012 VOC emissions, including the VOC MVEB safety margin, do not exceed the 1999 attainment year emissions.

Table 3 and Table 4 provide the emissions summary for VOCs and NO_X for the Indiana portion and Table 5 and Table 6 provide the emission summary for VOCs and NO_X for the Kentucky portion of the Louisville area. Table 7 and Table 8, respectively, provide the emissions summary for VOCs and NO_X for the entire Louisville area.

TABLE 3.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR INDIANA COUNTIES (CLARK AND FLOYD)

	1999 attainment	2005 projected	2012 projected
Point	4.16	4.49	4.88
Area	17.67	17.11	18.12
Mobile	9.80	8.58	8.81
Non-Highway	7.36	7.70	8.09
Totals	38.99	37.88	39.90

TABLE 4.—NO_X EMISSIONS IN TONS PER SUMMER DAY FOR INDIANA COUNTIES (CLARK AND FLOYD)

	1999 attainment	2005 projected	2012 projected
Point	26.04	12.35	12.38
Area	8.39	8.78	9.23
Mobile	19.33	16.66	12.82
Non-Highway	6.25	6.46	6.71
Totals	60.01	44.25	41.15

TABLE 5.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR KENTUCKY COUNTIES (JEFFERSON, AND NONATTAINMENT PORTIONS OF BULLITT AND OLDHAM)

	1999 attainment	2002 projected	2005 projected	2008 projected	2012 projected
Point	31.52	31.93	31.93	31.83	31.52
Area	18.94	19.10	19.27	19.47	19.64
Mobile	41.13	36.38	30.50	28.02	27.23
Non-Highway	15.07	15.12	15.15	15.20	15.22
Totals	106.66	102.53	96.85	94.52	93.61

TABLE 6.—NO_X EMISSIONS IN TONS PER SUMMER DAY FOR KENTUCKY COUNTIES (JEFFERSON, AND NONATTAINMENT PORTIONS OF BULLITT AND OLDHAM)

	1999 attainment	2002 projected	2005 projected	2008 projected	2012 projected
Point	116.86	99.08	46.37	47.78	47.99
Area	0.81	0.81	0.82	0.82	0.82
Mobile	73.60	67.70	59.22	52.64	44.19
Non-Highway	19.95	19.87	19.74	19.63	19.41
Totals	211.22	187.46	126.15	120.87	112.41

TABLE 7.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR THE ENTIRE LOUISVILLE AREA

Total VOC (tons/day)	1999 attainment	2005 projected	2012 projected	2012 projected (including States' calculated 14.89 mobile source "safety margin")
Point	35.68	36.42	36.40	36.40
Area	36.61	36.38	37.76	37.76
Mobile	50.93	39.08	36.04	50.93

TABLE 7.—VOC EMISSIONS IN TONS PER SUMMER DAY FOR THE ENTIRE LOUISVILLE AREA—Continued

Total VOC (tons/day)	1999 attainment	2005 projected	2012 projected	2012 projected (including States' calculated 14.89 mobile source ''safety margin'')
Non-Highway	22.43	22.85	23.31	23.31
Totals	145.65	134.73	133.51	148.40

TABLE 8.—NO_X EMISSIONS IN TONS PER SUMMER DAY FOR THE ENTIRE LOUISVILLE AREA

Total NO_X (tons/day)	1999 attainment	2005 projected	2012 projected	2012 projected (including States' calculated 35.92 mobile source ''safety margin'')
Point	142.90	58.72	60.37	60.37
Area	9.20	9.60	10.05	10.05
Mobile	92.93	75.88	57.01	92.93
Non-Highway	26.20	26.20	26.12	26.12
Totals	271.23	170.40	[1] 153.56	[1] 189.48

[1] Slight differences due to rounding.

Kentucky and Indiana have addressed the maintenance plan requirements for monitoring and emissions inventories. Both have committed to continue the operation of the monitors in the area in accordance with 40 CFR Part 58. Kentucky and Indiana will accomplish verification of continued attainment by regularly updating the emissions inventory for the area.

The contingency plan for the Kentucky portion of the Louisville area contains four major components: a commitment to submit a revised plan eight years after redesignation, attainment tracking, triggers to start the implementation of the contingency measures, and contingency measures to be implemented in the event that a trigger is activated. Section 175A(b) of the CAA requires States to submit a revision of the SIP eight years after the original redesignation request is approved to provide for maintenance of the 1-hour ozone NAAQS for an additional ten years following the first ten-year period. Kentucky and Indiana have committed to submit the revision to the SIP eight years after redesignation of the Louisville area. Attainment tracking will include triennial reviews of actual emissions for the redesignated areas which will be performed using the latest emission factors, models, and methodologies. Kentucky will begin the triennial assessments in 2003 for calendar year 2002. At the time of this periodic inventory, Kentucky will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. If any of these assumptions appear to have changed substantially, Kentucky will re-project the emissions.

In the event of a monitored violation of the 1-hour ozone NAAQS in the Louisville area, Kentucky commits to adopt within nine months, and implement the regulatory programs within 18 months, one or more of the following contingency measures to re-attain the 1-hour ozone NAAQS:

1. A program to require additional emission reductions at stationary sources, either for specific types of processes or an across-the-board reduction for the larger stationary sources.
2. More restrictive new source review requirements.
3. A more rigorous vehicle emissions testing program or an increase the area subject to the current programs.
4. Restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high-occupancy vehicles.
5. Trip-reduction ordinances.
6. Employer-based transportation management plans, including incentives.
7. Programs to limit or restrict vehicle use in downtown areas, or other areas of emission concentration, particularly during periods of peak use.
8. Programs for new construction and major reconstructions of paths or tracks for use by pedestrians or by non-motorized vehicles when economically feasible and in the public interest.

Kentucky also reserves the right to implement other contingency measures if new control programs should be developed and deemed more advantageous for the area. In addition, the occurrence of either of the following two events will trigger Kentucky to evaluate existing control measures to see if any further emission reduction measures should be implemented: (1) if exceedances of the 1-hour ozone NAAQS are measured in any portion of the Louisville area, or (2) if a periodic emission inventory update reveals excessive or unanticipated growth greater than 10 percent in ozone precursor emissions.

The contingency plan for the Indiana portion of the Louisville area contains four major components: a commitment to submit a revised plan eight years after redesignation, attainment tracking, triggers to start the implementation of the contingency measures, and contingency measures to be implemented in the event that a trigger is activated. Attainment tracking will include triennial reviews of actual emissions for the redesignated areas which will be performed using the latest emission factors, models, and methodologies. Indiana will begin the triennial assessments in 2003 for calendar year 2002. At the time of this periodic inventory, Indiana will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. If any of these assumptions appear to have changed substantially, then emissions will be re-projected.

Indiana used a two-tiered approach in its maintenance plan to determine the appropriate level of response to ensure

maintenance of the NAAQS. As specified in the submittal, a ''Level Two'' response is implemented in the event that an ozone monitor records an ozone concentration of 0.12 ppm or more, or the level of VOC or NO_X for the entire Louisville area increases above the 1999 baseline. In the case of one of these triggers, a Level Two response would consist of a study to determine whether the noted trends are likely to continue and, if so, the control measures necessary to reverse the trend. Implementation of these Level Two controls would take place as expeditiously as possible, and in no case later than 18 months after Indiana is aware of a trigger being exceeded. A Level One response is activated in the event of a monitored violation of the 1-hour ozone NAAQS in the Louisville area. With a violation, Indiana commits to implement measures within 18 months. Indiana will select contingency measures from the following list, or any other measure deemed appropriate and effective at that time:

1. Reformulated gasoline program.

2. Broader geographic applicability of existing measures.

3. Tightening of RACT on existing sources covered by EPA Control Techniques Guidelines issued in response to the CAA.

4. Application of RACT to smaller existing sources.

5. A fully-enhanced I/M program.

6. One or more transportation control measures sufficient to achieve at least 0.5 percent reduction in actual area-wide VOC emissions. Transportation measures will be selected from the following, based upon the factors listed above after consultation with affected local governments:

(a) Trip reduction programs, including, but not limited to, employer-based transportation management plans, area-wide rideshare programs, work schedule changes, and telecommuting.

(b) Transit improvements.

(c) Traffic flow improvements.

(d) Other heretofore ''undiscovered'' transportation measures not yet in widespread use.

7. Alternative fuels programs for fleet vehicle operations.

8. Controls on consumer products consistent with those adopted elsewhere in the United States.

9. VOC or NO_X emission offsets for new and modified major sources.

10. VOC or NO_X emission offsets for new and modified minor sources.

11. An increase in the ratio of emission offsets required for new sources.

12. VOC or NO_X controls on new minor sources (less than 100 tons).

Kentucky's and Indiana's submittals adequately address the five basic components which comprise a maintenance plan (attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan) and, therefore, satisfy the maintenance plan requirement.

Motor Vehicle Emission Budgets

In addition to meeting the criteria for redesignation, as a control strategy SIP, the maintenance plans must contain motor vehicle emissions budgets that, in conjunction with emissions from all other sources, are consistent with attainment and maintenance. Kentucky, Indiana, and APCDJC developed MVEBs for the maintenance plan year of 2012. The MVEBs are for both VOC and NO_X as precursors to ozone formation and would be applicable for the entire Louisville area upon the effective date of a final approval or a MVEB adequacy finding.

In order to develop the MVEBs, motor vehicle emissions were projected to 2012 using the MOBILE5b emission factor model and associated modeling tools. The transportation conformity regulations also allow for a safety margin to be allocated to a MVEB to the extent that the total projected emissions are less than the total attainment year emissions. The States calculated draft safety margins for both NO_X and VOC using a slightly different methodology than indicated in the definition of a safety margin in the conformity rule. The States calculated the difference between the 1999 attainment year on-road mobile source inventory and the 2012 projected on-road mobile source emissions. This methodology produces an acceptable NO_X MVEB. However, as discussed above, the 2012 projected VOC emissions, including the draft VOC MVEB, exceed the 1999 attainment year VOC emissions. The States' draft maintenance plan provides for a VOC MVEB of 50.93 tons/day (the 2012 projected motor vehicle emissions, 36.04 tons/day, plus a safety margin of 14.89 tons/day). Since this MVEB, along with the other emissions projected for 2012, would exceed the 1999 emissions, the maintenance plans must be revised prior to final submission. In response to this concern, Kentucky and Indiana submitted letters indicating their intent to revise the draft maintenance plans so that the final maintenance plans will include a VOC MVEB of 48.17 tons/day, 2.76 tons/day less than the MVEB included in the draft. This MVEB is comprised of the 2012 projected motor vehicle emissions, 36.04 tons/day, and a safety margin of 12.13 tons/day (2.76 tons/day less than the draft safety margin). Based on this change that the States intend to make in their final submittals, EPA is proposing to approve the maintenance plans and MVEBs as long as the final plan is revised to include a VOC MVEB of no more than 48.17 tons/day.

TABLE 9.—PROPOSED 2012 MVEB FOR THE LOUISVILLE NONATTAINMENT AREA

Pollutant	2012 projected emissions (tons/day)	State draft safety margin (tons/day)	State draft 2012 projected MVEB (tons/day)	Allowable safety margin (tons/day)	Allowable 2012 MVEB (tons/day)
VOC	36.04	14.89	50.93	12.13	48.17
NO_X	57.01	35.92	92.93	35.92	92.93

One of the control programs the States considered in developing their MVEBs is the Tier II emission standards for vehicles and the low sulfur gasoline (Tier II/Low Sulfur) reductions that will be implemented beginning in 2004. The Tier II/Low Sulfur standards were promulgated as federal rules February 10, 2000 (65 FR 6697). The rules require more stringent emission limitations for vehicles on a grams per mile of NO_X basis. The rules also require that the sulfur levels in gasoline be significantly less than current levels.

The States estimated the reduction provided by the Tier II/Low Sulfur gasoline program by using ''Information Sheet #8 Tier II Benefits Using MOBILE 5b'', an EPA-supplied information sheet, to adjust the MOBILE5b emission factors for 2012. This information sheet notes that users need to be aware of the serious limitations of the information in certain situations. The model used to derive the estimates of Tier II reductions incorporates changes proposed for MOBILE6 that are unrelated to the Tier

II program and, as a result, produces baseline emissions estimates that are different from those produced by MOBILE5. In the absence of MOBILE6, users will apply these reductions to baseline emissions calculated using versions of MOBILE5. As a result, the final inventories estimated using this method may be substantially different from what will be estimated once MOBILE6 becomes available.

For this reason, when this information sheet is used to estimate the reductions achieved by the Tier II/Low Sulfur program, EPA has required a commitment from affected areas that the MVEBs will be recalculated after the release of MOBILE6. This commitment is discussed in more detail in a November 8, 1999, memorandum entitled ''1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking'' from Lydia N. Wegman, Director, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards and Merrylin Zaw-Mon, Director, Fuels and Energy Division, Office of Mobile Sources to EPA Regions I—VI Air Directors. This memorandum requires areas that rely in whole or in part on the Tier II/Low Sulfur program emission reductions to help demonstrate attainment to commit to recalculate and resubmit MVEBs, as a formal SIP revision, within 1 year after the release of MOBILE6. Subsequently, in a July 28, 2000 **Federal Register** action (65 FR 46383), EPA proposed to provide 1-hour ozone nonattainment areas classified as serious and severe an option, under which States could commit to revise their MVEBs 2 years following the release of MOBILE6, provided that conformity is not determined without adequate MOBILE6 SIP MVEBs during the second year.

While this memorandum and **Federal Register** proposal specifically address attainment demonstrations for the 1-hour ozone nonattainment areas classified as serious and severe, EPA believes that the commitment is applicable to any area that has estimated the reductions from the Tier II/Low Sulfur program and is depending on those reductions for attainment or maintenance. Indiana and Kentucky did not include this commitment in their draft submittal but have submitted letters stating their intent to include, in their final documents, a commitment to revise their MVEBs 2 years following the release of MOBILE6, recognizing that conformity may not be determined without adequate MOBILE6 SIP MVEBs during the second year. EPA can only take final approval action on this redesignation request if the States make this commitment in their final submittals. If this commitment is made, but either State fails to meet it, the EPA could make a finding of failure to implement the SIP, which would start a sanctions clock under CAA section 179.

Indiana's and Kentucky's letters also indicate that they intend to revise the VOC MVEB, reducing the safety margin, so that the 2012 projected emission inventory is less than the 1999 attainment year. Provided the States appropriately revise the VOC MVEB and submit enforceable commitments to revise their MVEBs using MOBILE6, the EPA is proposing to approve their maintenance plans, redesignation requests and MVEBs.

EPA is also proposing to clarify what will occur if the EPA finalizes approval of these MVEBs based on the States' commitments to revise the budgets in the future. If this occurs, the approved SIP MVEBs will apply for conformity purposes only until the revised MVEBs have been submitted and the EPA has found the submitted MVEBs to be adequate for conformity purposes.

In other words, when the States fulfill their commitment to submit revised MVEBs, if the EPA finds those MVEBs to be adequate for conformity purposes, those revised MVEBs will apply for conformity purposes as soon as affirmative adequacy findings are effective. Provided these revised MVEBs are submitted as revisions to the maintenance plans' 2012 MVEBs, they would also replace the MVEBs in the approved maintenance plans at the time that the affirmative adequacy findings are effective.

Since the EPA is proposing to approve the MVEBs that were submitted with their redesignation request only because the States have committed to revise these MVEBs, EPA wants its approval of these MVEBs to last only until adequate revised MVEBs are submitted pursuant to the commitments. EPA believes the revised MVEBs should apply as soon as they are found adequate. EPA does not believe it is necessary to wait until they have been approved as revisions to the maintenance plan. This is because EPA knows now that if the revised MVEBs are found adequate, they will be more appropriate than the originally approved budgets for conformity purposes.

EPA also recognizes that an accurate estimate of the benefits of the Tier II/Low Sulfur program cannot be made until the MOBILE6 model is released. EPA is proposing to approve MVEBs based on interim approximations of Tier II/Low Sulfur benefits only because the States are committing to recalculate the MVEBs using MOBILE6 in a timely fashion. According to this proposal, revised MVEBs could be used for conformity after the EPA has completed the adequacy review process, provided the submitted MVEBs are deemed adequate.

If revised MVEBs raise issues about the sufficiency of the maintenance demonstration, EPA will work with the States on a case-by-case basis. If the revised MVEBs show that MVEBs are lower than EPA is proposing to approve today, a reassessment of the maintenance plans must be done before the States can reallocate any of the emission reductions or assign them to an MVEB as a safety margin. In other words, the States must assess how their original maintenance plan is impacted by using MOBILE6 vs. MOBILE5 before they reallocate any apparent motor vehicle emission reductions resulting from the use of MOBILE6.

This **Federal Register** action does not propose any change to the existing transportation conformity rule or to the way it is normally implemented with respect to other submitted and approved SIPs, which do not contain commitments to revise the MVEBs.

F. Where Is the Public Record and Where Do I Send Comments?

The official record for this proposed rule has been established under SIP submittal numbers KY–126 and IN–121–2 and is located at the addresses in the **ADDRESSES** section at the beginning of this document. The addresses for sending comments are also provided in the **ADDRESSES** section at the beginning of this document.

Public comments are solicited on the EPA's proposed rulemaking action. Public comments received in writing by July 23, 2001 will be considered in the development of the EPA's final rulemaking action.

III. 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 proposes to approve State law as meeting federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this proposed rule 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 (Public Law 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 proposes to approve a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), the EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for the EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, the 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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 7, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Dated: June 14, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–15748 Filed 6–21–01; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 66, No. 121

Friday, June 22, 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

Natural Resources Conservation Service

Notice of Proposed Implementation of Phosphorous Index (PI) in the Caribbean Area

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of Availability of proposed implementation of PI as a working tool to assess and manage phosphorous movement for review and comment.

SUMMARY: It has been determined that the Natural Resources Conservation Service will adopt the implementation of an assessment tool that may be used by resource managers and land users to assess the risk of phosphorous (P) losses from a field. A work group made up by Scientists from the Agricultural Experiment Station of the University of Puerto Rico and USDA–NRCS formed a task to adapt and validate this technology to our tropical environment. The purpose of the PI is to aid anyone environmentally involved in the decision-making processes involved planning resource conservation plans to land application to animal wastes. The risk of P losses is a function of transport and sources characteristics.

DATES: Comments will be received on or before July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Juan A. Martinez, State Director, Natural Resources Conservation Service (NRCS), P.O. Box 364868 San Juan, PR 00946–4868; Telephone number (787) 766–5206 Ext. 237; Fax number (787) 766–5987. Copies of the Agronomy Technical Note will be made available upon written request to the address shown above.

SUPPLEMENTARY INFORMATION: High phosphorous (P) concentrations found in many surface waters throughout Puerto Rico suggest that this may be the leading cause observed eutrophication. Because agricultural activities are one of many non-point sources apparently contributing to P loading, it is important to implement agricultural nutrient management plans. This must be done judiciously because of the unique social and economic conditions that prevail. One component of said plan is the assessment of P transport from soil to water by the use of the Phosphorous Index (PI). The PI is a site specific, qualitative vulnerability assessment tool used by the USDA–NRCS to determine when manure utilization may be based on a nitrogen or phosphorous-based budget.

No administrative action on implementing of the Agronomy Technical Note will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: May 17, 2001.

Juan A. Martinez,

State Director, Natural Resources Conservation Service, Caribbean Area.

[FR Doc. 01–15733 Filed 6–21–01; 8:45 am]

BILLING CODE 3410–16–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

Comments Must Be Received on or Before: July 23, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for each commodity or service will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Air Freshener, Zooville Animal

M.R. 475
NPA: Industries of the Blind, Inc., Greensboro, North Carolina
Government Agency: Defense Commissary Agency, Fort Lee, VA

Broom, Swivel Head

M.R. 1043
NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin

Government Agency: Defense Commissary Agency, Fort Lee, VA

Services

Janitorial/Custodial

Bolling Air Force Base, Washington, DC
NPA: Davis Memorial Goodwill Industries, Washington, DC
Government Agency: Department of the Air Force, Bolling Air Force Base, DC

Janitorial/Custodial

Defense Supply Center—Richmond, Richmond, Virginia
NPA: Richmond Area Association for Retarded Citizens, Richmond, Virginia
Government Agency: Defense Supply Center—Richmond, Richmond, VA

Mailroom Operation

U.S. Customs Service, Gulf CMC, 423 Canal Street, New Orleans, Louisiana
NPA: Goodworks, Inc., New Orleans, Louisiana
Government Agency: Department of the Treasury, New Orleans, Louisiana

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for deletion from the Procurement List.

The following commodities are proposed for deletion from the Procurement List:

Commodities

Cleaner, Multi-Purpose

7930–01–393–6759

Enamel, Lacquer

8010–00–941–8712

Mophead, Wet

7920–00–141–5544
7920–00–141–5547
7920–00–141–5548
7920–00–141–5549
7920–00–141–5550
7920–00–171–1148

Tray, Desk, Plastic

7520–01–094–4312
7520–01–094–4311

Patrick T. Mooney,
Director, Pricing and Program Operations.

[FR Doc. 01–15726 Filed 6–21–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: July 23, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: On April 27 and May 4, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 21118 and 22516) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Brush, Bowl, Toilet w/Caddie

M.R. 1047

Mop, Anglematic, Deluxe

M.R. 1038

Services

Dispatcher

Defense Supply Center—Richmond, Richmond, Virginia

HTML Coding of Forest Health Monitoring

USDA, Forest Service, North Central Forest Experiment Station, St. Paul, Minnesota

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Patrick T. Mooney,
Director, Pricing and Program Operations.

[FR Doc. 01–15727 Filed 6–21–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

[I.D. 061901B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Dealer and Interview Family of Forms.

Form Number(s): None.

OMB Approval Number: 0648–0013.

Type of Request: Regular submission.

Burden Hours: 3,171.

Number of Respondents: 15,986.

Average Hours Per Response: 10 minutes for an interview; 10 minutes for a mackerel dealer or vessel report, 15 minutes for a highly migratory species dealer report; 3 minutes for a no-purchase report from a highly migratory species dealer; 17 minutes for a

swordfish import report; 10 minutes for a wreckfish, snowy grouper/tilefish, or red snapper dealer report; 3 minutes for a no-purchase report from a wreckfish, snowy grouper/tilefish, or red snapper dealer; 15 minutes for a rock shrimp, golden crab, or coral dealer report; and 5 minutes for an annual vessel inventory submission.

Needs and Uses: NOAA's Southeast Region of the National Marine Fisheries Service requires purchase reporting by dealers participating in certain federally-regulated fisheries. It also conducts an interview program with vessel operators about their catch and effort, and to gather biological data on their catch. This reporting is needed to monitor fishing quotas and to otherwise manage the region's fisheries.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Weekly, monthly, annually, and by-trip.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing 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 David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: June 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–15746 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Extension of Time Limit for Final Results of New-Shipper Antidumping Reviews: Freshwater Crawfish Tail Meat From the People's Republic of China

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

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4052 and (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

On March 29, 2000 and March 31, 2000 the Department received requests from China Kingdom Import and Export Co., Ltd.; Nantong Shengfa Frozen Food Co., Ltd.; and Weishan Fukang Foodstuffs Co., Ltd. to conduct new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China. On May 25, 2000, the Department initiated these new shipper reviews covering the period September 1, 1999 through February 28, 2000 (65 FR 35046). On October 30, 2000 , the Department extended the time limit for the preliminary results of these new shipper reviews to March 21, 2000 (65 FR 64666). On March 18, 2001, the Department expanded the period of review for these new shipper reviews by one month to enable the Department to capture the entries corresponding to sales to the United States for the three respondents. *See* Memorandum to Barbara E. Tillman from Jacqueline Arrowsmith, ''Expansion of the Period of Review of New Shipper Reviews of the Antidumping Duty Order on Freshwater Crawfish Tail Meat from the People's Republic of China,'' dated March 18, 2001. This is a public memorandum, which is on file in the Central Records Unit of the main Department of Commerce building (HCHB B–099). On April 10, 2001, the Department published the *Notice of Preliminary Results of Antidumping Duty New Shipper Administrative Reviews: Freshwater Crawfish Tail Meat from the People's Republic of China,* 66 FR 18604 (April 10, 2001).

Extension of Time Limits for Final Results

Section 353.214(i)(1) of the Department's regulations requires the Department to make a final determination 90 days after the date on which the preliminary results in a new shipper review are issued. However, if the Secretary concludes that a new shipper review is extraordinarily complicated, the Secretary may extend the 90-day period to 150 days under § 351.214(i)(2) of the Department's regulations. We find the valuation issues in these reviews to be extraordinarily complicated, and, therefore, we are unable to complete these reviews by the scheduled deadline. Therefore, in accordance with § 351.214(i)(2) of the Department's regulations, the Department is extending the time period for issuing the final results of these new shipper reviews by 60 days until August 18, 2001.

This extension is in accordance with section 751(a)(2)(B)(iv) of the Act, as amended, and § 351.214(i)(2) of the Department's regulations.

Dated: June 15, 2001.

Edward C. Yang,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–15740 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–PS–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–860]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the People's Republic of China

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

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Constance Handley, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4162, (202) 482–0631, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Final Determination

We determine that steel concrete reinforcing bar (rebar) from the People's Republic of China (PRC) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Final Margins* section of this notice.

Case History

The preliminary determination in this investigation was issued on January 16, 2001. *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars From the People's Republic of China,* 66 FR 8339 (January 30, 2001) (*Preliminary Determination*).

We conducted verification of the questionnaire responses of Laiwu Steel Group, Ltd., and Laiwu Steel Corporation (collectively, Laiwu), from March 5 through March 9, 2001.

On March 1, 2001, Laiwu requested a hearing, and on March 2, 2001, the petitioner [1] requested to participate in a hearing if a hearing was to be held. However, on May 4, 2001, Laiwu withdrew its request for a hearing.

Section 734(m) of the Act states that in the case of regional industry investigations, the administering authority shall offer exporters the opportunity to enter into suspension agreements. Proposed and finalized agreements in these cases must comport with the requirements set forth under section 734 of the Act for the suspension of antidumping duty investigations. The exporter participating in the instant investigation was aware of its opportunity to propose a suspension agreement. However, the Department did not accept a suspension agreement in this proceeding. *See* Memorandum from Holly Kuga to The File, dated April 2, 2001.

Scope of Investigation

For purposes of this investigation, the product covered is all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (i.e., non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 1999, through March 31, 2000. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* June 2000).

Non-market Economy Country

The Department has treated the PRC as a non-market economy (NME) country in all past antidumping investigations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China,* 65 FR 33805 (May 25, 2000), and *Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China,* 65 FR 19873 (April 13, 2000). A designation as a NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. The respondent in this investigation has not requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as a NME in this investigation. For further details, see the Department's *Preliminary Determination.*

Separate Rates

In our preliminary determination, we found that Laiwu had met the criteria for the application of separate antidumping duty rates. We have not received any other information since the preliminary determination which would warrant reconsideration of our separate rates determination with respect to Laiwu. Therefore, we continue to find that Laiwu should be assigned an individual dumping margin. For a complete discussion of the Department's determination that Laiwu is entitled to a separate rate, see the Department's *Preliminary Determination.*

The People's Republic of China-Wide Rate and Use of Facts Otherwise Available

As explained in the Department's *Preliminary Determination,* Laiwu was the only exporter to respond to the Department's questionnaire and cooperate in this investigation. Therefore, we have continued to calculate a company-specific rate for Laiwu only. However, in the *Preliminary Determination,* we stated that our review of U.S. import statistics from the PRC reveals that Laiwu did not account for all imports into the United States from the PRC. For this reason, we determined that some PRC exporters of rebar failed to cooperate in this investigation. In accordance with our standard practice, as adverse facts available, we are assigning as the PRC-wide rate the higher of: (1) The highest margin stated in the notice of initiation; or (2) the margin calculated for Laiwu. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From The People's Republic of China,* 65 FR 34660 (May 31, 2000). For purposes of the final determination of this investigation, we are using the margin calculated for Laiwu since it is higher than the margin stated in the notice of initiation.

Surrogate Country

For purposes of the final determination, we find that India remains the appropriate primary surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection for the PRC, see the Department's *Preliminary Determination.*

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the *Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Steel Concrete Reinforcing Bars from China (Decision Memorandum),* from Bernard T. Carreau, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary for Import Administration, dated June 14, 2001, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. These adjustments are summarized below:

[1] The petitioner in this investigation is the Rebar Trade Action Coalition (RTAC), and its individual members, AmerSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group.

1. For the export price, we have recalculated the inflator used to adjust the rate of brokerage and handling. For further details, see Comment 9 in the *Decision Memorandum,* and *Memorandum To the File, Analysis Memorandum for Laiwu Steel Group Ltd. and Laiwu Steel Corporation re: Final Determination (Analysis Memorandum),* dated June 14, 2001.

2. With regard to two inputs into the production of rebar, iron ore concentrate and iron ore fines, a portion of these inputs was produced by Laiwu, and the remaining portion was purchased from suppliers. The valuation of the self-produced portion of these material inputs was based on adverse facts available because we found at verification that Laiwu misreported its corporate structure. Had we known prior to verification that certain divisions of Laiwu actually produced a portion of its iron ore concentrate and iron ore fines, we would have requested Laiwu's factors of production for these inputs. We used, as adverse facts available, the Egyptian 1998 non-agglomerated iron ore price from the *United Nation's Handbook of World Mineral Statistics,* 1993–1998, inflated to the POI. For the remaining portion of iron ore concentrate, which was purchased from domestic suppliers, with the exception of one transaction involving a market-economy country, we used a surrogate value from the Philippines because we could not find an appropriate surrogate value from India. Unlike the preliminary determination, we did not use the actual market-economy price because at verification we discovered that the transaction in question was unusual in that the iron ore purchased was not comparable to the iron ore concentrate normally used by Laiwu. For the remaining portion of iron ore fines, which was purchased from a market-economy country at market-economy prices, we continued to use the actual price paid by Laiwu. For further details, see Comment 1 in the *Decision Memorandum,* and the *Analysis Memorandum.*

3. For selling, general and administrative expenses (SG&A) and overhead, we used a simple average of the ratios derived from the financial statements of Tata Iron and Steel Company Limited and the Steel Authority of India (SAIL). With respect to profit, we used only TATA's profit rate because SAIL's financial statement does not reflect profit. For further details, see Comment 8 in the *Decision Memorandum,* and the *Analysis Memorandum.*

4. With respect to the by-products water slag and oxide iron skin, we have determined that the Indian values for those by-products were aberrational. For this reason, we based the value for water slag on pricing information provided in the *U.S. Geological Survey, Minerals, Commodities Summaries,* and the value for oxide iron skin on the *U.N. Commodity Trade Statistics* for Indonesia. For further details see Comment 5–B in the *Decision Memorandum,* and the *Analysis Memorandum.*

5. We did not offset the normal value for the by-product ammonia water because, at verification, Laiwu was unable to present evidence that it sold ammonia water to outside customers, or that the ammonia water was of a commercial value and had indeed been reintroduced in the production process of Laiwu's non-subject products. *See* Comment 5–C in the *Decision Memorandum,* and the *Analysis Memorandum.*

6. For the input hoist link, we granted Laiwu an offset to the cost of the hoist links equal to the value of the end-cutting scrap provided by Laiwu to the manufacturer of hoist link. *See* Comment 5–H of *Decision Memorandum,* and the *Analysis Memorandum.*

7. We corrected minor errors in the value of ferrosilicon and aluminum manganese to reflect the quantity and value of imports from only market-economy countries. *See* Comment 9 of the *Decision Memorandum,* and the *Analysis Memorandum.*

8. We revised the value of coal to reflect bituminous coal, and the value of coal fines to reflect anthracite coal. *See* Comment 5–E of the *Decision Memorandum,* and the *Analysis Memorandum.*

9. We revised the value of briquetting scrap to correspond to the value for cast iron scrap. *See* Comment 5–E of *Decision Memorandum,* and the *Analysis Memorandum.*

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Critical Circumstances

Based on new information on the record of this investigation and information provided in our preliminary affirmative critical circumstances determination, we have determined, for purposes of the final determination, that critical circumstances exist for Laiwu Steel Group and the non-responding exporters. For further details, see the Memorandum from Case Analysts to Bernard T. Carreau, Deputy Assistant Secretary, Import Administration, *Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from the People's Republic of China PRC—Final Affirmative Determination of Critical Circumstances,* dated June 14, 2001.

Final Margins

We determine that the following weighted-average dumping margins for the PRC exist:

Exporter/manufacturer	Weighted-average margin percentage
Laiwu Steel Group	133.00
PRC-Wide Rate	133.00

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of steel concrete reinforcing bars from the PRC that are entered, or withdrawn from warehouse, for consumption on or after November 1, 2000, (*i.e.*, 90 days prior to the date of publication of the preliminary determinations in the **Federal Register**). The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing

Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

List of Comments in the Issues and Decision Memorandum

I. GENERAL ISSUES

Comment 1: Value of iron ore concentrate

Comment 2: Actual vs. theoretical weight

Comment 3: Calculation of SG&A and Overhead

Comment 4: Application of Overhead Ratio to the Upstream Stages of Production

Comment 5: Appropriate Surrogate Values and Treatment for Certain Material Inputs

Comment 6: Appropriate Rate for Ocean Freight

Comment 7: Re-calculating Overhead to Include the Cost of Minor Materials

Comment 8: Basis for Financial Ratios

Comment 9: Clerical Errors

[FR Doc. 01–15652 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–841–804]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Moldova

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

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan or Michele Mire at (202) 482–5253 or (202) 482–4711, respectively, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations are to 19 CFR part 351 (April 2000).

Final Determination

We determine that steel concrete reinforcing bar (rebar) from Moldova is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margin of sales at LTFV is shown in the *Final Determination of Investigation* section of this notice.

Case History

On January 30, 2001, the Department published the preliminary determination of the antidumping investigation of rebar from Moldova. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Moldova*, 66 FR 8333 (January 30, 2001) (*Preliminary Determination*). We conducted verification of the questionnaire responses of the respondent, JV CJSC Moldova Steel Works (MSW), during the week of March 18, 2001. We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On April 26, 2001, MSW and the petitioner, the Rebar Trade Action Coalition [1], submitted case briefs; and on May 1, 2001, both parties submitted rebuttal briefs. The Department received no requests for a public hearing.

Section 734(m) of the Act states that in the case of regional industry investigations, the administering authority shall offer exporters the opportunity to enter into suspension agreements. Proposed and finalized agreements in these cases must comport with the requirements set forth under section 734 of the Act for the suspension of antidumping duty investigations. The exporter participating in the instant investigation was aware of its opportunity to propose a suspension agreement. However, the Department did not accept a suspension agreement in this proceeding. *See* Memorandum from Holly A. Kuga to The File, dated March 30, 2001.

[1] The petitioner in this investigation is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group.

The Department has conducted this investigation in accordance with section 731 of the Act.

Scope of Investigation

For purposes of this investigation, the product covered is all steel concrete reinforcing bars (rebar) sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 1999, through March 31, 2000. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, June 2000).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*), dated June 14, 2001, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 (B–099) of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary determination calculation methodologies in calculating the final dumping margin in this proceeding. While we continued to use India as the surrogate country, we made the following changes: (1) We valued oxygen and nitrogen based upon MSW's reported factors of production, which were omitted inadvertently from the preliminary determination; (2) we valued lime and argon using United

Nations (UN) Commodity Trade Statistics for 1998; (3) we corrected the inflator for brokerage and handling expenses; (4) we corrected clerical errors in the calculations of surrogate financial ratios; and, (5) we based the date of sale on the date of beginning of production rather than the date of the commercial sales invoice. These adjustments are discussed in the *Decision Memorandum.*

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Critical Circumstances

In a letter filed on August 22, 2000, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of rebar from Moldova. On November 27, 2000, the Department published in the **Federal Register** its preliminary determination that critical circumstances exist for imports of rebar from Moldova.

See Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova, 65 FR 70696 (November 27, 2000).

Since the preliminary determination, we received MSW's shipment data and, based upon these data, we find that critical circumstances do not exist for imports of rebar from Moldova. This determination is discussed in detail in the *Decision Memorandum* and in the Memorandum from Holly Kuga to Bernard T. Carreau, ''Antidumping Duty Investigations of Steel Concrete Reinforcing Bar from Moldova—Final Negative Determination of Critical Circumstances,'' dated June 14, 2001.

Final Determination of Investigation

We determine that the following weighted-average percentage margin exists for the period October 1, 1999 through March 31, 2000:

Manufacturer/exporter	Margin (percent)
Moldova-Wide Rate	232.86

The Moldova-wide rate applies to all entries of the subject merchandise from Moldova.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of rebar from Moldova that are entered, or withdrawn from warehouse, for consumption on or after January 30, 2001 (the date of publication of the *Preliminary Determination* in the **Federal Register**). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. The suspension of liquidation instructions will remain in effect until further notice.

In addition, since we have determined that critical circumstances do not exist for imports of rebar from Moldova, we are also instructing Customs to terminate the suspension of liquidation of, and refund all cash deposits and release all bonds collected on, entries of rebar from Moldova entered, or withdrawn from warehouse, for consumption from November 1, 2000 (90 days prior to the publication of the *Preliminary Determination* in the **Federal Register**) to January 29, 2001.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1: Whether India is a Significant Producer of Comparable Merchandise
2: Quality of Surrogate Values for India
3: Selection of Surrogate to Value Selling, General, and Administrative (SG&A) Expenses and Profit
4: Market-Oriented Industry (MOI)
5: Separate Rates
6: Date of Sale
7: Sales Database Errors
8: Adjustments to Factors of Production (FOP)
9: Calculation of Financial Ratios

[FR Doc. 01–15741 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–844]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the Republic of Korea

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

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Jeff Pedersen at (202) 482–3936 and (202) 482–4195, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

Final Determination

We determine that steel concrete reinforcing bar (rebar) from the Republic of Korea (Korea) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

Case History

The preliminary determination in this investigation was published on January 30, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars From the Republic of*

Korea, 66 FR 8348 (January 30, 2001) (*Preliminary Determination*). Since the preliminary determination, we verified the questionnaire responses of Dongkuk Steel Mill Co., Ltd. (DSM) and Korea Iron & Steel Co., Ltd. (KISCO), the respondents, on February 12 through February 23, 2001, and on March 28 through March 30, 2001.[1] The petitioner[2] and respondent filed case briefs on May 21, 2001 and rebuttal briefs on May 29, 2001. A public hearing was not held for this investigation because the petitioner and respondent withdrew their request for such a hearing on June 1, 2001 and June 8, 2001, respectively.

Section 734(m) of the Act states that in the case of regional industry investigations, the administering authority shall offer exporters the opportunity to enter into suspension agreements. Proposed and finalized agreements in these cases must comport with the requirements set forth under section 734 of the Act for the suspension of antidumping duty investigations. All exporters participating in the instant investigation were aware of their opportunity to propose suspension agreements. *See* Memorandum from Holly A. Kuga to The File, ''Opportunity to Propose Suspension Agreements,'' dated March 30, 2001.

The Department has conducted this investigation in accordance with section 731 of the Act.

Scope of Investigation

For purposes of this investigation, the product covered is all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

[1] The Department collapsed DSM and KISCO into a single entity, referred to as DSM/KISCO, for the purposes of this antidumping investigation. *See* Memorandum from Ronald Trentham to Tom Futtner, ''Decision Memorandum: Whether to Collapse Dongkuk Steel Mill Co., Ltd. and Korea Iron and Steel Co., Ltd. Into a Single Entity,'' dated December 5, 2000.

[2] The petitioner in the rebar investigations is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group. (Auburn Steel was not a petitioner in the Indonesia case).

Period of Investigation

The period of investigation (POI) is April 1, 1999, through March 31, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, June 2000).

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Use of Facts Available

In the preliminary determination, the Department determined that the application of total adverse facts available (FA) was appropriate with respect to Hanbo Iron & Steel Co., Ltd. (Hanbo), a mandatory respondent that failed to respond to the Department's questionnaire. As FA, the Department applied a margin rate of 102.28 percent, the highest alleged margin for Korea in the petition. The interested parties did not object to the use of adverse facts available for Hanbo, or to the Department's choice of facts available, and no new facts were submitted which would cause the Department to revisit this decision. Therefore, for the reasons set out in the preliminary determination, we have continued to use the highest margin alleged by the petitioner for the purposes of this final determination notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Bernard T. Carreau to Faryar Shirzad, ''Issues Memorandum for the Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from the Republic of Korea,'' dated June 14, 2001 (*Issues Memorandum*), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Issues Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the *Issues Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodologies in calculating the final dumping margin in this proceeding. We made the following changes: (1) Revised DSM and KISCO's inventory carrying cost, (2) deducted a new U.S. direct selling expense, USBANKU, in our calculation of the net U.S. price for sales through DSM's U.S. affiliate, (3) adjusted KISCO's general and administrative (G&A) expense rate and interest expense rate, and (4) adjusted DSM's G&A expense rate and interest expense rate. For a further discussion of these changes, *see* Memorandum from Mark Manning to the File, ''Calculation Memorandum of the Final Determination for the Investigation of Donguku Steel Mill Col., Ltd., and Korea Iron & Steel Co., Ltd.,'' June 14, 2001; Memorandum from Michael Harrison to Neal Halper, ''Cost of Production and Constructed Value Calculation Adjustments for the Final Determination,'' June 14, 2001; and Memorandum from Robert Greger to Neal Halper, ''Cost of Production and Constructed Value Calculation Adjustments for the Final Determination,'' June 14, 2001.

Critical Circumstances

Based on our analysis of the information on the record of this investigation, we have determined, for purposes of the final determination, that critical circumstances do not exist with respect to imports of rebar from DSM/KISCO and the ''all others'' companies, but do exist with respect to imports of rebar from Hanbo. For further details, *see* Memorandum from Holly A. Kuga to Bernard T. Carreau, ''Antidumping Duty Investigation of Steel Concrete Reinforcing Bars from the Republic of Korea—Final Determination of Critical Circumstances,'' dated June 14, 2001.

Final Determination of Investigation

We determine that the following weighted-average percentage margins exist for the period April 1, 1999 through March 31, 2000:

Manufacturer/exporter	Margin (percent)
Dongkuk Steel Mill Co., Ltd./ Korea Iron & Steel Co., Ltd	22.89
Hambo Iron & Steel Co., Ltd	102.28
All Others	22.89

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service to continue to suspend liquidation of all entries of rebar from Korea that are entered, or withdrawn from warehouse, for consumption on or after January 30, 2001 (the date of publication of the *Preliminary Determination* in the **Federal Register**). In the case of rebar produced by Hanbo, because of our affirmative critical circumstances finding, and in accordance with section 735(a)(3) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of rebar produced by Hanbo that are entered, or withdrawn from warehouse, for consumption on or after November 1, 2000, which is 90 days prior to the date the *Preliminary Determination* was published in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. The suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Topics in Issues Memorandum

Issues Relating to Both DSM and KISCO

1. Collapsing
2. Allocation of Selling, General, and Administrative Expenses

Issues Relating to DSM

3. Level of Trade Adjustment
4. Inventory Carrying Cost
5. U.S. Short-Term Interest Rate Calculation
6. Unreported Affiliated Party
7. Gain on Disposal of Fixed Assets
8. Short-Term Interest Expense Rate
9. Foreign Exchange Gains and Losses
10. Scrap Recovery

Issues Relating to KISCO

11. U.S. Short-term Interest Rate Calculation
12. Upward Price Adjustments
13. General and Administrative Expenses

[FR Doc. 01–15742 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–822–804]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Belarus

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

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Karine Gziryan at (202) 482–5346 or (202) 482–4081, respectively, AD/CVD Enforcement, Group II, Office 4 Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (April 2000).

Final Determination

We determine that steel concrete reinforcing bar (rebar) from Belarus is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margin of sales at LTFV is shown in the *Final Determination of Investigation* section of this notice.

Case History

On January 30, 2001, the Department published the preliminary determination of the antidumping investigation of steel concrete reinforcing bars from Belarus. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Belarus,* 66 FR 8329 (January 30, 2001) (*Preliminary Determination*). We conducted verification of the questionnaire responses of the respondent, Byelorussian Steel Works (BSW), during the week of March 11, 2001. We gave interested parties an opportunity to comment on our preliminary determination and the findings at verification. On April 25, 2001, BSW and the petitioner, the Rebar Trade Action Coalition, [1] submitted case briefs; and on April 30, 2001, both parties submitted rebuttal briefs. The Department received no requests for a public hearing.

Section 734(m) of the Act states that in the case of regional industry investigations, the administering authority shall offer exporters the opportunity to enter into suspension agreements. Proposed and finalized agreements in these cases must comport with the requirements set forth under section 734 of the Act for the suspension of antidumping duty investigations. The exporter participating in the instant investigation was aware of its opportunity to propose a suspension agreement. However, the Department did not accept a suspension agreement in this proceeding. *See* Memorandum from Holly A. Kuga to The File, dated March 30, 2001.

The Department has conducted this investigation in accordance with section 731 of the Act.

Scope of Investigation

For purposes of this investigation, the product covered is all steel concrete reinforcing bars (rebar) sold in straight lengths, currently classifiable in the

[1] The petitioner in this investigation is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group.

Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.,* non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 1999, through March 31, 2000. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* June 2000).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum), dated June 14, 2001, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in the public Decision Memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification and our analysis of comments received, we have made adjustments to the preliminary determination calculation methodologies in calculating the final dumping margin in this proceeding. The summary of these adjustments is discussed below:

1. We recalculated BSW's factors of production based on the actual factors consumed by BSW during the POI. For further details, see Comments 3 and 5 in the *Decision Memorandum* for the instant investigation.

2. We excluded sales outside the POI from our calculations. For further details, see Comment 4 in the *Decision Memorandum* for the instant investigation.

3. Based on our verification findings, we corrected: (1) the reported quantity for one sale; and (2) the distances used in the freight valuation for scrap steel.

4. We used the updated 1999 Thai import values that were placed on the record since the preliminary determination, where appropriate, to value factors of production.

For further details of our calculations, *see* Memorandum on Factors of Production Valuation and Calculation dated June 14, 2001.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Critical Circumstances

In a letter filed on August 22, 2000, the petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of rebar from Belarus. On January 30, 2001, the Department published in the **Federal Register** its preliminary determination that critical circumstances do not exist for imports of rebar from Belarus. *See Preliminary Determination,* 66 FR at 8329–8330, *see also* Memorandum from Tom Futtner to Holly A. Kuga, ''Antidumping Duty Investigation of Steel Concrete Reinforcing Bars from Belarus—Preliminary Negative Determination of Critical Circumstances,'' dated January 16, 2001.

Since the preliminary determination, we have received comments on the issue of critical circumstances from the petitioner and BSW. After consideration of these comments, which are discussed in detail in the Decision Memorandum, we find that critical circumstances do not exist for imports of rebar from Belarus. This determination is discussed in detail in the Decision Memorandum and in the Memorandum from Holly A. Kuga to Bernard T. Carreau, ''Antidumping Duty Investigation of Steel Concrete Reinforcing Bars from Belarus—Final Negative Determination of Critical Circumstances,'' dated June 14, 2001.

Final Determination of Investigation

We determine that the following weighted-average percentage dumping margin exists for Belarus for the period October 1, 1999 through March 31, 2000:

Manufacturer/exporter	Margin (percent)
Belarus-Wide Rate	114.53

The Belarus-wide rate applies to all entries of the subject merchandise from Belarus.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service to continue to suspend liquidation of all entries of rebar from Belarus that are entered, or withdrawn from warehouse, for consumption on or after January 30, 2001 (the date of publication of the *Preliminary Determination* in the **Federal Register**). The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. The Surrogate Market Economy Country for Belarus
2. The Surrogate Values for Factory Overhead, SG&A Expenses, and Profit
3. Reporting Period for Factors of Production
4. Sales Outside of the Period of Investigation
5. The Valuation of Pig Iron and Iron Pellets
6. Critical Circumstances

[FR Doc. 01–15743 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–449–804]

Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Latvia

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

EFFECTIVE DATE: June 22, 2001.

ACTION: Notice of final determinations of sales at less than fair value.

FOR FURTHER INFORMATION CONTACT: Christopher Smith or Gabriel Adler, at (202) 482–1442 or (202) 482–3813, respectively; AD/CVD Enforcement, Office 5, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Final Determination

We determine that steel concrete reinforcing bars (rebar) from Latvia are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

The preliminary determination in this investigation was issued on January 16, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Concrete Reinforcing Bars From Latvia,* 66 FR 8348 (January 30, 2001) (*Preliminary Determination*). The petitioner [1] and the sole respondent, JSC Liepajas Metalurgs (LM), filed case briefs on May 8, 2001, and rebuttal briefs on May 14, 2001.

Section 734(m) of the Act states that in the case of regional industry investigations, the administering authority shall offer exporters the opportunity to enter into suspension agreements. Proposed and finalized agreements in these cases must comport with the requirements set forth under section 734 of the Act for the suspension of antidumping duty investigations. The exporter participating in the instant investigation was aware of its opportunity to propose a suspension agreement. However, the Department did not accept a suspension agreement in this proceeding. *See* Memorandum from Holly A. Kuga to The File, dated April 2, 2001.

Scope of Investigation

For purposes of this investigation, the product covered is all steel concrete reinforcing bars sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.,* non-deformed or smooth bars) and rebar that has been further processed through bending or coating. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1999, through March 31, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* June 2000).

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by LM from February 26 through March 2, 2001, and April 9 through April 13, 2001, respectively. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the Appendix to this notice and addressed in the *Decision Memorandum* for the instant investigation, dated June 14, 2001, which is hereby adopted by this notice. The *Decision Memorandum* for this case is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at http://ia.ita.doc.gov/frn/summary/list.htm. The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determinations

Based on our findings at verification and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margins in this proceeding. These adjustments are discussed in detail in the *Decision Memorandum.* For the final determination, we (1) revised the reported brokerage expense for the U.S. and German markets to account for the respondent's clerical errors and a verification finding; and (2) revised the general and administrative expense ratio to account for findings at verification.

Critical Circumstances

Based on our analysis of the information on the record of this investigation, we have determined, for purposes of the final determination, that critical circumstances do not exist with respect to imports of rebar from Latvia. For further details, *see* Memorandum from Gary Taverman to Bernard T. Carreau, ''Antidumping Duty Investigation of Steel Concrete Reinforcing Bars from Latvia—Final Determination of Critical Circumstances,'' dated June 14, 2001.

Final Determination of Investigation

We determine that the following weighted-average percentage dumping margins for Latvia exist in the period April 1, 1999, through March 31, 2000:

Manufacturer/exporter	Margin (percent)
Liepajas Metalurgs	17.21
All Others	17.21

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service to continue to suspend liquidation of all entries of rebar from Latvia that are entered, or withdrawn from warehouse, for consumption on or after January 30, 2001 (the date of publication of the *Preliminary Determination* in the **Federal Register**). The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. The

[1] The petitioner in this investigation is the Rebar Trade Action Coalition (RTAC), and its individual members, AmeriSteel, Auburn Steel Co., Inc., Birmingham Steel Corp., Border Steel, Inc., Marion Steel Company, Riverview Steel, and Nucor Steel and CMC Steel Group.

suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether imports of subject merchandise are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceedings will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs Service officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 14, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Whether LM Is Affiliated with a Trading Company
2. Facts Available
3. Brokerage Expenses in the Third Country Market
4. Inclusion of Non-Operating Expenses in Revised G&A Ratio
5. Credit Expenses

[FR Doc. 01–15744 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061901A]

Proposed Information Collection; Comment Request; Swordfish Import Certificate of Eligibility

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before August 21, 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 Christopher Rogers, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 (phone 301–713–2347).

SUPPLEMENTARY INFORMATION:

I. Abstract

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA is responsible for management of the Nation's marine fisheries. In addition, NOAA must comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). A Certificate of Eligibility for Swordfish is required under 50 CFR part 635 to accompany all imported swordfish. This documentation certifies that the accompanying swordfish is not from the Atlantic Ocean, or is from the Atlantic Ocean but is larger than the minimum size, or is Atlantic swordfish pieces derived from a fish greater than the minimum size limit. The certificate must accompany the swordfish from the point of original export up to and including the point of first transaction in the United States. This collection is necessary to implement the Fishery Management Plan for Atlantic Tunas, Sharks, and Swordfish and is consistent with the objective of that plan to rebuild Atlantic swordfish and manage a sustainable fishery.

II. Method of Collection

A paper certificate is completed and must be maintained.

III. Data

OMB Number: 0648–0363.
Form Number: None.
Type of Review: Regular submission.
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 204.
Estimated Time Per Response: 1 hour.
Estimated Total Annual Burden Hours: 5,700.
Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 15, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–15745 Filed 6–21–01; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Study of the Commodity Exchange Act and Rules Thereunder

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of solicitation of comments.

SUMMARY: The Commodity Futures Trading Commission (Commission) is soliciting comments to assist it in conducting a study of the Commodity Exchange Act (Act) and the Commission's rules and orders governing the conduct of registrants under the Act, as mandated by Section 125 of the Commodity Futures Modernization Act of 2000 (CFMA). That provision requires that the Commission, in conducting the study, solicit the views of the public, Commission registrants, registered entities and registered futures associations, and that an analysis of

comments received be included in the report of the results of the study to the Commission's Congressional oversight committees.

DATES: Comments must be received by August 21, 2001.

ADDRESSES: Comments may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to ''Intermediaries Study.''

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Barbara S. Gold, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Layfayette Centre, 1155 21st Street NW., Washington, DC 20581. Mr. Patent may be reached by telephone at (202) 418–5439 or by electronic mail at lpatent@cftc.gov and Ms. Gold may be reached by telephone at (202) 418–5450 or by electronic mail at bgold@cftc.gov.

SUPPLEMENTARY INFORMATION: The CFMA, enacted last December as part of the Consolidated Appropriations Act, 2001 (Public Law No. 106–554, 114 Stat. 2763), requires the Commission to conduct a study of the Act and the Commission's rules and orders governing the conduct of persons required to register under the Act.[1] The study must address: (1) The core principles and interpretations of acceptable business practices that the Commission has adopted or intends to adopt to replace provisions of the Act and rules thereunder, and the extent to which these changes have been or may be made pursuant to the Commission's exemptive authority under Section 4(c) of the Act; (2) the rules that the Commission has determined must be retained and the reasons therefor; and (3) the regulatory functions that the Commission performs that can be delegated to a registered futures association and the regulatory functions that the Commission has determined must be retained and the reasons therefor. In conducting the study, the Commission must solicit the views of the public as well as Commission registrants, registered entitles,[2] and registered futures associations. The study must be completed by December 21, 2001 (which is one year from the date of enactment of the CFMA) and a report of the results of the study, including an analysis of comments received, must be transmitted to the Commission's Congressional oversight committees, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate. The Commission is publishing this notice of solicitation of comments to assist it in conducting the study.

Persons wishing to comment should organize their comments as follows: (1) Identify by section number, rule number, or **Federal Register** citation the particular provision of the Act, the Commission's rules, or the Commission's orders, respectively, upon which comment is being provided; (2) indicate whether that provision should be (a) amended, (b) revoked without replacement, (c) revoked and replaced with a core principle and statement of acceptable business practices, or (d) retained; (3) include the proposed text of any suggested amendment or core principle and statement of acceptable business practices; (4) include a brief discussion in support of the suggested action and describe any problems encountered in complying with the existing relevant statutory and regulatory framework; (5) indicate, if applicable, whether the suggested change may be made pursuant to the Commission's exemptive authority in Section 4(c) of the Act; and (6) identify any regulatory functions that the Commission performs that can be delegated to a registered futures association and include a brief discussion to support such a delegation.

Because of the potential for conflicting comments, it would aid the Commission's analysis if commenters also indicated the relative importance of proposed changes. This can be done by ranking them in priority order or, at least, by categorizing them in some fashion, *e.g.,* high priority, medium priority, and low priority.

Commenters should be aware that the Commission intends, as it has stated previously, to repropose and readopt those provisions of the New Regulatory Framework relating to intermediaries that were adopted and then withdrawn last year that are not affected by the CFMA, with any necessary technical, conforming changes. These new rules and rule amendments address, among other things, the definition of the term ''principal,'' the addition of a principal, certified financial reports, ethics training, disclosure, account opening procedures, trading standards, reporting requirements, and offsetting positions.[3] Commenters should also be aware that the Commission has already delegated to a registered futures association certain functions concerning registration processing and statutory disqualification, financial monitoring and auditing, review of sales practices, review of CPO and CTA Disclosure Documents, and matters related to foreign futures and options.

Commenters are reminded that all comments will be available for public inspection and copying and will be posted on the Commission's website, www.cftc.gov. The Commission also requests that any commenter that is a Commission registrant identify itself as such and include its registration category. Following a review of comments received, the Commission or its staff may conduct follow-up discussions with interested parties.

Issued by the Commission in Washington, DC on June 13, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–15435 Filed 6–21–01; 8:45 am]

BILLING CODE 6351–01–M

[1] Section 125 of the CFMA. Persons required to register under the Act include futures commission merchants, introducing brokers, commodity pool operators (CPOs), commodity trading advisors (CTAs), associated persons of any of the foregoing, floor brokers and floor traders. Those terms are defined in Section 1a(20), 1a(23), 1a(5), 1a(6), 4k, 1a(16) and 1a(17), respectively, of the Act, as amended by the CFMA.

[2] The definition of term ''registered entities'' was added to the Act by the CFMA as new Section 1a(29) and includes designated contract markets, registered derivatives transaction execution facilities, and registered derivatives clearing organizations. Designated contracts markets may include registered national securities exchanges, registered national securities associations, and alternative trading systems whose only futures-related activity involves security futures product. *See* Section 252(a) of the CFMA, adding a new Section 5f to the Act.

[3] 66 FR 14262, 14267–68 (March 9, 2001); *see also* 65 FR 77993 (Dec. 13, 2000).

DEPARTMENT OF DEFENSE

Department of the Army

Reserve Officers' Training Corps (ROTC) Program Subcommittee

AGENCY: U.S. Army Cadet Command, DoD.

ACTION: Notice of meeting.

SUMMARY: In Accordance with section 10(a)(2) of the Federal Advisory Committee Act (U.S.C., App. 2) announcement is made of the following Committee meeting:

Name of Committee: Reserve Officers' Training Corps (ROTC) Program Subcommittee.

Place: Pentagon, Washington, DC.

Date(s): July 15–17, 2001.

Time: 8 a.m.–5 p.m., July 16, 2001; 8 A.M.–Noon, July 17, 2001.

Proposed Agenda: Review and discuss status of Army ROTC since the February 2001 meeting held in Hampton, Virginia.

FOR FURTHER INFORMATION CONTACT: Commander, HQ U.S. Army Cadet Command, ATTN: ATCC–TT (MAJ Hewitt), Fort Monroe, VA 23651. Telephone number is (757) 788–5456.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–15735 Filed 6–21–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning Methods for Production of Antigens Under Control of Temperature-Regulated Promoters in Enteric Bacteria

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Serial No. 5,698,416 entitled ''Methods for Production of Antigens Under Control of Temperature-Regulated Promoters in Enteric Bacteria'' issued December 16, 1997. This patent application has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Production of proteins in bacteria containing DNA sequences encoding proteins under the control of a temperature-regulated promoter is improved by growing the organisms at temperatures of less than 35 °C until the late logarithmic phase. Thereafter the temperature may be raised to 36 °C to 39 °C. Antigens produced by the method of invention may be used as vaccines, as means for measuring efficacy of vaccines, as probes to detect antigens from clinical samples and for biochemical characterizations of antigens.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–15734 Filed 6–21–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Supplemental Environmental Impact Statement (SEIS) in Conjunction With Proposed Flood Control Measures (Levee 37) on the Upper Des Plaines River at Mount Prospect in Cook County, IL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The project involves proposed construction of flood control measures along the Upper Des Plaines River at Prospect Heights and Mount Prospect in Cook County, Illinois. Alternatives under consideration include earthen levees, concrete floodwalls, and temporary road closures.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Ryder, (312) 353–6400 ext. 2020; U.S. Corps of Engineers, Suite 600, 111 North Canal Street, Chicago, IL 60606–7206.

SUPPLEMENTARY INFORMATION: The SEIS will document changes to the recommended plan (pertinent to the Levee 37 Project Area) originally proposed in the 1999 environmental impact statement.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–15736 Filed 6–21–01; 8:45 am]

BILLING CODE 3710–HN–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 21, 2001.

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

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 18, 2001.

John Tressler,

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

Office of Student Financial Assistance Programs

Type of Review: Extension of a currently approved collection.

Title: Lender's Request for Payment of Interest and Special Allowance (JS)*.

Frequency: Quarterly, Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary); Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 17200;

Burden Hours: 41925.

Abstract: The Lender's Interest and Special Allowance Request (Form 799) is used by approximately 4,300 lenders participating in the Title IV, PART B loan programs. The ED Form 799 is used to pay interest and special allowance to holders of the Part B loans; and to capture quarterly data from lender's loan portfolio for financial and budgetary projections.

Requests for copies of the proposed information collection request may be accessed from http://edicsweb.ed.gov/owa-cgi/owa/browsecoll?psn=01784, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed:gov or faxed to 202–708–9346 Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–15684 Filed 6–21–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Comment Period Extension for Supplement to the Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV

AGENCY: Department of Energy (DOE).

ACTION: Notice of comment period extension.

SUMMARY: On May 4, 2001, the U.S. Department of Energy (DOE) published a Notice of Availability (66 FR 22540) of its Supplement to the Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (Draft EIS) (DOE/EIS–0250D–S) and announced a 45-day public comment period ending June 25, 2001. In response to requests from the public, DOE is extending the comment period to July 6, 2001.

DATES: Comments on the Supplement to the Draft EIS are now due by July 6, 2001. DOE will consider all comments received during the comment period in preparation of the Final EIS. Comments received after July 6, 2001 will be considered to the extent practicable.

ADDRESSES: Written comments and requests for further information on the Supplement to the Draft EIS, and requests for copies of the document (hard copy or CD–ROM) should be directed to: Dr. Jane Summerson, EIS Document Manager, M/S 010, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 30307, North Las Vegas, Nevada 89036–0307, Telephone 1–800–967–3477, Facsimile 1–800–967–0739.

Written comments via facsimiles should include the following identifier: ''Yucca Mountain Supplement to the Draft EIS.''

Written comments on or requests for copies of the document may also be submitted over the internet via the Yucca Mountain Project website at *http://www.ymp.gov,* under the listing ''Environmental Impact Statement.''

FOR FURTHER INFORMATION CONTACT: Dr. Jane Summerson, EIS Document Manager, M/S 010, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 30307, North Las Vegas, Nevada 89036–0307, Telephone 1–800–967–3477, Facsimile 1–800–967–0739.

For general information on the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone 1–202–586–4600, or leave a message at 1–800–472–2756.

Issued in Washington, DC, June 18, 2001.

Ronald Milner,

Chief Operating Officer, Office of Civilian Radioactive Waste Management.

[FR Doc. 01–15682 Filed 6–21–01; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Tuesday, July 17, 2001, 8 a.m.–6 p.m.; Wednesday, July 18, 2001, 8 a.m.–5 p.m.

Public participation sessions will be held on: Tuesday, July 17, 2001, 12:15–12:30 p.m, 5:45–6 p.m.; Wednesday, July 18, 2001, 11:45–12 noon, 3:30–3:45 p.m.

These times are subject to change as the meeting progresses. Please check with the meeting facilitator to confirm these times.

ADDRESSES: Ameritel Inn, 645 Lindsay Boulevard, Idaho Falls, Idaho.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Lowe, Idaho National Engineering and Environmental Laboratory (INEEL) Citizens' Advisory Board (CAB) Facilitator, Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402, Phone (208) 522–1662 or visit the Board's Internet home page at *http://www.ida.net/users/cab.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to the Department of Energy and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the INEEL.

Tentative Agenda: (Agenda topics may change up to the day of the meeting. Please contact Jason Associates for the most current agenda or visit the CAB's Internet site at *www.ida.net/users/cab/*).

Presentations on the following:

- The conceptual design, siting, and waste acceptance criteria for the INEEL Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Disposal Facility
- The remaining major components of the EM Program (Waste Area Group 7 cleanup program, the rest of the cleanup program, and the site-wide infrastructure program) for consideration in development of a recommendation on budget priorities within limited funding levels

Discussion of the following:

- Consider development of a recommendation addressing priorities under the Environmental Management Program budget for use in the event that insufficient funds are provided to allow INEEL to conduct the program as desired

Status Reports on the following:

- Workforce restructuring at the INEEL

• Preparations for the 2001 fire season
• Top-down DOE-HQ review
Review:
• Follow-up activities related to the May 2001 Self-Evaluation Retreat
• A process to set priorities for the INEEL CAB over the next year of operation

Public Participation: This meeting is open to the public. Written statements may be filed with the Board facilitator either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact the Board Chair at the address or telephone number listed above. Request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Jerry Bowman, Assistant Manager for Laboratory Development, Idaho Operations Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Every individual wishing to make public comment will be provided equal time to present their comments. Additional time may be made available for public comment during the presentations.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays. Minutes will also be available by writing to Ms. Wendy Lowe, INEEL CAB Facilitator, Jason Associates Corporation, 477 Shoup Avenue, Suite 205, Idaho Falls, ID 83402 or by calling (208) 522–1662.

Issued at Washington, DC on June 18, 2001.

Belinda Hood,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 01–15683 Filed 6–21–01; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–89–000]

Morgan Stanley Capital Group Inc., Complainant, v. California Independent System Operator Corporation, Respondent; Notice of Complaint

June 15, 2001.

Take notice that on June 14, 2001, Morgan Stanley Capital Group Inc. (MSCG), tendered for filing a complaint pursuant to section 206 of the Federal Power Act against the California Independent System Operator (CAISO) concerning the ongoing problem of phantom congestion. Given the ongoing harm that MSCG faces and the immediacy of the peak summer months, MSCG requests interim relief.

Copies of the filing were served upon CAISO and other interested parties.

Any person desiring to be heard or to protest this filing 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). All such motions or protests must be filed on or before July 5, 2001. Protests will be considered by the Commission to determine 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 also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before July 5, 2001. 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. 01–15693 Filed 6–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–036]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

June 18, 2001.

Take notice that on June 14, 2001, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet No. 26J, to be effective June 14, 2001.

Natural states that the purpose of this filing is to implement an amendment to a negotiated rate transaction. Also, Natural tenders for filing copies of the amendment.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

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 §§ 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 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. 01–15695 Filed 6–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–506–007]

Northwest Pipeline Corp.; Notice of Correction of Compliance Filing

June 18, 2001.

Take notice that on June 11, 2001, Northwest Pipeline Corporation (Northwest) submitted revised schedules to correct certain supplemental information filed by Northwest on May 25, 2001 relating to Northwest's proposed policy on partial capacity turnbacks.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

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 § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before June 28, 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. 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/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15694 Filed 6–21–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–114–000, et al.]

CMS Distributed Power L.L.C., et al. Electric Rate and Corporate Regulation Filings

June 15, 2001.

Take notice that the following filings have been made with the Commission:

1. CMS Distributed Power L.L.C.

[Docket No. EC01–114–000]

Take notice that on June 8, 2001, CMS Distributed Power L.L.C. (CMSDP), a Michigan limited liability company, submitted an application, pursuant to 18 CFR Part 33, seeking authority under section 203 of the Federal Power Act for the disposition of jurisdictional facilities associated with the sale of a portion of the assets of CMSDP's electrical generating facilities. CMSDP owns a 40 MW electrical generating facility in Zilwaukee, Michigan (the Zilwaukee Facility). CMS Portable Power, L.L.C. has agreed to purchase 18 of the Zilwaukee Facility's diesel powered generator sets totaling approximately 26 megawatts.

Comment date: June 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER00–3509–001]

Take notice that on June 6, 2001, Commonwealth Edison Company (ComEd) submitted for filing in the above-referenced proceeding a new Order 614 designation as requested by FERC Staff for the interconnection agreement with LSP-Nelson Energy LLC. Copies of the filings were served on the affected customer and on the parties designated on the official service list compiled by the Secretary.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Energy Corporation

[Docket No. ER01–2284–000]

Take notice that on June 11, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Calpine Energy Services, L.P. for Firm Transmission Service under Duke's Open Access Transmission Tariff.

Duke requests that the proposed Service Agreement be permitted to become effective on May 21, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations and a copy has been served on the North Carolina Utilities Commission.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Tampa Electric Company

[Docket No. ER01–2285–000]

Take notice that on June 11, 2001, Tampa Electric Company (Tampa Electric) tendered for filing service agreements with the City of Homestead, Florida (Homestead) for firm point-to-point transmission service and non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of June 11, 2001, for the tendered service agreements, and therefore requests waiver of the Commission's notice requirement. Copies of the filing have been served on Homestead and the Florida Public Service Commission.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. American Electric Power Service Corporation

[Docket No. ER01–2286–000]

Take notice that on June 11, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing executed Interconnection and Operation Agreement between Ohio Power Company and Rolling Hills Generating, L.L.C. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of August 10, 2001. A copy of the filing was served upon the Ohio Public Utilities Commission.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket No. ER01–2287–000]

Take notice that on June 11, 2001, Indiana Michigan Power Company tendered for filing a letter agreement with Acadia Bay Energy Company, LLC.

AEP requests an effective date of August 10, 2001. Copies of Indiana Michigan Power Company's filing have been served upon the Indiana Utility Regulatory Commission and Michigan Public Service Commission.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER01–2288–000]

Take notice that on June 12, 2001, Louisville Gas and Electric Company (LG&E) filed a termination notice for power sales service LG&E and Consumers Energy Company d/b/a Consumers Energy Traders and The Detroit Edison Company. The terminated services are FERC Electric Tariff Original Volume 1 Service Agreement 492.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Kentucky Utilities Company

[Docket No. ER01–2289–000]

Take notice that on June 12, 2001, Kentucky Utilities Company (KU) filed a termination notice for power sales service KU and Consumers Energy Company d/b/a Consumers Energy Traders and The Detroit Edison Company. The terminated services are FERC Electric Tariff Original First Revised Volume 2 Service Agreement 72.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Kentucky Utilities Company

[Docket No. ER01–2290–000]

Take notice that on June 12, 2001, Kentucky Utilities Company (KU) filed a termination notice for power sales service KU and Dynergy Power

Marketing, Inc formerly Electric Clearinghouse, Inc. The terminated services are FERC Electric Tariff Original Volume 3 Service Agreement 3.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp

[Docket No. ER01–2292–000]

Take notice that on June 12, 2001, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Fourth Revised Volume No. 11 (Tariff) incorporating proposed changes in due to retail direct access in the state of Oregon. Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

PacifiCorp has requested an effective date of October 1, 2001.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company

[Docket No. ER01–2291–000]

Take notice that on June 12, 2001, Boston Edison Company, Cambridge Electric Light Company, and Commonwealth Electric Company (the NSTAR Companies) tendered for filing an amendment to their Open Access Transmission Tariff (Tariffs), which expand their offered services over the NSTAR Companies' entitlements to the Phase I/Phase II HVDC facilities.

The NSTAR Companies request that the proposed changes by made effective on July 1, 2001.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. American Transmission Company LLC

[Docket No. ER01–2297–000]

Take notice that on June 12, 2001, American Transmission Company LLC (ATCLLC) tendered for filing a Firm and Non-Firm Point-to-Point Service Agreement between ATCLLC and Energy USA–TPC Corp.

ATCLLC requests an effective date of May 30, 2001.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Southwestern Electric Power Company

[Docket No. ER01–2298–000]

Take notice that on June 12, 2001, Southwestern Electric Power Company (SWEPCO) filed a Restated and Amended Power Supply Agreement (Restated Agreement) between SWEPCO and East Texas Electric Cooperative, Inc. (ETEC). The Restated Agreement supersedes in its entirety the Power Supply Agreement, dated February 10, 1993, as amended, between SWEPCO and ETEC.

SWEPCO seeks an effective date of June 15, 2000 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing have been served on ETEC and on the Public Utility Commission of Texas.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–2299–000]

Take notice that on June 12, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy) filed an executed Service Agreement between GPU Energy and Coral Power, L.L.C. (CORAL), dated June 11, 2001. This Service Agreement specifies that CORAL has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and CORAL to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of June 11, 2001 for the Service Agreement. GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER01–2300–000]

Take notice that on June 12, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., tendered for filing an amended and restated Interconnection and Operating Agreement with Wrightsville Power Facility, LLC (Wrightsville), and an updated Generator Imbalance Agreement with Wrightsville.

Comment date: July 3, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. The Dayton Power and Light Company

[Docket No. ER01–2307–000]

Take notice that on June 11, 2001, The Dayton Power and Light Company (DP&L), a wholly owned subsidiary of DPL Inc., tendered for filing at FERC describing separation of its transmission and distribution facilities.

Comment date: July 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–15696 Filed 6–21–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6619–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa

Weekly Receipt of Environmental Impact Statements

Filed June 11, 2001 Through June 15, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010214, Draft EIS, HUD, CA, West Hollywood Gateway Project,

Constructing from Santa Monica Boulevard, Romaine Street LaBrea Avenue and Formosa Avenue, Public/Private Partnership, City of West Hollywood, Los Angeles County, CA, Due: August 6, 2001, Contact: DeAnn Johnson (323) 890–7186.

EIS No. 010215, Draft EIS, COE, CA, Port of Long Beach Pier J South Terminal, Redevelopment of Two Existing Marine Container Terminal into One Terminal, COE Section 404, 401 and 10 Permits, Comment Period Ends: August 6, 2001, Contact: Aaron O. Allen (619) 294–9400.

EIS No. 010216, Final EIS, NPS, CA, NV, CA, NV, Death Valley National Park General Management Plan, Implementation, Mojave Desert, Inyo and San Bernardino Counties, CA and Nye and Esmeralda Counties, NV, Wait Period Ends: July 23, 2001, Contact: Dennis Shramm (760) 255–8840.

EIS No. 010217, Final EIS, NPS, CA, Mojave National Preserve General Management Plan, Implementation, San Bernardino County, CA, Wait Period Ends: July 23, 2001, Contact: Dennis Schamm (760) 255–8840.

EIS No. 010218, Final EIS, AFS, MI, Plantation Lakes Vegetation Management Project, Implementation, Ottawa National Forest, Kenton and Ontonagon Ranger Districts, Houghton County, MI, Wait Period Ends: July 23, 2001, Contact: Karen Stevens (906) 932–1330.

EIS No. 010219, Draft EIS, FHW, MO, U.S. Route 67 Corridor Project, Improvements from South of Fredericktown to the South of Neelyville, Madison, Wayne and Butler Counties, MO, Comment Period Ends: August 6, 2001, Contact: Donald Newmann (573) 636–7104.

EIS No. 010220, Draft EIS, NRC, FL, Generic EIS—License Renewal of Nuclear Power Plants, Supplement 5 Turkey Point Units 3 and 4 (NUREG–1437), Operating License Renewal, Biscayne Bay, Miami-Dade County, FL, Comments Period Ends: August 6, 2001, Contact: James H. Wilson (301) 415–1108.

EIS No. 010221, Final EIS, JUS, WA, Tacoma/Seattle Area Detention Center, Construction and Leasing, Pierce County, WA, Wait Period Ends: July 23, 2001, Contact: Eric Verwers (817) 978–0202.

EIS No. 010222, Draft EIS, DOE, AZ, ID, NV, OR, WY, CA, MT, NM, UT, Fish and Wildlife Implementation Plan, To Implement and Fund a Policy Directions for Fish and Wildlife Mitigation and Recovery, Pacific Northwest, AZ, CA, ID, MT, NV, NM, OR, UT, WY and British Columbia, Comment Period Ends: August 6, 2001, Contact: Charles Alton (503) 230–3900.

EIS No. 010223, Draft EIS, DOE, AZ, Big Sandy Energy Project, Construction and Operation a 720-megawatt (MW) Natural Gas-Fire Combined-Cycle Power Plants, Right-of-Way Grant, Mohave County, AZ, Comment Period Ends: August 6, 2001, Contact: John Holt (602) 352–2592.

EIS No. 010224, Draft EIS, AFS, MT, Pink Stone Fire Recovery and Associated Activities, To Reduce Existing and Expected Future Fuel Accumulations, Kootena National Forest, Rexford Ranger District, Lincoln County, MT, Comment Period Ends: August 6, 2001, Contact: Ron Komac (406) 296–2536.

EIS No. 010225, Final EIS, FTA, CA, ADOPTION—64-Acre Tract Intermodal Transit Center, Construction and Operation Lake, Tahoe Basin Management Unit, Tahoe City, Placer County, CA, Contact: Jerome Wiggins (415) 744–3115. The US Department of Transportation's, Federal Transit Administration (DOT/FTA) has ADOPTED the US Department of Agricultural's, Forest Service FEIS #000355, filed on 10/12/2000 and appearing in the FR on 10/20/2000. DOT/FTA was a Cooperating Agency for the above project. Recirculation of the FEIS is not necessary under Section 1506.3(c) of CEQ Regulations.

Amended Notices

EIS No. 010159, Draft SUPPLEMENT, DOE, NV, Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste, Construction, Operation, Monitoring and Eventually Closing a Geologic Repository at Yucca Mountain, Updated and Additional Information, Nye County, NV, Due: July 6, 2001, Contact: Jane R. Summerson (702) 794–1493. Revision of FR Notice Published on 5/11/2001: CEQ Review Period Ending 6/25/2001 has been Extended to 7/6/2001.

EIS No. 010193, Final EIS, FAA, Programmatic EIS—Commercial Launch Vehicles, Implementation, Issuing a Launch License, Due: July 2, 2001, Contact: Michon Washington (202) 267–9305. Revision of FR notice published on 6/1/2001: CEQ Wait Period Ending 7/20/2001 has been Corrected to 7/2/2001.

Dated: June 19, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–15775 Filed 6–21–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6619–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–AFS–B65009–NH Rating EC2, Loon Mountain Ski Resort Development and Expansion Project, Implementation, Special Use Permit, White Mountain National Forest, Pemigewasset Ranger District, Grafton County, NH.

Summary: EPA offered comments and concerns about the project purpose and need, snowmaking targets, monitoring, water quality impacts, regional infrastructure, air quality, and secondary impacts.

ERP No. D–GSA–K81011–CA Rating EC2, Los Angeles Federal Building—U. S. Courthouse, Construction of a New Courthouse in the Civic Center, City of Los Angeles, Los Angeles County, CA.

Summary: EPA expressed concerns, and requested additional information regarding: impacts to environmental justice communities; water and electricity demand and conservation measures for the proposed facility; cumulative impacts on water, air, cultural, and historic resources; and magnitude of short term air emission impacts.

Final EISs

ERP No. F–AFS–J65320–MT Knox-Brooks Timber Sales and Road Rehabilitation, Implementation, Lola National Forest, Super Ranger District, Mineral County, MT.

Summary: EPA continues to express environmental concerns regarding sediment production from timber

harvest/road construction activities, and the level/type of aquatic/hydrologic monitoring proposed to detect effects of management activities.

ERP No. F–AFS–L65345–WA Deadman Creek Ecosystem Management Projects, Sediment Delivered to Streams, Roads in Key Habitat and Noxious Weeds Reduction and Forest Stands Treatment, Implementation, Kettle Falls Ranger District, Colville National Forest, Ferry County, WA.

Summary: No formal comment letter sent to preparing agency.

ERP No. F–AFS–L65361–ID Myrtle-Cascade Project Area, Implementation of Resource Management Activities, Idaho Panhandle National Forests, Bonners Ferry Ranger District, Boundary County, ID.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–USN–K39059–HI North Pacific Acoustic Laboratory Project, Reuse of Low Frequency Sound Source and Cable for Use in Acoustic Thermometry of Ocean Climate (ATOC) Research, Kauai, HI.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. FR–AFS–L65348–ID Idaho Panhandle National Forests, Revision to the Small Sales, Harvesting Dead and Damaged Timber, Coeur d'Alene River Range District, Kootenai and Shoshone Counties, ID.

Summary: No formal comment letter sent to the preparing agency.

ERP No. FS–COE–E32074–KY Lower Cumberland and Tennessee Rivers Navigation Improvements, Kentucky Lock Addition, Implementation, Nashville District, Marshall and Livingston Counties, KY.

Summary: EPA has no objection to the proposed action since the original design was improved via construction/alignment modifications which reduced impacts to endangered mussels.

Dated: June 19, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–15776 Filed 6–21–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

June 13, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 23, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0633.

Title: Station License—Sections 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965, 74.1265.

Form No.: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit; not for profit institutions.

Number of Respondents: 3,042.

Estimated Time Per Response: 0.083 hours.

Frequency of Response: Recordkeeping; third party disclosure reporting requirement.

Total Annual Burden: 252 hours.

Total Annual Cost: $21,000.

Needs and Uses: Licensees of broadcast stations are required to post, file or have available a copy of the instrument of authorization at the station and/or transmitter site. The data are used by FCC staff in field investigations and the public to ensure that a station is licensed and operating in the manner specified in the license. The information posted at the transmitter site is used by the public and FCC staff to know by whom the transmitter is licensed.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–15663 Filed 6–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 01–1392]

Commission Will Notify the National Archives that it May Remove the Designation of Confidentiality From Ten-Year Old ARMIS Records

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document we give notice that the Commission intends to Notify the National Archives that it May Remove the Designation of Confidentiality from Ten-Year Old ARMIS Records.

DATES: On July 30, 2001, we will notify the National Archives that it may remove the designation of confidentiality from these records.

ADDRESSES: Federal Communications Commission, 445–12th Street, SW., TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mika Savir, Accounting Safeguards Division, Common Carrier Bureau at (202) 418–0384 or Andy Mulitz, Chief, Legal Branch, Accounting Safeguards Division, Common Carrier Bureau at (202) 418–0827.

SUPPLEMENTARY INFORMATION: This Public Notice (DA 01–1392) released on June 13, 2001, is available for inspection and copying during normal business hours in the FCC Reference Information Center (RIC), 445 12th Street, SW., TW–A325, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036 (202) 857–3800.

Synopsis of Public Notice

Automated Reporting Management Information System (ARMIS) records are sent to the National Archives five years after the filing date. At this time, the

National Archives has 207 ARMIS records, Reports 495A and 495B, for which confidential treatment had been sought when the reports were filed. Some of the ARMIS records that have been sent to the National Archives were originally filed with requests for confidentiality under section 0.459 of the Commission's rules, 47 CFR section 0.459. As is the Commission's practice under its rules, see 47 CFR section 0.459(d)(1), it has not ruled on these requests for confidential treatment. There have not been any Freedom of Information Act (FOIA) requests seeking disclosure of these documents.

The National Archives has inquired whether the ARMIS reports should still be treated confidentially. We find that after 10 years there is no need for further confidential treatment of these records. Unless we are advised by July 30, 2001 by carriers that sought confidential treatment for their ARMIS report that continued confidential treatment is warranted, we will notify the National Archives that it may remove the designation of confidentiality from these records. A carrier seeking continued confidential treatment must provide the reasons such treatment is still required and justify the period during which it contends the reports should not be publicly available. See 47 CFR section 0.459(b)(8). Carriers advocating continued confidential treatment should file their requests with Ernestine Creech, Accounting Safeguards Division, Common Carrier Bureau, 445 12th Street, SW., Washington, DC 20554.

Federal Communications Commission.

Kenneth P. Moran,

Chief, Accounting Safeguards Division, Common Carrier Bureau.

[FR Doc. 01–15664 Filed 6–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the information collection outlined in 44 CFR part 71, as it pertains to application for National Flood Insurance Program (NFIP) insurance for buildings located in Coastal Barrier Resource System (CBRS) communities.

SUPPLEMENTARY INFORMATION. The Coastal Barrier Resources Act (CBRA) Public Law 97–3480 and the Coastal Barrier Improvement Act (CBRA) Public Law 101–591 are federal laws that were enacted on October 1, 1982, and November 16, 1990, respectively. The legislation was implemented as part of a Department of the Interior (DOI) initiative to preserve the ecological integrity of areas DOI designates as coastal barriers and otherwise protected areas. The laws provide this protection by prohibiting all federal expenditures or financial assistance including flood insurance for residential or commercial development in areas identified with the system. When an application for flood insurance is submitted for buildings located in CBRS communities, documentation must be submitted as evidence of eligibility.

Collection of Information

Title: Implementation of Coastal Barrier Resources Act.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0120.

Abstract: Section II of the Coastal Barrier Resources Act (Pub. L. 97–348) prohibits the sale of National Flood Insurance Program policies for new construction and substantial improvement of structures on undeveloped coastal barriers on or after October 1, 1983. The information collection contained in FEMA regulation 44 CFR 71.4 is used by FEMA to determine that a structure is neither new construction nor a substantial improvement, and therefore is eligible for flood insurance. If the information is not collected, NFIP policies would be provided for buildings which are legally ineligible for it, thus exposing the Federal Government to an insurance liability Congress choose to limit.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Estimated Total Annual Burden Hours: 90 hours.

Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A x B x C)
60	Once per respondent	1.5	90

Estimated Cost: Total estimated cost to the Federal Government is estimated to be $239 (60 responses x $3.99 per response) for NFIP servicing contractor. Total estimated cost to respondents is estimated to be $600 (60 responses x $10 per respondent) to include cost to make phone calls, mail written request, make trips to local office to obtain documentation and copying fees which may be charged by the local office.

Comments

Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) evaluate the accuracy of the estimated costs to respondents to provide the information to the agency; (d) enhance the quality, utility, and clarity of the information to be collected; and (e) 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. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Branch, Program Services Division, Operations Support Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Robin Williamson, Insurance Examiner, Federal Insurance Administration at (202) 646–3963 for additional information about this collection. You may contact Ms. Anderson for copies of the proposed collection of information at telephone number (202) 646–2625 or facsimile number (202) 646–3347 or email *muriel.anderson@fema.gov.*

Dated: June 13, 2001.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 01–15711 Filed 6–21–01; 8:45 am]

BILLING CODE 6718–01–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1380–DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1380–DR), dated June 11, 2001, and related determinations.

EFFECTIVE DATE: June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 11, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Louisiana, resulting from Tropical Storm Allison beginning on June 5, 2001, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance, including direct Federal assistance, in the designated areas, and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint William L. Carwile III of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

Ascension, Assumption, East Baton Rouge, Iberville, Lafayette, Lafourche, Livingston, St. Martin, Terrebonne, and Vermilion parishes for Individual Assistance and Public Assistance including direct Federal assistance.

All parishes within the State of Louisiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–15716 Filed 6–21–01; 8:45 am]

BILLING CODE 6718–02–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1379–DR]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–1379–DR), dated June 9, 2001, and related determinations.

EFFECTIVE DATE: June 9, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 9, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Texas, resulting from Tropical Storm Allison beginning on June 5, 2001, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance, including direct Federal assistance, in the designated areas, and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Scott Wells of the Federal Emergency Management Agency

to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

Anderson, Angelina, Brazoria, Cherokee, Chambers, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, and Walker Counties for Individual Assistance.

Anderson, Angelina, Brazoria, Cherokee, Chambers, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, and Walker Counties for Public Assistance including direct Federal assistance.

All counties within the State of Texas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–15715 Filed 6–21–01; 8:45 am]

BILLING CODE 6718–02–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1378–DR]

West Virginia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of West Virginia, (FEMA–1378–DR), dated June 3, 2001, and related determinations.

EFFECTIVE DATE: June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of West Virginia is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 3, 2001:

Cabell, Mason, Mingo, Roane, and Summers Counties for Individual Assistance.

Clay, Lincoln, and Wayne Counties for Individual Assistance (already designated for Public Assistance).

McDowell County for Individual and Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamick,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 01–15713 Filed 6–21–01; 8:45 am]

BILLING CODE 6718–02–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1378–DR]

West Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–1378–DR), dated June 3, 2001, and related determinations.

EFFECTIVE DATE: June 11, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 11, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 01–15714 Filed 6–21–01; 8:45 am]

BILLING CODE 6718–02–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Preparedness Coordinating Committee Meeting

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) advises the public that the FRPCC will meet on August 1, 2001 in Washington, DC.

DATES: The meeting will be held on August 1, 2001, at 9 a.m.

ADDRESSES: The meeting will be held at the Federal Emergency Management Agency Conference Center in the lobby of 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Pat Tenorio, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, telephone (202) 646–2870; fax (202) 646–3508; or e-mail *pat.tenorio@fema.gov.*

SUPPLEMENTARY INFORMATION: The role and functions of the FRPCC are described in 44 CFR 351.10(a) and 351.11(a). The Agenda for the upcoming FRPCC meeting is expected to include: (1) Introductions, (2) reports from FRPCC subcommittees, (3) old and new business, and (4) business from the floor.

The meeting is open to the public, subject to the availability of space. Reasonable provision will be made, if time permits, for oral statements from the public not more than five minutes in length. Any member of the public who wishes to make an oral statement at the August 1, 2001, FRPCC meeting should request time in writing from Russell Salter, FRPCC Chair, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472. The request should be received at least five business days before the meeting. Any member of the public who wishes to file a written statement with the FRPCC should mail the statement to: Federal Radiological Preparedness Coordinating Committee, c/o Pat Tenorio, Federal

Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

Russell Salter,

Chair, Federal Radiological Preparedness Coordinating Committee.

[FR Doc. 01–15712 Filed 6–21–01; 8:45 am]

BILLING CODE 6718–06–U

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 9, 2001

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Terrance Ray Sullivan, Elko, Nevada; Carol Ann Sullivan, Elko, Nevada; Patrick Sean Sullivan, Elko, Nevada; Terrance LeRoy Sullivan, Twin Falls, Idaho; Deborah Ann Hall, Twin Falls, Idaho; Darren Eugene Hall, Twin Falls, Idaho; Terrance Ryan Sullivan, Las Vegas, Nevada; Gary Phillip Sullivan, Staten Island, New York; Ralph William Farley, Laguna Woods, California; and Iris Gertrude Farley, Laguna Woods, California; all to acquire additional voting shares of Great Basin Financial Corporation, Elko, Nevada, and thereby indirectly acquire additional voting of Great Basin Bank of Nevada, Elko, Nevada.

Board of Governors of the Federal Reserve System, June 19, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–15732 Filed 6–21–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 19, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. BancStar, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Pacific BancStar, Inc., St. Louis, Missouri, and thereby indirectly acquire Bank Star, Pacific, Missouri.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. First Western Bancorp, Inc., Huron, South Dakota; to become a bank holding company by acquiring 74.8 percent of the voting shares of American Bank Shares, Inc., Rapid City, South Dakota, and thereby indirectly acquire American State Bank of Rapid City, Rapid City, South Dakota.

Board of Governors of the Federal Reserve System, June 19, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–15731 Filed 6–21–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

National Advisory Council for Healthcare Research and Quality: Request for Nominations for Public Members

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Request for nominations for public members.

SUMMARY: 42 U.S.C. 299c, section 921 of the Public Health Service (PHS Act), established a National Advisory Council for Healthcare Research and Quality (the Council). The Council is to advise the Secretary of HHS and the Director of the Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of the Agency to enhance the quality, improve the outcomes, and reduce the costs of health care services, as well as improve access to such services, through scientific research and the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

Seven current members' terms will expire in August 2001. To fill these positions in accordance with the legislative mandate establishing the Council,, we are seeking individuals who are distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care; individuals distinguished in the fields of health care quality research or health care improvement; individuals distinguished in the practice of medicine; individuals distinguished in the practice of medicine; individuals distinguished in the other health professions; individuals either representing the private health care sector (including health plans, providers, and purchasers) or individuals distinguished as administrators of health care delivery systems; individuals distinguished in the fields of health care economics, management science, information systems, law, ethics, business, or public policy; and individuals representing the interests of patients and consumers of health care. Individuals are particularly

sought with experience and success in activities specified in the summary paragraph above, through which the Agency carries out its work.

DATES: Nominations should be received on or before July 13, 2001.

ADDRESSES: Nominations should be sent to Ms. Anne Lebbon, AHRQ, 2101 East Jefferson Street, Suite 600, Rockville, Maryland 20852. Nominations also may be faxed to (301) 443–0251.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Lebbon, AHRQ, at (301) 594–7216.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 299c, section 921 of the PHS Act, provides that the National Advisory Council for Health are Research and Quality shall consist of 21 appropriately qualified representatives of the public appointed by the Secretary of Health and Human Services and eight ex officio representatives from Federal agencies conducting or supporting health care research. The Council meets in the Washington, DC, metropolitan area, generally in Rockville, Maryland, approximately three times a year to provide broad guidance to the Secretary and AHRQ's Director on the direction and programs for AHRQ.

Seven individuals will presently be selected by the Secretary to serve on the Council beginning with the meeting in the fall of 2001. Members generally serve 3-year terms. Appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council. Nominations shall include a copy of the nominee's resume or curriculum vitae, and state that the nominee is willing to serve as a member of the Council. Potential candidates will be asked to provide detailed information concerning their financial interests, consultant positions, and research grants and contracts, to permit evaluation of possible sources of conflict of interest.

The Department is seeking a broad geographic representation and has special interest in assuring that women, minority groups, and the physically handicapped and are adequately represented on advisory bodies and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and/or physically handicapped candidates.

Dated: June 12, 2001.

John M. Eisenberg,

Director,

[FR Doc. 01–15665 Filed 6–21–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Submission to the Office of Management and Budget (OMB) for Clearance; Comment Request; Reinstatement of Previously Approved Information Collection

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, provides an opportunity for comment on the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511):

Title of Information Collection: Reporting Requirements for the Alzheimer's Disease Demonstration Grants to States Program and GPRA data.

Type of Request: Reinstatement of a previously approved collection for which approval has expired.

Use: Data on persons served, services provided, and program staff will be collected semi-annually from participants in the Alzheimer's Disease Demonstration Grants to States Program. Data will be used for program modification and evaluation, annual Department reports, and a final report to Congress as set forth by congressional statute.

Frequency: Semi-annually.

Respondents: Agencies of State Governments that have been designated by the governor as the sole applicant for the State and who have applied for a grant under this program.

Estimated Number of Responses: 50/year.

Total Estimated Burden Hours: 1,000/year.

Additional Information or Comments: The Administration on Aging plans to submit to the Office of Management and Budget for reinstatement of a previously approved collection for which approval has expired, for the Alzheimer's Disease Demonstration Grants to States Program, pursuant to requirements set forth by congressional statute. Written comments and recommendations for the proposed information collection should be sent within 60 days of the publication of this notice directly to the following address: Office of Program Development, Administration on Aging, Attention: Melanie Starns, 330 Independence Avenue, SW., Rm 4270, Washington, DC 20201.

Dated: June 18, 2001.

Norman L. Thompson,

Acting Principal Deputy Assistant Secretary for Aging.

[FR Doc. 01–15728 Filed 6–21–01; 8:45 am]

BILLING CODE 4154–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Interest in Participating in the Selection of the Nonvoting Members of Industry Interests on Public Advisory Committees; Nonprescription Drugs Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is filling the position of nonvoting industry representative on the Nonprescription Drugs Advisory Committee. FDA requests that any industry organization, that is interested in participating in the selection of an appropriate nonvoting member of the Nonprescription Drugs Advisory Committee to represent industry, send a letter stating that interest to the FDA employee designated below within 30 days of the date of this notice. In addition, if individuals or organizations would like to nominate individuals to serve as the nonvoting industry representative, they may do so.

DATES: Letters of interest and nominations should be received on or before July 23, 2001.

ADDRESSES: All nominations for membership should be submitted to Sandra Titus (address below).

FOR FURTHER INFORMATION CONTACT: Sandra Titus, Advisors and Consultants Staff (HFD–21), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: tituss@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Function

The function of the committee is to review and evaluate available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in thetreatment of a broad spectrum of human symptoms and diseases.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member of the

Nonprescription Drugs Advisory Committee to represent industry interests should send a letter stating that interest to the FDA employee designated in the notice within 30 days of the date of this notice. After 30 days, a letter will be sent to each organization that has expressed an interest, attaching a complete list of all such organizations, and stating that it is their responsibility to consult with each other in selecting a single nonvoting member to represent industry interests for that committee within 60 days after receipt of the letter. If no individual is selected within 60 days, the agency will select the nonvoting member representing industry interests.

Individuals and organizations may nominate individuals to serve as the nonvoting industry representative. To do so, a current curriculum vitae should be sent to the contact person. FDA will forward any nominations to the organizations expressing interest in participating in the selection process. The organizations are under no obligation to select any of these nominees but may do so if they wish.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: June 14, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–15666 Filed 6–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0219]

Serono, Inc.; Withdrawal of Approval of a New Drug Application; Breokinase®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing, without prejudice, approval of a new drug application (NDA) for Breokinase® (Urokinase for Injection) held by Serono, Inc., 100 Longwater Circle, Norwell, MA 02061. Serono, Inc., notified the agency in writing that it does not intend to introduce Breokinase® into the U.S. market or export Breokinase® from the United States, and voluntarily requested that the approval of the application be withdrawn and thereby waived its opportunity for a hearing.

DATES: Effective July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Michael D. Anderson, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: In a letter to FDA dated October 10, 2000, Serono, Inc., voluntarily requested the withdrawal of NDA 17–873 for Breokinase® (Urokinase for Injection). Serono, Inc., neither intends to market the product in the United States nor export it from the United States. The firm voluntarily requested that FDA withdraw NDA 17–873, and therefore has waived its opportunity for a hearing. In a December 13, 2000, letter to the firm, FDA acknowledged receipt of the request and stated it would proceed (to publish a **Federal Register** notice) withdrawing the NDA.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.82), approval of the application listed in this document, and all amendments and supplements thereto, is hereby withdrawn, as of July 23, 2001.

Dated: May 18, 2001.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 01–15720 Filed 6–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 20, 2001, 9:30 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact: Sara M. Thornton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053, SMT@CDRH.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12396. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for soft contact lenses for the optical correction of refractive ametropia in phakic or aphakic persons with nondiseased eyes with up to approximately 1.50 diopters of astigmatism. The lenses may be prescribed for extended wear for up to 30 nights of continuous wear between removals for cleaning and disinfection or for disposal of the lens, as recommended by the eye care professional. Background information, including the agenda and questions for the committee, will be made available to the public on July 19, 2001, on the Internet at http://www.fda.gov/cdrh/panelmtg.html.

Procedure: On July 20, 2001, from 9:30 a.m. to 3:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 13, 2001. Formal oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:15 a.m. Time allotted for each presentation may be limited. Near the end of the committee deliberations on the PMA, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Those desiring to make formal oral presentations should notify the contact person before July 13, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On July 20, 2001, from 3:30 p.m. to 5 p.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4))

regarding pending issues and applications.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 14, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–15667 Filed 6–21–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel NCCAM H–12 SEP.

Date: June 21, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Cecelia Maryland, Grants Technical Assistant, National Center for Complementary and Alternative Medicine, National Institutes of Health, Building 31, Room 5B50, Bethesda, MD 20892, (301) 480–2419.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15760 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mentored Patient-Oriented Research Career Development Award (K23).

Date: June 25, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge, Room 5106, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Diane M. Reid, MD, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15761 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Population Research Subcommittee.

Date: June 28–29, 2001.

Time: 7:30 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, Ph.D, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Blvd., Rm. 5E01, MSC 7510, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15753 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: June 27, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd 5th Floor, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15754 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which could constitute clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: June 18, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the time limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15755 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 US.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: July 2, 2001.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864; Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15756 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Workgroup.

Date: June 27, 2001.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khan, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865; Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15757 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Workgroup.

Date: June 25, 2001.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6100 Executive Blvd., 5th Floor, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khan, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15759 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel

Date: June 28–29, 2001.

Time: 8 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Bracello, 2121 P. Street, NW, Washington, DC 20037.

Contact Person: Katherine Woodbury, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review ad funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15762 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel.

Date: June 21, 2001.

Time: 5:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: John Richters, Scientific Review Administrator, National Institute of Nursing Research, National Institutes of Health, Natcher Building, Room 3AN32, Bethesda, MD 20892, (301) 594–5971.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15763 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: July 10, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037.
Contact Person: Martha Ann Carey, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9606, 301–443–1606.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: July 12, 2001.
Time: 12 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036–3305.
Contact Person: Joel Sherrill, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–6102.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: July 13, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036–3305.
Contact Person: Joel Sherrill, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9608, 301–443–6102.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: July 19–20, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Irina Gordienko, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154H, MSC 9608, Bethesda, MD 20892–9608, 301–443–4869.

(Catalogue of Federal domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15764 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.
Date: July 11, 2001.
Time: 4 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Ritz Carlton, Pentagon City, 1250 S. Hayes Street, Arlington, VA 22202.
Contact Person: Khursheed Asghar, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 957, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Reseach Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15766 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Research Dissemination Project''.
Date: June 26, 2001.
Time: 9:30 a.m. to 12 p.m.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Pharmacokinetic Analysis Resource Center''.
Date: June 27, 2001.
Time: 10 a.m. to 11:30 a.m.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training: 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15767 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 10, 2001.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: Marriott Suites Bethesda, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Peter J. Sheridan, Scientific Review Administrator, Division of Extramural Activities, National Institute of mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, psherida@mail.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15769 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: June 20, 2001.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Julian L. Azorlosa, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15765 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 21, 2001, 8:30 a.m. to June 22, 2001, 6 p.m., River Inn, 924 25th Street, NW., Washington, DC, 20037 which was published in the **Federal Register** on June 12, 2001, 66 FR 31683–31685.

The meeting will be one day only June 21, 2001. The time and location remain the same. The meeting is closed to the public.

Dated: June 18, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–15768 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP); The Revised Draft Up-and-Down Procedure for Assessing Acute Oral Toxicity: Notice of Availability and Request for Public Comments

Summary

Notice is hereby given of the availability of a revised draft Up-and-Down Procedure for assessing acute oral toxicity and solicitation of public comment. Documents available include: (1) A revised draft Up-and-Down Procedure (UDP) test guideline (hereafter, revised draft UDP); (2) A procedure incorporated into the revised draft UDP for calculating the confidence interval for the estimated median lethal dose (LD50); and (3) A software program for use in establishing test doses, determining when to stop the test, and estimating the LD50 and the confidence interval for the estimated LD50.

Availability of Revised Draft UDP Documents

The revised draft UDP was proposed by the U.S. Environmental Protection Agency (U.S. EPA) to the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) as an alternate for the existing conventional LD50 test (EPA 870.1100) used to evaluate the acute oral toxicity of chemicals. A previous version of the draft UDP was reviewed by the UDP Peer Review Panel (hereafter, Panel) at a meeting on July 25, 2000 organized by the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) and ICCVAM. This revised draft UDP incorporates modifications made in response to the conclusions and recommendations of the Panel and may be obtained electronically from the NICEATM/ICCVAM web site at http:/iccvam.niehs.nih.gov/methods/updocs/udprpt/udp_ciprop.htm. For a paper copy (a limited number are available), contact NICEATM at (919) 541–3398, or via e-mail at niceatm@niehs.nih.gov.

The proposed procedure for calculating the confidence interval for the estimated LD50 is a statistical calculation and does not require the use of test animals beyond what is needed to estimate the LD50. This procedure helps to place the estimated LD50 in a statistical context for hazard and risk assessment purposes. The confidence

interval procedure may be obtained electronically from the NICEATM/ICCVAM web site at http://iccvam.niehs.nih.gov/methods/updocs/udprpt/udp_ciprop.htm. For a paper copy (a limited number are available), contact NICEATM at (919) 541–3398, or via e-mail at niceatm@niehs.nih.gov. For technical clarification or questions regarding the confidence interval procedure, contact Dr. Amy Rispin, U.S. EPA, by telephone at (703) 305–5989 or via e-mail at rispin.amy@epa.gov.

Because the generation of parameters for this revised draft UDP is computationally intensive, the U.S. EPA developed a simple-to-use software program to aid in dose selection, test-stopping decisions, calculation of an estimate of the LD50, and calculation of a confidence interval around the LD50. The confidence interval procedure may be obtained electronically from the NICEATM/ICCVAM web site at http://iccvam.niehs.nih.gov/methods/udpdoc/udprpt/udp_ciprop.htm. To obtain a diskette of this software program, (a limited number are available), contact NICEATM at (919) 541–3398 or via e-mail at niceatm@niehs.nih.gov. For technical clarification or questions regarding the software package contact Dr. Elizabeth Margosches, U.S. EPA, by telephone at (202) 260–1511 or via e-mail at margosches.elizabeth@epa.gov, or Ms. Deborah McCall, U.S. EPA, by telephone at (703) 305–7109, or via e-mail at mccall.deborah@epa.gov.

Request for Public Comment

NICEATM invites written public comments on the revised draft UDP, the confidence interval proposal, and the software program. Comments should be sent to NICEATM through August 6, 2001. Comments submitted via e-mail are preferred; the acceptable file formats are MS Word (Office 98 or older), plain text, or PDF. Comments should be sent to Dr. William S. Stokes, Director, NICEATM, NIEHS, MD EC–17, P.O. Box 12233, Research Triangle Park, NC, 27709; telephone 919–541–2384; fax 919–541–0947; e-mail niceatm@niehs.nih.gov. Persons submitting written comments should include their contact information (name, affiliation, address, telephone and fax numbers, and e-mail) and sponsoring organization, if any. Public comments received in response to this **Federal Register** notice will be posted on the NICEATM/ICCVAM web site (http://iccvam.niehs.nih.gov). In addition, they will be available for viewing Monday through Friday, from noon to 4 p.m., excluding legal holidays, at the U.S. EPA under docket control number: AR–228, Up-and-Down Procedure. [U.S. EPA, Office of Prevention, Pesticides, and Toxic Substances, Non-Confidential Information Center, Room 607B, Northeast Mall, 401 M Street, SW., Washington, DC 20460, telephone: (202) 260–7099]. This docket also contains background and supporting materials for the revised draft UDP.

The comments will also be provided to the Panel for consideration in preparation for a final meeting tentatively planned for August 2001. This meeting is anticipated to be held as a teleconference with opportunity for public participation. An announcement of the Panel meeting with additional details will be published in a future **Federal Register** notice. The focus of this meeting will be to discuss the revised draft UDP, the proposed procedure for calculating the confidence interval for the estimated LD50, and the software program. Following the Panel meeting, a final report of the Panel's findings and recommendations will be published and made available to the public through NICEATM. In accordance with Public Law 106–545, ICCVAM will develop and forward test recommendations on the UDP to Federal agencies for their consideration. The ICCVAM recommendations will also be made available to the public.

Background

In 1999, the Organization for Economic Cooperation and Development (OECD) proposed deletion of its standard test guideline (TG) for assessing the acute oral toxicity of chemicals (TG 401; OECD, 1987). The rationale for deletion was that three alternative acute toxicity test methods had previously been adopted and could be used instead. Each method uses fewer animals than the procedure described in TG 401. One of these test methods is the UDP (OECD TG 425). Prior to formal deletion of TG 401, OECD determined that it was necessary to revise the three alternative methods to conform to the newly harmonized OECD hazard classification scheme (OECD, 1998). The U.S. EPA agreed to organize a Technical Task Force to revise the UDP (OECD TG 425). The revised UDP test method included two procedures different from the original UDP: a Limit Test for substances anticipated having minimal toxicity, and a Supplemental Test to determine the slope and confidence interval for the dose-response curve.

ICCVAM and NICEATM convened an international independent scientific peer review panel July 25, 2000, to evaluate the validation status of the revised UDP. The Panel concluded that the revised UDP Primary Test provided an improved estimate of acute oral toxicity with a reduction in the number of animals used compared to the existing conventional LD50 test (e.g., EPA 870.1100, TG 401). The Panel concluded that the proposed Limit Test procedure would be expected to perform as well as or better than the currently used EPA 870.1100 or TG 401 limit test for hazard classification, while using fewer animals. The Panel did not recommend the proposed UDP Supplemental Test procedure for use. Information on previous deliberations of the Panel can be found on the Internet at http://iccvam.niehs.nih.gov/udp.htm.

In recognition of the need for a procedure to calculate the confidence interval for the estimated median lethal dose determined using the UDP, the UDP Technical Task Force developed a procedure for use with UDP data from the primary procedure. As recommended by the Panel, the Supplemental Procedure has been deleted in the revised draft UDP and no further work on a procedure to generate dose-response slope information has been proposed. A specialized software program was subsequently developed by the U.S. EPA to facilitate implementation and use of the revised UDP.

Background for the UDP, including the availability of review materials, can be found in previous **Federal Register** notices (see FR Volume 65, Number 34, pages 8385–8386, February 18, 2000, and FR Volume 65, Number 106, pages 35109–35110, June 1, 2000). Minutes from the UDP Peer Review Panel meeting held July 25, 2000, may be found at http://iccvam.niehs.nih.gov/udp.htm.

Additional Information About ICCVAM and NICEATM

ICCVAM, with 15 participating Federal agencies, was established in 1997 to coordinate interagency issues on toxicological test method development, validation, regulatory acceptance, and national and international harmonization. The ICCVAM Authorization Act of 2000 (Pub. L. 106–545) formally authorized and designated ICCVAM as a permanent committee. The NICEATM was established in 1998 to collaborate with the ICCVAM to facilitate the development, scientific review, and validation of novel toxicological methods that predict human health risks while reducing, refining, and/or replacing animal tests and to promote communication with stakeholders. The NICEATM is located at the NIEHS in Research Triangle Park, NC. Additional information concerning ICCVAM and NICEATM can be found

on the ICCVAM/NICEATM web site at http://iccvam.niehs.nih.gov.

References

U.S. EPA (1998). Health Effects Test Guidelines, OPPTS 870.1100, Acute Oral Toxicity. Washington, DC: U.S. Environmental Protection Agency, 1998. Available on the Internet at http://www.epa.gov/docs/OPPTS_Harmonized/870_Health_Effects_Test_Guidelines/Series/.

OECD (1987). TG 401. OECD Guideline for the Testing of Chemicals, Acute Oral Toxicity, Adopted February 24, 1987, OECD, Paris, France.

OECD (1998). Harmonized Integrated Hazard Classification System for Human Health and Environmental Effects of Chemical Substances as endorsed by the 28th Joint Meeting of the Chemicals Committee and Working Party on Chemicals in November 1998. Available on the Internet at http://www.oecd.org/ehs/Class/HCL6.htm.

Dated: June 6, 2001.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 01–15770 Filed 6–21–01; 8:45 am]

BILLING CODE 4140–01–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–16]

Notice of Proposed Information Collection: Comment Request; Congregate Housing Services Program (CHSP)

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 21, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Carissa Janis, Office of Housing Assistance and Grants Management, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone number (202) 708–2866, extension 2487 (this is not a toll-free number), for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1955 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Congregate Housing Services Program (CHSP).

OMB Control Number, if applicable: 2502–0485.

Description of the need for the information and proposed use: Completion of the Annual Report by grantees provides HUD with essential information about who the grant is serving and what sort of services the individual receive through the use of grant funds. The Summary Budget is a matrix of budgeted yearly costs, which shows the services funded through the grant and demonstrates how matching funds, participants fees, and grant funds will be used in tandem to operate the grant program. Field staff approve this annual budget and request annual extension funds according to the budget. Field staff can also determine if grantees are meeting statutory and regulatory requirements through the evaluation of this budget. HUD will use the Payment Voucher to monitor the use of grant funds for eligible activities over the term of the grant. The Grantee may similarly use the Payment Voucher to track and record their request for payment reimbursement for grant-funded activities over the term of the grant. The grantee may similarly use the Payment Voucher to track and record their request for payment reimbursement for grant-funded activities.

Agency from numbers, if applicable: HUD–90006, HUD–90198, HUD–91180–A.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 81, the frequency of responses is annually, estimated time to compete is approximately 4 hours for HUD–90006; .25 hours for HUD–90198; 3.5 hours for HUD–91180–A; and 2 hours for SF–269, and the total annual burden hours requested for this collection is 1,013.

Status of the proposed information collection: Reinstatement with change, of previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: June 1, 2001.

Sean G. Cassidy,

General Deputy, Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 01–15685 Filed 6–21–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–4]

Notice of Submission of Proposed Information Collection to OMB; Public Housing Assessment System (PHAS) Memorandum of Agreement (MOA) and Improvement Plan (IP)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 23, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comment should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what member of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Public Housing Assessment System (PHAS) Memorandum of Agreement (MOA) and Improvement Plan (IP).

OMB Approval Number: 2577–XXXX.

Form Numbers: None.

Description of the need for the information and its proposed use: A Public Housing Agency (PHA) which is designated troubled or substandard under the Public Housing Assessment System (PHAS) must enter into a Memorandum of Agreement (MOA) with HUD to outline its planned improvement. Similarly, a PHA which is a standard performer, but receive a total PHAS score of less than 70% but not less than 60% if required to submit an improvement Plan (IP). These plans are designed to address deficiencies in a PHA's operations fund through the PHAS assessment process (management, financial, physical, or resident related) and any other deficiencies identified by HUD through independent assessments or other methods.

Respondents: State, Local or Tribal Government.

Frequency of Submission: Quarterly.

Reporting Burden:

Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
939		1		36.2		34,026

Total Estimated Burden Hours: 34,026.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 5, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–15686 Filed 6–21–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–25]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determine suitable or unsuitable this week.

Dated: June 15, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–15568 Filed 6–21–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–917–5101–ER–A173; AZA31074]

Notice of Availability for an Environmental Assessment for the El Paso Global Networks Telecommunications System

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Environmental Assessment for the El Paso Global Networks Right-of-Way Applications and Plan Amendment.

SUMMARY: The Bureau of Land Management (BLM), in accordance with the National Environmental Policy Act of 1969, as federal lead agency has prepared an Environmental Assessment (EA) for two rights-of-way (R/W) proposed by El Paso Global Networks (EPGN) for buried fiber optic telecommunications lines and associated facilities, including the construction, maintenance, operation and termination activities. One R/W runs from El Paso, Texas to Phoenix, Arizona; the second from Phoenix, Arizona to Los Angeles, California. The R/Ws cross the states of Texas, California, Arizona and New Mexico extending approximately 972 miles.

The proposed action includes an amendment to the California Desert Conservation Area (CDCA) Plan which,

if approved as an exception, will allow the system to be constructed as planned along existing highways or disturbed R/Ws in Riverside and San Bernadino Counties instead of within CDCA designated utility corridors. Both R/Ws would include a 25-foot wide temporary construction and a 10-foot wide permanent R/W.

Copies of the EA are available for public review at BLM offices in: Las Cruces, New Mexico; Safford, Tucson, Phoenix, Yuma and Lake Havasu, Arizona; and Palm Springs, Riverside, Needles and Barstow, California. Reading copies may be downloaded from the Arizona BLM website *http://www.az.blm.gov.*

DATES: Written comments on the EA and proposed plan amendment must be submitted or postmarked no later than July 23, 2001.

ADDRESSES: Written comments should be addressed to Shela McFarlin, Project Manager, BLM Arizona State Office (AZ917), 222 North Central Avenue, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Shela McFarlin, at the above address, or by phone at (602) 417–9568, by fax at (602) 417–9400, or at e-mail Shela_McFarlin@blm.gov.

SUPPLEMENTARY INFORMATION: Both R/W applications include measures to avoid, minimize, or mitigate impacts on the environment as specified through a plan of development which includes monitoring, reclamation and other construction designs and stipulations. The EA analyzes a no-action (no R/W and no plan amendment) along with the R/Ws proposed by EPGN. For the CDCA, an additional alternative (Modified Proposed Project Corridors K and S) and the associated plan amendment is analyzed utilizing existing information for comparison with the proposed action.

The fiber optic telecommunication project entails the construction and reclamation activities for an eight-duct conduit system and associated facilities and access including regeneration or optical amplification stations approximately every 50 miles, buried splice boxes placed at 20,000 foot intervals, manhole/handhold accesses placed every 3,000 to 5,000 feet, cable marker poles every 500 feet, and one 3.5 mile power line. The project, as designated for construction, operation, maintenance and termination activities, should contribute minimal to no additional impacts to the environment and would operate mainly within previously disturbed and routinely maintained road rights of way. Additional environmental monitoring, pre-work surveys, and data recovery for cultural resource sites would be stipulated in the R/W grants.

The CDCA portion of this project proposed as an exception to the CDCA Plan—as a plan amendment for this single use only—begins at the Point of Presence (POP) in Blythe, California, then follow the Midland Road to the Rice POP, then follow highway 60 to the POP at Twenty-Nine Palms, then to the POP at Victorville.

Dated: May 31, 2001.

William Ruddick,

Acting Field Director, Native American Minerals/Land Exchange Teams.

[FR Doc. 01–15701 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 910 01–1430–LRTN]

Notice of Intent To Prepare Meadowood Planning Analysis/Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent; correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** of Tuesday, May 1, 2001 concerning the intent to prepare a planning analysis/environmental assessment on Meadowood Farm in Fairfax County, Virginia. This correction amends the Notice of Intent (NOI) to specify June 27, 2001 as the final date for comments.

FOR FURTHER INFORMATION CONTACT: Horace Traylor at (703) 440–1509.

Correction

In the **Federal Register** of May 1, 2001, in FR Doc. 01–10750, appearing on page 21779, in the second column, correct the last paragraph to read:

You may also participate by sending issues and/or criteria in writing by June 27, 2001 to the Bureau of Land Management, Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. Comments may also be sent electronically to: es_meadowood@es.blm.gov

Dated: May 21, 2001.

Walter Rewinski,

Acting State Director, BLM, Eastern States.

[FR Doc. 01–15702 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–1020–PG; G–01–0216]

Southeast Oregon Resource Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Burns District, Interior.

ACTION: Meeting Notice for the Southeast Oregon Resource Advisory Council.

SUMMARY: The Southeast Oregon Resource Advisory Council (SEORAC) will meet at the Bureau of Land Management, Burns District Conference Room, Hines, Oregon, 97738, from 8:00 a.m. to 5:00 p.m., Pacific Daylight Time (PDT), on Monday, July 9, 2001, and conduct a field tour at the Eagle Picher Diatomite Mine on Tuesday, July 10, 2001. Contact the BLM office listed below for exact time as the tour date approaches.

The meeting topics to be discussed by the Council will include the possible establishment of subcommittees on sage grouse long-term conservation strategies, Eagle Picher Mines expansion of operations, range management in drought conditions, an update on drought impacts, the Federal officials' update, and such other matters as may reasonably come before the Council. The entire meeting is open to the public. Information to be distributed to the Council members is requested in written format 10 days prior to the start of the Council meeting. Public comment is scheduled for 11:15 a.m. to 11:45 a.m., PDT on July 9, 2001.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SEORAC may be obtained from Holly LaChapelle, Resource Assistant, Burns District Office, HC 74–12533 Hwy 20 West, Hines, Oregon 97738, (541) 573–4501, or *Holly_LaChapelle@or.blm.gov* or from the following web site <*http://www.or.blm.gov/SEOR-RAC*>

Dated: June 7, 2001.

Thomas H. Dyer,

District Manager.

[FR Doc. 01–15703 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–ET; MTM 72225]

Order Providing for Opening of Public Land; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order opens land reconveyed to the United States through exchange to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107–6800, 406–896–5052.

SUPPLEMENTARY INFORMATION:

1. The following-described land was acquired by the United States pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA):

Principal Meridian, Montana

T. 12 N., R. 3 W.,
Sec. 28, SW¼NW¼.

2. At 9 a.m. on June 22, 2001, the land shall be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on June 22, 2001, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on June 22, 2001, the land will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by state law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 6, 2001.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 01–15705 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 9, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St., NW., NC400, Washington, DC 20240. Written comments should be submitted by July 9, 2001.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

Arkansas

Greene County

Texaco Station No. 1, (Arkansas Highway History and Architecture MPS), 110 E. Main St., Paragould, 01000718

California

Mariposa County

Bower Cave, Address Restricted, Greeley Hill, 01000719

Georgia

Cobb County

Power, George A., House, Hyde Rd., Marietta, 01000720

Maryland

Anne Arundel County

Mt. Tabor Good Samaritan Lodge #59, 1407 St. Stephen's Church Rd., Crownsville, 01000724

Massachusetts

Berkshire County

Hillside Cemetery, (North Adams MRA), West Main St., North Adams, 01000722

Missouri

Buchanan County

Harris Addition Historic District, (St. Joseph, Missouri MPS), Roughly bounded by 16th St., Dalton St., 22nd St., and Edmond St., St. Joseph, 01000723

Kemper Addition Historic District, (St. Joseph, Missouri MPS), Portions of Clay, Union, Kemper and Bon Ton Sts., St. Joseph, 01000721

North Carolina

Mecklenburg County

Gluyas, Thomas and Latitia, House, (Mecklenburg County MPS), 7314 Mount Holly-Huntersville Rd., Huntersville, 01000725

Tennessee

Fayette County

Rossville Historic District, Roughly along Main, Second, and Front Sts., Rossville, 01000726

Hamilton County

Signal Mountain Historic District, Roughly along James Blvd., Brady Point Rd., and Signal Point Rd., Signal Mountain, 01000729

Wauhatchie Pike, (Chickamauga-Chattanooga Civil War-Related Sites in Georgia and Tennessee MPS), Old Wauhatchie Pike, Lookout Mountain, 01000727

Jackson County

Gainesboro Residential Historic District, Roughly along Dixie Ave., and Cox, Minor, and N. Murray Sts., Gainesboro, 01000728

Marion County

South Pittsburg Historic District (Boundary Increase), 700–804 Elm Ave., South Pittsburg, 01000730

Marshall County

Confederate Cemetery Monument, N side of TN 64E, Farmington, 01000731

Vermont

Addison County

Daniels, Capts. Louis and Philomene, House, 50 Macdonough Dr., Vergennes, 01000733

Orleans County

Dickerman, Jerry E., House, 36 Field Ave., Newport, 01000732

Wisconsin

Bayfield County

Forest Lodge Library, 13450 Cty Hwy M, Cable, 01000735

Door County

FLEETWING (shipwreck), (Great Lakes Shipwreck Sites of Wisconsin MPS), Address Restricted, Liberty Grove, 01000734

Grant County

Eagle Valley Mound District, (Late Woodland Stage in Archeological Region 8 MPS), Address Restricted, Glen Haven, 01000736

Kenosha County

Rosinco, 12 mi. E of Kenosha, Lake Michigan, 01000737

A request for REMOVAL has been made for the following resource:

Tennessee

Marion County

Cumberland Avenue Bridge Cumberland Ave. over Poplar Springs Branch Cr. South Pittsburg, 91001584

[FR Doc. 01–15718 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meet the definition of ''unassociated funerary objects'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The cultural items are 1 stone fish effigy, 1 stone muller, 8 net spacer-like objects of stone, 6 ground stone fragments, 19 obsidian stone tools, 1 animal bone, 9 obsidian flakes, 5 obsidian scrapers, 15 obsidian pebbles, 15 glass beads, 3 large brass buttons, 2 brass rings, 2 rolled copper tube rings, 8 brass and copper pendants, 1 brass brooch, 7 fragments of sheet copper and brass, 1 iron hammer of a flintlock pistol (represented by 2 pieces), and 62 sheet copper beads.

In 1910, Grace A. Nicholson purchased the cultural items from an unknown excavator who recovered them on her behalf from an unknown locality in southern Oregon, approximately 18 miles from the Klamath Agency. In 1910, Ms. Nicholson sold the cultural items to Lewis Farlow, who donated them to the Peabody Museum of Archaeology and Ethnology the same year. Museum documentation indicates that these cultural items were associated with burials and were recovered from the place ''where the dead doctors were burned.''

Based on the types of artifacts recovered, these cultural items date to the historic period, most likely the 19th century. The nature of these cultural items and descriptions of their context in the museum sources are consistent with ethnographic descriptions of Klamath burial practices in Klamath territory in Oregon during the 19th century. These practices include the use of cremation piles with the inclusion of objects such as glass beads, metal rings, and gun parts. Several known historic cremation piles approximately 18 miles from the Klamath Agency in Klamath territory have been identified subsequent to 1910. Consultation with representatives of the Klamath Indian Tribe of Oregon also supports the historic nature of this burial practice in Klamath territory.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 167 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these cultural items and the Klamath Indian Tribe of Oregon.

This notice has been sent to officials of the Klamath Indian Tribe of Oregon. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact Barbara Isaac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495-2254, before July 23, 2001. Repatriation of these unassociated funerary objects to the Klamath Indian Tribe, Oregon may begin after that date if no additional claimants come forward.

Dated: June 4, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–15719 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 6, 2001, a proposed Consent Decree (''Decree'') in *United States* v. *Central Illinois Public Service Company, et al.*, Civil Action No. 01–00586CV–W1 (W.D. Missouri) was lodged with the United States District Court for the Western District of Missouri.

The United States brought this action on behalf of the United States Environmental Protection Agency (''EPA'') against Defendants Central Illinois Public Service Company, Central Louisiana Electric Company, Inc., Colorado Springs Department of Utilities, Commonwealth Edison Company, General Motors Corporation, Illinois Power Company, Interstate Power Company, Kansas Power & Light Company, Louisiana Power & Light Company/New Orleans Public Service, Inc., Midwest Energy Systems, Inc., Missouri Public Service Company, New England Power Service Company, Oklahoma Gas & Electric Company, Omaha Public Power District, Southwestern Electric Power Company, and West Texas Utilities Company (''Settling Defendants'') pursuant to Sections 107 and 113(g)(2) of the Comprehensive Environmental Response, Compensation and Liability Act, *as amended*, 42 U.S.C. 9607 and 9613(g)(2), for declaratory relief and recovery of certain past response costs incurred by the United States in connection with the Martha C. Rose Chemicals, Inc. Superfund Site (''Site'') located in Holden, Missouri. The Decree provides that the Settling Defendants will pay $173,700.49 in satisfaction of the United States' claims against them.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Central Illinois Public Service Company, et al.*, Civil Action No. 01–00586CV–W1, D.J. Ref. No. 90–11–2–226C.

The Decree may be examined at the Office of the United States Attorney for the Western District of Missouri, Charles Evans Whittaker Courthouse, Fifth Floor, 400 East 9th Street, Kansas City, Missouri 64106, and at U.S. EPA Region VII, 901 N. 5th Street, Kansas City, Kansas 66101. A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $9.75 (25 cents per page reproduction

cost) payable to the Consent Decree Library.

Robert E. Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–15670 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on June 4, 2001, a proposed Consent Decree (''Decree'') in *United States* v. *IBM Corporation*, Civil No. 01–B–1017, was lodged with the United States District Court for the District of Colorado. The United States filed this action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act for recovery of costs incurred by the United States in responding to releases of hazardous substances at the Rocky Flats Industrial Park Superfund Site in Jefferson County, Colorado.

Pursuant to the proposed Consent Decree, IBM Corporation will pay $460,000, in reimbursement of past costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to, *United States* v. *IBM Corporation*, D.J. Ref. #90–11–3–1719/2.

The Decree may be examined at the office of the U.S. Attorney, 1225 17th Street, Denver, Colorado; at U.S. EPA Region 8, Office of Enforcement, 999 18th Street, Denver, CO. A copy of the Decree may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of $3.75 for the Decree (25 cents per page reproduction cost) payable to the Consent Decree Library.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–15668 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, and 28 CFR 50.7, notice is hereby given that a proposed consent decree embodying a settlement in *United States* v. *J.H. Baxter and Co., et al.*, No. C01–2024–SC was lodged on May 30, 2001, with the United States District Court for the Northern District of California.

In a complaint filed concurrently with the lodging of the consent decree, the United States, on behalf of the Administrator of the United States Environmental Protection Agency (''EPA'') and pursuant to section 107 of CERCLA, 42 U.S.C. 9607, seeks reimbursement of response costs incurred and a declaratory judgment on defendant's liability for response costs to be incurred for response actions taken at or in connection with the release of hazardous substances at the J.H. Baxter Superfund Site in the City of Weed, Siskiyou County, California.

The consent decree requires the settling defendants to pay the J.H. Baxter Special Account within the EPA Hazardous Substance Superfund, $1,310,300 in past response costs and to pay response costs incurred in the future. The consent decree also provides that the Superfund Site shall not be used for residential purposes and imposes other property restrictions.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Box 7611 Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *J.H. Baxter and Co. et al.*, DOJ Ref. #90–11–3–06786.

The proposed consent decree may be examined at the EPA Region 9 Superfund Records Center, 75 Hawthorne Street, Fourth Floor, San Francisco, California 94105, and at the Office of the United States Attorney for the Northern District of California, 450 Golden Gate Avenue, 11th Floor, San Francisco, California 94102. A copy of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, Box 7611, Ben Franklin Station, Washington, DC 20044–7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $11.75 (25 cents per page reproduction costs), payable to the Consent Decree Library. A copy of the decree, exclusive of the defendants' signature pages and the attachments, may be obtained for $6.00.

Ellen Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–15669 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act (''CWA'')

In accordance with Departmental policy at 28 CFR 50.7, notice is hereby given that on June 7, 2001, a proposed consent decree in *United States* v. *Wal-Mart Stores, Inc., et al.*, Civil Action No. 01–5115, was lodged with the United States District Court for the Western District of Arkansas, Fayetteville Division. The proposed Consent Decree resolves the liability of War-Mart and ten of its general contractors, Western Builders, Inc., Rogers-O'Brien Construction Co., D/B Constructors, Inc., Jaynes Corporation, Gerald A. Martin, Ltd., W.S. Bowlware Construction, Inc., Vratsinas Construction Co., Construction Supervisors, Inc., Dalmac Construction, Inc., and Williams Development & Construction, Inc., under Sections 301 and 402 of the CWA at the following 17 construction sites located in Texas, New Mexico, Oklahoma and Massachusetts: Wal-Mart Supercenter #868, Center St. & U.S. 62–180 (Eddy County), Carlsbad, New Mexico; Wal-Mart Supercenter #284, 930 Walnut Creek Dr., Mansfield, Texas; Wal-Mart Supercenter 851; 1700 U.S. Hwy 70 West, Ruidoso, New Mexico; Wal-Mart Store #240, Hwy 50 at Loop 178, Commerce, Texas; Wal-Mart Supercenter #259, I–30 at Greencrest Blvd., Rockwall, Texas; Wal-Mart Store #2667, 7401 Sammuell Blvd., Dallas, Texas; Wal-Mart Store #277, Moore, Oklahoma; Wal-Mart Store #1216, E. Trinity Mills Road and Old Denton, Carrollton, Texas; Wal-Mart Supercenter #1347, 2500 Hwy 180 East, Silver City, New Mexico; Wal-Mart Supercenter #1397, 10224 Coors Bypass, Albuquerque, New Mexico; Wal-Mart Store #2427, 13739 N. Central Expressway at Midpark Dr., Dallas, Texas; Wal-Mart Store #789, 200 E. Hwy. 80, Mesquite, Texas; Wal-Mart

Supercenter #2724, 1107 North Shaver, Pasadena, Texas; Wal-Mart Expansion Store #915, 11210 West Airport Boulevard, Stafford, Texas; Wal-Mart Store #1279 Expansion, 10411 North Interstate 45, Houston, Texas; Wal-Mart Store #2718, 9555 S. Post Oak Rd, Houston, TX 77096; and Wal-Mart Store #2683, 337 Russell Street, Hadley, Massachusetts. Under the terms of the Consent Decree, the Settling Defendants have agreed to pay a civil penalty of $1.0 million and Wal-Mart has agreed to implement an environmental management plan at future construction sites.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive written comments relating to the proposed consent decree from persons who are not parties to the action. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Wal-Mart Stores, Inc., et al.*, DOJ #90–5–1–1–4510. The proposed consent decree may be examined at the offices of the United States Attorney for the Western District of Arkansas, Fayetteville Division, 6th and Rogers, Room 216, Fort Smith, Arkansas 72901, and at the office of the United States Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202 (Attention: Ellen Change, Assistant Regional Counsel). A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. Such requests should be accompanied by a check in the amount of $11.50 (25 cents per page reproduction charge for decree, with attachments) payable to ''Consent Decree Library''. When requesting copies, please refer to *United States* v. *Wal-Mart Stores, Inc., et al.*, DOJ #90–5–1–1–4510.

Thomas A. Mariana, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–15674 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 233–2001]

Privacy Act of 1974; System of Records

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Notice.

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), and Office of Management and Budget (OMB) Circular No. A–130, notice is hereby given that the Department of Justice, Federal Bureau of Investigation (FBI), is establishing ten ''blanket'' routine uses to be applicable to more than one FBI system of records. Further, the FBI is modifying the following systems of records:

Bureau Mailing Lists, Justice/FBI–003 (previously published on October 5, 1993, at 58 FR 51846); and

Electronic Surveillance (ELSUR) Indices, Justice/FBI–006 (previously published on March 10, 1992, at 57 FR 8473).

Opportunity for Comment: The Privacy Act (5 U.S.C. 552a(e)(r) and (11)) requires that the public be given 30 days in which to comment on any new or amended uses of information in a system of records. In addition, in accordance with Privacy Act requirements (5 U.S.C. 552a(r)), the Department of Justice has provided a report on these modifications to OMB and the Congress. OMB, which has oversight responsibilities under the Act, requires that OMB and the Congress be given 40 days in which to review major changes to Privacy Act systems. Therefore, the public, OMB, and the Congress are invited to submit written comments on this modification.

Address Comments or Request for Further Information to: Mary E. Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, 1400 National Place, Washington, DC 20530.

EFFECTIVE DATE: These proposed changes will be effective August 1, 2001, unless comments are received that result in a contrary determination.

SUPPLEMENTARY INFORMATION: The FBI is proposing to establish ten blanket routine uses in order to: (1) Foster greater public understanding by simplifying and consolidating FBI Privacy Act issuances; (2) minimize through use of standardized wording the potential for misunderstanding or misinterpretation which might arise from unintended variations in different versions of common routine uses; and (3) reduce costs and duplication of effort in the publication and maintenance of FBI Privacy Act issuances. Unless this or other published notice expressly provides otherwise, these blanket routine uses will apply to existing FBI systems of records as indicated below and to all FBI systems of records created or modified hereafter. However, the FBI is not at this time applying blanket routine uses to the National DNA Index System (NDIS) (Justice/FBI–017) or to the National Instant Criminal Background Check System (NICS) (Justice/FBI–018). (Any blanket routine uses which the FBI may in the future propose to apply to these two systems will be implemented by express reference in revisions to the respective systems notices.)

In large part these blanket routine uses standardize wording of routine uses already promulgated for one or more FBI or DOJ systems. The wording of a blanket use may differ somewhat from the existing counterpart(s). These differences generally do not reflect substantially different uses; however, some uses are clarified or broadened as to when and to whom disclosures may be made. Furthermore, Blanket Routine Use 9 is a new use not now reflected in any FBI system.

Upon taking effect, these blanket routine uses will apply to the FBI systems indicated below:

National Crime Information Center (NCIC), JUSTICE/FBI–001 (last published in the **Federal Register** on September 28, 1999, at 64 FR 52343);

FBI Central Records System, JUSTICE/FBI–002 (last published in the **Federal Register** on February 20, 1998, at 63 FR 8671);

Bureau Mailing Lists, JUSTICE/FBI–003 (published in today's **Federal Register**);

Electronic Surveillance (ELSUR) Indices, JUSTICE/FBI–006 (published in today's **Federal Register**);

FBI Automated Payroll System, JUSTICE/FBI–007 (last published in the **Federal Register** on October 5, 1993, at 58 FR 51874);

Bureau Personnel Management System (BPMS), JUSTICE/FBI–008 (last published in the **Federal Register** on October 5, 1993, at 58 FR 51875);

Fingerprint Identification Records System (FIRS), JUSTICE/FBI–009 (last published in the **Federal Register** on September 28, 1999, at 64 FR 52347);

Employee Travel Vouchers and Individual Earning Records, JUSTICE/FBI–010 (last published in the **Federal Register** on December 11, 1987, at 52 FR 47248);

Employee Health Records, JUSTICE/FBI–011 (last published in the **Federal Register** on October 5, 1993, at 58 FR 51875);

Time Utilization Record/Keeping (TURK) System, JUSTICE/FBI–012 (last published in the **Federal Register** on October 5, 1993, at 58 FR 51876);

Security Access Control System (SACS), JUSTICE/FBI–013 (last published in the **Federal Register** on October 5, 1993, at 58 FR 51877);

FBI Alcoholism Program, JUSTICE/FBI–014 (last published in the **Federal Register** on December 11, 1987, at 52 FR 47251);

National Center for the Analysis of Violent Crime (NCAVC), JUSTICE/FBI–015 (last published in the **Federal Register** on October 5, 1993, at 58 FR 51877);

FBI/Counterdrug Information Indices Systems (CIIS), JUSTICE/FBI–016 (last published in the **Federal Register** on June 9, 1994, at 59 FR 29824);

The routine uses currently published for each system will also continue to apply to that system. As individual FBI system notices are hereafter revised, we will eliminate individual system routine uses which duplicate blanket routine uses and add express reference to the applicability of the blanket routine uses.

The Department is also modifying the Bureau Mailing Lists and the ELSUR systems of records in order to clarify and more accurately describe them. The Bureau Mailing Lists system notice is being modified to clarify the categories of individuals covered by the system, the categories of records in the system, and the record access procedures. The existing routine uses are modified to include a system specific routine use which permits the disclosure of system records to public and/or private entities where such disclosures may promote, assist, or otherwise serve law enforcement interests. The notice also provides that records can be disclosed in accordance with the blanket routine uses that are concurrently being established for FBI records systems.

The ELSUR notice is being modified to include a new category of records in the system, ''reference records.'' Additionally, the ELSUR notice clarifies the record access procedures. The routine uses for the ELSUR system were also modified to reflect three additional system specific routine uses which permit the disclosure of system records to public and/or private entities where: (1) Such disclosures may promote, assist, or otherwise serve law enforcement interests; (2) the FBI deems it reasonable and helpful in eliciting information or cooperation from the recipient for use by the FBI in the performance of an authorized function; or (3) there is reason to believe that a person or entity could become the target of a particular criminal activity or conspiracy. In addition, the notice provides that records may be disclosed pursuant to the proposed blanket routine uses being published simultaneously herein.

Both the Bureau Mailing Lists and the ELSUR systems are being republished to reflect these and other minor changes, including the addition of a ''Purpose'' section to both notices.

A description of the proposed ten blanket routine uses and the modification to the Bureau Mailing Lists and the ELSUR systems of records is provided below.

Dated: June 11, 2001.

Janis A. Sposato,

Acting Assistant Attorney General for Administration.

JUSTICE/FBI–BRU

SUBJECT:

Blanket Routine Uses (BRU) Applicable to More Than One FBI Privacy Act System of Records.

APPLICABILITY:

The following routine uses describe those types of disclosures which are common to more than one FBI Privacy Act system of records and which the FBI is establishing as ''blanket'' routine uses. Unless this or other published notice expressly provides otherwise, these blanket routine uses shall apply, without need of further implementation, to every existing FBI Privacy Act system of records and to all FBI systems of records created or modified hereafter. These blanket routine uses supplement but do not replace any routine uses that are separately published in the notices of individual record systems to which the blanket routine uses apply.

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

System records may be disclosed to the following persons or entities under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purpose for which the information was collected. (These routine uses are not meant to be mutually exclusive and may overlap in some cases.)

BRU–1. Violations of Law, Regulation, Rule, Order, or Contract. If any system record, on its face or in conjunction with other information, indicates a violation or potential violation of law (whether civil or criminal), regulation, rule, order, or contract, the pertinent record may be disclosed to the appropriate entity (whether federal, state, local, joint, tribal, foreign, or international), that is charged with the responsibility of investigating, prosecuting, and/or enforcing such law, regulation, rule, order, or contract.

BRU–2. Non-FBI Employees. To contractors, grantees, experts, consultants, students, or other performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function.

BRU–3. Appropriate Disclosures to the Public. To the news media or members of the general public in furtherance of a legitimate law enforcement or public safety function as determined by the FBI, e.g., to assist in locating fugitives; to provide notifications of arrests; to provide alerts, assessments, or similar information on potential threats to life, health, or property; or to keep the public appropriately informed of other law enforcement or FBI matters or other matters of legitimate public interest where disclosure could not reasonably be expected to constitute an unwarranted invasion of personal privacy. (The availability of information in pending criminal or civil cases will be governed by the provisions of 28 CFR 50.2.)

BRU–4. Courts or Adjudicative Bodies. To a court or adjudicative body, in matters in which (a) the FBI or any FBI employee in his or her official capacity, (b) any FBI employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, is or could be a party to the litigation, is likely to be affected by the litigation, or has an official interest in the litigation, and disclosure of system records has been determined by the FBI to be arguably relevant to the litigation. Similar disclosures may be made in analogous situations related to assistance provided to the Federal Government by non-FBI employees (see BRU–2).

BRU–5. Parties. To an actual or potential party or his or her attorney for the purpose of negotiating or discussing such matters as settlement of the case or matter, or informal discovery proceedings, in matters in which the FBI has an official interest and in which the FBI determines records in the system to be arguably relevant.

BRU–6. As Mandated by Law. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

BRU–7. Members of Congress. To a Member of Congress or a person on his or her staff acting on the Member's behalf when the request is made on behalf and at the request of the individual who is the subject of the record.

BRU–8. NARA/GSA Records Management. To the National Archives and Records Administration and the General Services Administration for records management inspections and such other purposes conducted under

the authority of 44 U.S.C. 2904 and 2906.

BRU–9. Auditors. To any agency, organization, or individual for the purposes of performing authorized audit or oversight operations of the FBI and meeting related reporting requirements.

BRU–10. Former Employees. The DOJ may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility. (Such disclosures will be effected under procedures established in title 28, Code of Federal Regulations, sections 16.300–301 and DOJ Order 2710.8C, including any future revisions.)

FBI RECORDS SYSTEMS TO WHICH THESE BLANKET ROUTINE USES DO NOT APPLY:

These blanket routine uses shall not apply to the following FBI Privacy Act systems of records (to which shall apply only those routine uses established in the records system notice for the particular system):

JUSTICE/FBI–017, National DNA Index System (NDIS) (last published in the **Federal Register** on July 18, 1996, at 61 FR 37495); and

JUSTICE/FBI–018, National Instant Criminal Background Check System (NICS) (last published in the **Federal Register** on November 25, 1998, at 63 FR 65,223).

JUSTICE/FBI–003

SYSTEM NAME:

Bureau Mailing Lists.

SYSTEM LOCATION:

Records may be maintained at all locations at which the Federal Bureau of Investigation (FBI) operates, including: J. Edgar Hoover Bldg., 935 Pennsylvania Ave., NW., Washington, DC 20535; FBI Academy, Quantico, VA 22135; FBI Criminal Justice Information Services (CJIS) Division, 1000 Custer Hollow Rd., Clarksburg, WV 26306; and FBI field offices, legal attaches, and information technology centers as listed on the FBI's Internet website, http://www.fbi.gov, including any future revisions to the website.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons appearing on mailing lists maintained throughout the FBI to facilitate mailings to multiple addressees in furtherance of FBI activities. These include persons who have requested Bureau material, persons who are routinely forwarded unsolicited Bureau material and who meet established criteria (generally law enforcement or closely related interests), and persons who may be in a position to furnish assistance in furtherance of the FBI's mission. These do not include persons on mailing lists not encompassed within this system as described in the section titled ''Categories of Records in the System.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name, address, business affiliation, and supplemental information related to addressees and relevant to a list's purpose. These do not, however, include mailing lists which have been incorporated into some other FBI records system, such as a mailing list supporting a particular investigation maintained as an investigative record within the FBI's Central Records System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, section 301; title 44, United States Code, section 3101; title 28, United States Code, section 533; and title 28, Code of Federal Regulations, section 0.85.

PURPOSE(S):

System records are used for mailing FBI material to multiple addressees, via hard copy, e-mail, or other means of distribution, in furtherance of FBI activities. For example, various fugitive alerts are furnished to local law enforcement agencies, investigations periodicals are provided to law enforcement professionals, and information on local law enforcement issues may be provided to community leaders.

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

The FBI may disclose relevant system records in accordance with any blanket routine uses established for FBI records systems. See Blanket Routine Uses Applicable for FBI records systems. See Blanket Routine Uses Applicable to More Than One FBI Privacy Act System of Records, Justice/FBI–BRU, as published today in the **Federal Register** (and any future revisions).

In addition, as a routine use specific to this system, the FBI may disclose relevant system records to the following persons or entities under the circumstances or for the purposes described below, to the extent such disclosures are comptiable with the purpose for which the information was collected. (Routine uses are not meant to be mutually exclusive and may overlap in some cases.)

A. To a federal, state, local, joint, tribal, foreign, international, or other public agency/organization, or to any person or entity in either the public or private sector, domestic or entity in either the public or private sector, domestic or foreign, where such disclosure may promote, assist, or otherwise serve law enforcement interests. By way of example and not limitation, such disclosures may for instance include: Sharing names of law enforcement professionals receiving FBI periodicals with law enforcement agencies interested in reaching a similar audience; sharing information of intelligence value with other law enforcement on intelligence agencies to whose lawful responsibilities the information may be germane; or sharing information pertinent to victim/witness assistance with local government entities in furtherance of such assistance.

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

STORAGE:

Most information is maintained in computerized form and stored in memory, on disk storage, on computer tape, or other computer media. However, some information may also be maintained in hard copy (paper) or other form.

RETRIEVABILITY:

Information typically will be retrieved by an ID number assigned by computer or by name of person or organization.

SAFEGUARDS:

System records are maintained in limited access space in FBI facilities and offices. Computerized data is password protected. All FBI personnel are required to pass an extensive background investigation. The information is accessed only by authorized FBI personnel or by non-FBI personnel properly authorized to assist in the conduct of an agency function related to these records.

RETENTION AND DISPOSAL:

FBI offices revised the lists as necessary. The records are destroyed, under authority granted by the National Archives and Records Administration, when administrative needs are satisfied

(Job. No. NC1–65–82–4, part E, item 13 (I)).

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, 935 Pennsylvania Ave., NW, Washington, DC 20535–0001.

NOTIFICATION PROCEDURES:

Same as Record Access Procedures.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly market ''Privacy Act Request''. Include in the request your full name and complete address. The requester must sign the request; and, to verify it, the signature must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. You may submit any other identifying data you wish to furnish to assist in making a proper search of the system. Requests for access to information maintained at FBI Headquarters must be addressed to the Director, Federal Bureau of Investigation, 935 Pennsylvania Ave., NW, Washington, DC 20535–0001. Requests for information maintained at FBI field offices, legal attaches, information technology centers, or other locations must be made separately and addressed to the specific field office, legal attache, information technology center, or other location as listed on the FBI's Internet website, http://www.fbi.gov, including any future revisions to the website.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the appropriate FBI office, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The mailing list information is based on information supplied by affected individuals/organizations, public source data, and/or information already in other FBI records systems.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI 006

SYSTEM NAME:

Electronic Surveillance (ELSUR) Indices.

SYSTEM LOCATION:

Records may be maintained at all locations at which the Federal Bureau of Investigation (FBI) operates, including: J. Edgar Hoover Bldg., 935 Pennsylvania Ave., NW, Washington, DC 20535; and FBI field offices and information technology centers as listed on the FBI's Internet website, http://www.fbi.gov, including any future revisions to the website.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who have been the targets of electronic surveillance coverage sought, conducted, or administered by the FBI pursuant to a court order or other authority; those who have been a party to a communication monitored/recorded electronically pursuant to a court order, consensual monitoring, or other authorized monitoring sought, conducted, or administered by the FBI; and those who own, lease, license, hold a possessor interest in, or commonly use the location subjected to electronic surveillance.

CATEGORIES OF RECORDS IN THE SYSTEM:

The ELSUR Indices are comprised of four types of records:

1. Principal records identify, by true name or best known name, all persons, entities, and facilities who have been the targets of electronic surveillance coverage sought, conducted, or administered by the FBI pursuant to a court order or other authority. These records include, but are not limited to, persons, entities, and facilities named in an application filed by the FBI in support of an affidavit seeking a court order to conduct or administer an electronic surveillance. Principal records may also include descriptive data associated with the name appearing on the record.

2. Proprietary-interest records identify entities and/or individuals who own, lease, license, hold a possessory interest in, or commonly use the location subjected to an electronic surveillance. Proprietary-interest records may also include descriptive data associated with the name appearing on the record.

3. Intercept records identify, by true name or best known name, individuals who have been reasonably identified by a first name or initial and a last name as being a party to a communication monitored/recorded electronically by the FBI pursuant to an electronic surveillance. Intercept records also identify entities that have been a party to a communication monitored/recorded electronically by the FBI pursuant to an electronic surveillance. Intercept records may include descriptive data associated with the name appearing on the record.

4. Reference records identify, by partial name, such as a first name only, last name only, code name, nickname, or alias those individuals who have been a party to a communication monitored/recorded electronically by the FBI pursuant to an electronic surveillance, and may include descriptive data associated with the individual. If the individual is later identified by a more complete name, e.g., through further monitoring or normal investigative procedures, the reference record is re-entered as an intercept record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The ELSUR Indices were initiated in October, 1966, at the recommendation of the Department of Justice and relate to electronic surveillance sought, administered, and/or conducted by the FBI since January 1, 1960. The authority for the maintenance of these records is title 5, United States Code, section 301; title 44, United States Code, section 3101; title 18, United States Code, section 2510, et seq.; title 18, United States Code, section 3504; title 28, United States Code, section 533, title 50, United States Code 1801, et seq.; and title 28, Code of Federal Regulations, section 0.85.

PURPOSE(S):

These records are used by the FBI to maintain certain information regarding electronic surveillance sought, conducted or administered by the FBI in order to permit the agency to respond to judicial inquiries about possible electronic surveillance coverage of any individual or entity involved in Federal court proceedings and to enable the Government to certify, as requested by federal, state or local law enforcement agencies, whether or not an individual, entity, facility, or place on whom a court ordered authority is being sought for electronic surveillance coverage has ever been subjected to electronic surveillance coverage in the past.

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

The FBI may disclose relevant system records in accordance with any blanket routine uses established for FBI records systems. See Blanket Routine Uses Applicable to More Than One FBI Privacy Act System of Records, Justice/FBI–BRU, as published today in the **Federal Register** (and any future revisions).

In addition, as routine uses specific to this system, the FBI may disclose relevant system records to the following persons or entities under the

circumstances or for the purposes described below, to the extent such disclosures are compatible with the purpose for which the information was collected. (Routine uses are not meant to be mutually exclusive and may overlap in some cases.)

A. To the judiciary in response to inquiries about possible electronic surveillance coverage of any individual or entity involved in Federal court proceedings.

B. To federal, state, and local law enforcement officers to enable the government to certify whether or not an individual, entity, facility, or place on whom a court ordered authority is being sought for electronic surveillance coverage has ever been subjected to electronic surveillance coverage in the past.

C. To a federal, state, local, joint, tribal, foreign, international, or other public agency/organization, or to any person or entity in either the public or private sector, domestic or foreign, where such disclosure may promote, assist, or otherwise serve law enforcement interests. By way of example and not limitation, such disclosures may for instance include: Sharing information of intelligence value with other law enforcement or intelligence agencies to whose lawful responsibilities the information may be germane; disclosing information to another law enforcement or intelligence agency which may bear on the suitability of a person for employment or continued employment with that agency; disclosing information to a cognizant employer or clearance-granting authority which may bear on the trustworthiness of a person to obtain or retain a security clearance; or sharing information pertinent to victim/witness assistance with local government entities in furtherance of such assistance.

D. To any person or entity in either the public or private sector, domestic or foreign, if deemed by the FBI to be reasonable and helpful in eliciting information or cooperation from the recipient for use by the FBI in the performance of an authorized function, e.g., disclosure of personal information to a member of the public in order to elicit his/her assistance/cooperation in a criminal, security, or employment background investigation.

E. To any person or entity in either the public or private sector, domestic or foreign, where there is reason to believe that a person or entity could become the target of a particular criminal activity or conspiracy, to the extent the disclosure of information is deemed by the FBI to be reasonable and relevant to the protection of life, health, or property of such target.

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

The majority of the records are maintained in an automated data base. Some records are maintained in hard-copy (paper) format or other form.

RETRIEVABILITY:

Information typically will be retrieved by the name of the individual or entity. Telephone numbers and other such serial or identification numbers are retrievable numerically. Locations targeted are retrievable by street name.

SAFEGUARDS:

System records are maintained in limited access space in FBI facilities and offices. Computerized data is password protected. All FBI personnel are required to pass an extensive background investigation. The information is accessed only by authorized FBI personnel or by non-FBI personnel properly authorized to assist in the conduct of an agency function related to these records.

RETENTION AND DISPOSAL:

A reference record is purged if the individual is later identified by a more complete name and re-entered as an intercept record. Remaining reference records are purged from the system as follows: Those relating to court ordered electronic surveillance are purged six months from the date the corresponding authorization for the surveillance expires. Reference records relating to consensual intercepts are purged one year from the last intercept date shown on the record. Until advised to the contrary by the Department, the courts, or the Congress, all other indices records will be maintained indefinitely and have been declared permanent by the National Archives and Records Administration (NARA) (Job No. NC1–65–82–4, Part E, item 2 (t)).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW, Washington, DC 20535.

NOTIFICATION PROCEDURE:

Same as Record Access Procedures.

RECORD ACCESS PROCEDURES:

A request for notification as to whether a record about an individual exists in the system and/or for access to a record from the system shall be made in writing with the envelope and the letter clearly marked ''Privacy Act Request.'' Include in the request your full name and complete address. The requests must sign the request; and, to verify it, the signature must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. You may submit any other identifying data you wish to furnish to assist in making a proper search of the system. Requests for access to information maintained at FBI Headquarters must be addressed to the Director, Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW, Washington, DC 20535–0001. Requests for information maintained at FBI field offices, information technology centers, or other locations must be made separately and addressed to the specific field office, information technology center, or other location as listed on the FBI's Internet website, http://www.fbi.gov, including any future revisions to the website.

Some information may be exempt from notification and/or access procedures as described in the section titled ''Systems Exempted from Certain Provisions of the Act.'' An individual who is the subject of one or more records in this system may be notified of records that are not exempt from notification and may access those records that are not exempt from disclosure. A determination on notification and access will be made at the time a request is received.

CONTESTING RECORD PROCEDURES:

If you desire to contest or amend information maintained in the system, you should also direct your request to the appropriate FBI office, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Some information may be exempt from contesting record procedures as described in the section titled ''Systems Exempted from Certain Provisions of the Act.'' An individual who is the subject of one or more records in this system may contest and pursue amendment of those records that are not exempt. A determination whether a record may be subject to amendment will be made at the time a request is received.

RECORD SOURCE CATEGORIES:

Information in the indices is derived from electronic surveillance, public source information, and other FBI record systems.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and

(4), (d), (e)(1), (2) and (3), (e)(4)(G) and(H), (e)(5) and(8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a(j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 01–15675 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology

Notice is hereby given that, on May 23, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SAS Circuits, Inc., Littleton, CO has been added as a party to this venture. Also, HADCO Corporation, Salem, NH and Ormet Corporation, Carlsbad, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology intends to file additional written notification disclosing all changes in membership.

On October 7, 1998, National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology filed its original notification pursuant to section 6(a) of the Act. The Department of justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 22, 1999 (64 FR 3571).

The last notification was filed with the Department on August 5, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 21, 2000 (65 FR 15176).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–15672 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1933—The National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on May 15, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Center for Manufacturing Sciences, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Automated Precision Inc., Gaithersburg, MD; Cincinnati Machine Division of Unova, Inc., Cincinnati, OH; CoCreate Software, Inc., Fort Collins, CO; ComauPico, Inc., Southfield, MI; Defense Modeling and Simulation Office of the U.S. Department of Defense, Alexandria, VA; Electronic Data Systems, Inc, Troy, MI; Holagent Corporation, Gilroy, CA; Hydrogen Technology Applications, Inc, Clearwater, FL; Johann A. Krause Inc., Auburn Hills, MI; Johnson Controls, Inc., Plymouth, MI; LFX Technologies LLC, Bloom field Hills, MI; Manufacturing Resources, Inc., Cleveland, OH; Michigan Technological University, Houghton, MI; Sulzer Metco Inc., Westbury, NY; and Tecumseh Products Company, Tecumseh, MI have been added as parties to this venture.

Also, Aesop, Inc., Concord, NH; American Induction Heating Corporation, Fraser, MI; Ascent Logic Corporation, Northville, MI; Auto-Air Composites, Inc., Lansing, MI; Bencyn West LLC, North Highlands, CA; Center for Clean Industrial and Treatment Technologies (CenCITT), Houghton, MI; Corning, Inc., NY; Dow-United Technologies Composite Products, Inc., Wallingford, CT; Eaton Corporation, Cleveland, OH; FileNET Corporation, Denver, CO; The Federal Trchnology Center, North Highlands, CA; Flame Spray Industries, Inc., Port Wahington, NY; Gensym Corporation, Cambridge, MA; Hewlett-Packard Company, Kirkland, Quebec, CANADA; IBD, Inc., Winnetka, IL; Indium Corporation of America, Utica, NY; Information Transport Associates, Inc., Annapolis, MD; Iowa State University, Ames, IA; Michigan Virtual Automotive College, Ann Arbor, MI; Midwest Manufacturing Technology Corporation, St. Louis, MO; Minnesota Technology, Inc., St. Cloud, MN; MSC Software Corporation, Costa Mesa, CA; MSE Technology Applications, Inc., Butte, MT; Progressive Tool & Industries Company, Southfield, MI; Remmele Engineering, Inc., Big Lake, MN; Schafer Corporation, Albuquerque, NM; Setco Industries, Inc., Cincinnati, OH; Teknowledge Corporation, Palo Alto, CA; Trellis Software and Controls, Inc., Rochester Hills, MI; Trust Data Solutions, San Jose, CA; TRW Integrated SupplyChain Solutions, Reston, VA; University of New Hampshire, Durham, NH; and UNOVA-Industrial Automation Systems, Cincinnati, OH have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the National Center for Manufacturing Sciences, Inc. intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, the National Center for Manufacturing Sciences, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on December 20, 2000. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 01–15673 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Resource Center for Children of Prisoners

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: This is one of five solicitations to address issues of

children who have experienced parental incarceration. There will be one award for this solicitation of up to $1 million for a 36 month project. The purpose of this solicitation is to create a Resource Center for Children of Prisoners that will be responsible to provide training and technical assistance; develop a plan for a public awareness program; identify existing research and resources, including papers and publications, programs and promising practices on children/youth affected by parental incarceration; support and manage an advisory group; and develop and conduct, as appropriate, process and outcome evaluation for all awardees of the five solicitations for the Children of Prisoners funds.

Background

The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds for fiscal year 2001 for five (5) solicitations to fund projects for children of incarcerated or formerly incarcerated parents. Congress appropriated $4 million to NIC ''to work with cooperative agreements to fund private sector or not for profit groups that have effective, tested programs to help children of prisoners.'' These cooperative agreements may be for up to three (3) years.

To prepare for this solicitation, NIC convened a Children of Prisoners planning meeting, inviting federal and state government, association, academic and private provider representatives. The goals of the two-day meeting were to: (1) Identify the problems and issues that children of prisoners or former prisoners face that put them at risk of potential future delinquency; (2) identify the problems and greatest needs of incarcerated parents and caretakers of these children; (3) identify and describe evidence-based and promising approaches to support these children and prevent their future delinquency; and (4) describe and prioritize how the newly appropriated funds can best address these issues.

Based on this meeting, NIC staff is announcing the following five (5) solicitations:

1. Resource Center—(This announcement) Up to $1 million for a 36 month project will be awarded to one (1) organization or group (joint applications are encouraged) to provide training and technical assistance, develop a plan for a public awareness program, support and manage an advisory group, and develop and conduct, as appropriate, process and outcome evaluations with awardees.

2. Planning Awards—Three (3), 18-month planning awards, of up to $100,000 for each award, will be made to three private and non profit agencies in three different jurisdictions. The purpose of this solicitation is to assist three (3) jurisdictions to develop a comprehensive plan for the delivery of services to a clearly identified target population of children/youth who have been traumatized or damaged as a result of parental incarceration. These awards will be given to agencies that create or build on an existing collaborative planning process. All applications must include the appropriate Federal, State and/or local agency/agencies.

3. Awards to Communities with High Crime and High Incarceration Rates—Up to $1.675 million will be awarded to three (3) to five (5) private and/or non profit agencies working with children living in communities with high crime and incarceration rates. The purpose is to develop three-year demonstration programs. Up to one year may be spent planing the programs, the second and third years will focus on program implementation and evaluation.

4. Children of Parents in Prison—Three-year demonstration awards to two (2) agencies that work with children of parents held in State or Federal prisons. A total of $500,000 will be available for these awards. One award will for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

5. Children of Parents in Jail—Three-year demonstration awards to two (2) agencies that work with children of parents in jail. A total of $500,000 will be available for these awards. One award will be for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

Applicants may apply for more than one solicitation.

Information About This Population

According to Senate Report 106–404 from the FY 2001 DOJ appropriations bill, ''* * * children of prisoners are six times more likely than other children to be incarcerated at some point in their lives * * *.'' Yet, little research and few programs have targeted children of offenders.

The number of men and women confined in prisons and jails has increased in the 1990s from just under 1.2 million to 1.9 million. The Bureau of Justice Statistics in its August 2000 Bulletin, ''Incarcerated Parents and Their Children,'' states that 721,500 State and Federal inmates are parents to nearly 1.5 million children under the age of 18, an increase of 500,000 children in the past 8 years. This means that 2.1% of all children in the United States have a parent in State or Federal prison. The number of children of parents in detention is not known, but half of all youth in custody have apparent or close relative who has been in jail.

Prior to prison admission, 64% of the women and 44% of the men lived with their children. Once incarcerated, 90% of the men indicated that at least one child lived with his/her mother; 28% of the women said the father was the child's care giver. One in five of these children was under 5 years of age, and the majority were less than 10 years old. Black children were nearly 9 times more likely to have a parent in prison than white children, and Hispanic children were 3 times more likely than white children to have an imprisoned parent.

While the number of fathers in prison far outweighs the number of mothers, it is mostly the mothers who were primary care givers before incarceration. When fathers are incarcerated, the care giver usually becomes the mother; when the mother is confined, the care giver often becomes the child's grandparent or other relative. Three of four parents in State prisons reported a prior conviction compared to one out of three in Federal prisons. Many children, then, have experienced more than one parental separation.

Parental arrest and confinement lead to stress, trauma, stigmatization and separation problems for the children. These problems are coupled with existing problems that include poverty, violence, parental substance abuse, high crime environment, intrafamily abuse, abuse and neglect, multiple care givers and/or prior separations. As a result, these children often exhibit a broad variety of behavioral, emotional, health, and educational problems that are compounded by the pain of separation.

Denise Johnston from the Center for Children of Incarcerated Parents in California found that early childhood (between the ages of 2–6) may be the most damaging time for parent-child separation as the child remembers the trauma but cannot adjust to it without help. If these children do not receive assistance or cannot process the separation for themselves, their behaviors can become increasingly maladaptive as they grow up, leading to strong negative feelings about the criminal justice and welfare systems, delinquency, poor school performance and other antisocial behaviors.

There are a handful of programs around the country that work with these children. The Child Welfare League of America has published, ''Working with

Children and Families Separated by incarceration,'' a handbook for child welfare agencies and staff. There is also a major initiative funded by the U.S. Department of Health and Human Services the goals of which are to: (1) develop a research and practice baseline on the effects of incarceration on prisoners and their children, families and communities; (2) document the intersection of populations within the criminal justice system and populations served by HHS programs; (3) determine unmet health and human services needs of offenders and their families left behind in the community; and (4) ensure that HHS takes into account the effects of incarceration on the children and families of inmates. HHS has commissioned a literature review and nine papers to explore what is known and knowable about these issues.

Goals and Objectives of This Award

The Resource Center will provide many different services. Its target audience are all awardees of Children of Prisoners cooperative agreements, and the criminal justice, health and human services and child welfare communities. Joint applications are encouraged.

Goal 1: Develop and disseminate information about the effects on children/youth of parental separation due to the latter's incarceration and on research, tested experience and promising practices that increased the stability and positive outcomes for these children.

Objectives

1. Develop a plan for an awareness dissemination program on child/parent separation targeted at constituent groups.
2. Develop a plan for training and technical assistance to awardees and other constituent groups.
3. Staff an advisory/working group selected by NIC. It is anticipated there will be two meetings in Year 1 and one meeting each in Years 2 and 3. This group will include NIC staff and may include up to 10 representatives from constituent groups working to coordinate their respective agency efforts.
4. Identify existing research and resources including papers and publications, programs and promising practices, on children/youth affected by parental incarceration.
5. Provide training and technical assistance to awardees, as needed, both on site and by phone, and to constituency groups to increase awareness of the effects of parental incarceration on children.

Goal 2: Develop and/or assist in developing process and/or outcome evaluations for all awardees.

Objectives

1. Consult with awardees in designing and implementing appropriate data collection protocols to evaluate their planning process and service delivery programs(s)
2. Conduct evaluations, as appropriate, to assess planning and program delivery outcomes.
3. Develop a design to allow for a longitudinal study of the initiative programs if long term funding is secured.
4. All data, where possible, will be shown by gender and race.

Applicant Expertise

NIC is seeking an applicant organization or team with the necessary expertise and experience in the following areas:

1. Child development and child-family relationships, the human services, criminal and juvenile justice systems, and planning.
2. Developing and delivering training and technical assistance to a variety of audiences.
3. Developing a public awareness campaign for constituent groups.
4. Meeting planning and management, including logistics and technical support.
5. Conducting outcome evaluations.

Project Design

The project for the three-year cooperative agreement is as follows.

Year 1

1. Plan, organize and manage two advisory group meetings. Each meeting will be coordinated with NIC project staff who will select up to 10 advisory group members.
2. Plan, organize and manage a post-selection meeting, either on site at each jurisdiction or as a group in one place. The site will be determined by the needs and locations of the awardees. The purpose of the meeting(s) is to learn about each program, share ideas and concerns, describe the types of assistance the Resource Center can provide and begin the work with awardees of developing the direction of the outcome evaluations.
3. Identify existing research and resources, including papers and publications, programs and promising practices, on children/youth affected by parental incarceration.
4. Provide training to awardees and constituency groups, as needed.
5. Develop a technical assistance plan to include the types of assistance to be provided, average frequency of contacts with awardees, and how the assistance will be delivered.
6. Develop specialized training and materials for constituency groups in, at a minimum, the following areas:

a. What is known about the effects of parental incarceration on children and youth behavior.

b. The developmental needs of children and how those needs impact children when separated from their primary care taker.

c. Violence and victimization in the lives of inmates and the effects of these experiences on their ability to parent their children.

d. Promising practices that community corrections, jails, prisons, juvenile detention and secure confinement facilities can implement to promote positive child/family relationships, where appropriate. These practices may come from working with similar populations, e.g., Head Start children and parents, substance abusing parents.

e. How the correctional system can work with other systems, such as juvenile detention, child welfare, education, mental health and physical health.

The applicant will demonstrate cultural sensitivity in training program design and implementation.

8. Work with awardees to identify their evaluation needs and, where appropriate, develop and implement evaluation instrument(s). The monetary size of the direct service award will likely impact the type of evaluation selected.
9. Prepare a Year One progress report.

The NIC Project Manager will have the final review on all deliverables.

Years 2 and 3

1. Plan, organize and manage one advisory group meeting in each Year 2 and in Year 3.
2. Continue to provide training and technical assistance to awardees as they continue to plan and implement services. Identify the types of training and TA that might be provided.
3. Field test and deliver final training program to a constituent group. Indicate the criteria to be used for trainee selection.
4. Implement the public information campaign.
5. Describe how the evaluations will be conducted and the results distributed.
6. Prepare a progress report for Year Two and a final report at the end of Year Three based on the evaluations of each project.

Application Requirements

The applicant must:

1. Provide a statement of what is known about the problems that children/youth face when separated from incarcerated parents.

2. Develop a project design that meets the goals and objectives stated above, including methodology and deliverables. Include a workplan on how each task will be developed and implemented.

3. Describe the strengths of each proposed agency that will form the Resource Center.

4. Provide a management plan that includes key staff, the amount of time spent by key staff, the tasks each key staff will perform, a timeline for the first year and a proposed timeline for Years 2 and 3. Explain how the Resource Center will work with NIC.

5. Provide a budget and budget narrative for the first year and proposed budgets for Years 2 and 3. Include in the budget all expenses related to the public awareness campaign, training and technical assistance for awardees, Advisory Group meetings, and outcome evaluations.

6. Applications are limited to 25 typed, double spaced pages using a 12 point font, not including letters of support, resumes, other supporting documents and SF–424 forms. Provide 6 copies of the application, including one that is not bound. One bound copy must be signed in blue ink by the agency administrator or chief executive officer.

Authority: Public Law 93–415.

Funds Available

One award will be made for up to $1 million for a 36 month project. In addition to private and non profit agencies, educational institutions are encouraged to apply. At this time, there are no plans for additional funding in the future.

Deadline for Receipt of Applications

Applications must be received at the NIC offices by 4 p.m. EDT on August 2, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications may be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Germaine Jefferson or Bobbi Tinsley at 202–307–3106 ext. 0 for pickup.

Addresses and Further Information

Requests for the application kit, which consists of copies of this announcement and the required application forms, can be downloaded from the NIC website at *http://www.nicic.org* Click on ''Cooperative Agreements.''

All technical and/or programmatic questions concerning this announcement should be directed to Mary Whitaker at the above address or by calling 800–995–6423, extension 40378, or 202–514–0378 or by e-mail via *mwhitaker@bop.gov*

All specific questions regarding the application process should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 507, Washington, DC 20534 or by calling 800–995–6423, ext. 44222 or 202–307–3106, extension 44222 or by e-mail via *jevens@bop.gov*

Eligible Applicants: Applicants are private and not for profit agencies. Educational institutions are also encouraged to apply.

Review Considerations: Applications will be reviewed by a three- to five-member team using a peer review process.

Number of Awards: One (1).

NIC Application Number: NIC Application Number: 01K60. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424. This number must also appear on the outside of the package in which the application arrives at NIC.

(The Catalog of Federal Domestic Assistance Number: *16.602*.)

This project is not subject to the provisions of Executive Order 12372.

Dated: June 18, 2001.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 01–15688 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Planning Awards for Children of Prisoners

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: This is one of five solicitations to address planning issues for children who have experienced parental incarceration. Three (3), 18-month planning awards, each for up to $100,000 each will be made to three private and/or nonprofit agencies in three different jurisdictions. The purpose of this solicitation is to assist these jurisdictions to develop a comprehensive plan for the delivery of services to a clearly identified target population of children/youth who have been traumatized or damaged as a result of parental incarceration. The goal of the planning project is to enhance opportunities for positive life experiences and outcomes for children/youth who have suffered parental separation as a result of incarceration. These awards will be given to those agencies that create or build on an existing collaborative planning process. All applications must include the appropriate Federal, State and/or local agency/agencies.

Background

The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds for fiscal year 2001 for five (5) solicitations to fund projects for children of incarcerated or formerly incarcerated parents. Congress appropriated $4 million to NIC ''to work with cooperative agreements to fund private sector or not for profit groups that have effective, tested programs to help children of prisoners''. These cooperative agreements may be for up to three (3) years.

To prepare for this solicitation, NIC convened a Children of Prisoners planning meeting, inviting federal and state government, association, academic and private provider representatives. The goals of the two-day meeting were to: (1) Identify the problems and issues that children of prisoners or former prisoners face that put them at risk of potential future delinquency (2) identify the problems and greatest needs of incarcerated parents/caretakers of these children; (3) identify and describe evidence-based and promising approaches to support these children and prevent their future delinquency; and (4) describe and prioritize how the newly appropriated funds can best address these issues.

Based on this meeting, NIC staff is announcing the following five (5) solicitations:

1. *Resource Center*—Up to 41 million for a 36 month project will be awarded to one (1) organization or group (joint applications are encouraged) to provide training and technical assistance, develop a plan for a public awareness program, support and manage an advisory group, and develop and conduct, as appropriate, process and outcome evaluations with awardees.

2. *Planning Awards*—(This announcement) Three (3), 18-month planning awards, of up to $100,000 each will be made to three private or non

profit agencies in three different jurisdictions. The purpose of this solicitation is to assist three (3) jurisdictions to develop a comprehensive plan for the delivery of services to a clearly identified target population of children/youth who have been traumatized or damaged as a result of parental incarceration. These awards will be given to agencies that create or build on an existing collaborative planning process. All applications must include the appropriate Federal, State and/or local agency/agencies.

3. *Awards to Communities with High Crime and High Incarceration Rates*—Up to $1.675 million will be awarded to three (3) to five (5) private and/or non profit agencies working with children living in communities with high crime and incarceration rates. The purpose is to develop three-year demonstration programs. Up to one year will be spent planning the programs, the second and third years will focus on program implementation and evaluation.

4. *Children of Parents in Prison*—Three-year demonstration awards to two (2) agencies that work with children of parents held in State or Federal prisons. A total of $500,000 will be available for these awards. One award will for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

5. *Children of Parents in Jail*—Three-year demonstration awards to two (2) agencies that work with children of parents in jail. a total of $500,000 will be available for these awards. One award will be for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

Applicants may apply to more than one solicitation.

Information on this population: According to Senate Report 106–404 from FY2001 DOJ appropriations bill, ''* * * children of prisoners are six times more likely than other children to be incarcerated at some point in their lives * * *''. Yet, little research and few programs have targeted children of offenders.

The number of men and women confined in prisons and jails has increased in the 1990s from just under 1.2 million to 1.9 million. The Bureau of Justice Statistics in its August 2000 bulletin, ''Incarcerated Parents and Their Children'', states that 721,500 State and Federal inmates are parents to nearly 1.5 million children under the age of 18, an increase of 500,000 children in the past 8 years. This means that 2.1% of all children in the United States have a parent in State or Federal prison. The number of children of parents in detention is not known, but half of all youth in custody have a parent or close relative who has been in jail.

Prior to prison admission, 64% of the women and 44% of the men lived with their children. Once incarcerated, 90% of the men indicated that at least one child lived with his/her mother; 28% of the women said the father was the child's care giver. One in five of these children was under 5 years of age, and the majority were less than 10 years old. Black children were nearly9 times more likely to have a parent in prison than white children, and Hispanic children were 3 times more likely than white children to have an imprisoned parent.

While the number of fathers in prison far outweighs the number of mothers, it is mostly the mothers who were primary care givers before incarceration. When fathers are incarcerated, the care giver usually becomes the mother; when the mother is confined, the care giver often becomes the child's grandparent or other relative. Three of four parents in State prisons reported a prior conviction compared to one out of three in Federal prisons. Many children, then, have experienced more than one parental separation.

Parental arrest and confinement lead to stress, trauma, stigmatization and separation problems for the children. These problems are coupled with existing problems that include poverty, violence, parental substance abuse, high crime environments, intrafamily abuse, abuse and neglect, multiple care givers and/or prior separations. As a result, these children often exhibit a broad variety of behavioral, emotional, health and educational problems that are compounded by the pain of separation.

Denise Johnston from the Center for Children of Incarcerated parents in California found that early childhood (between the ages of 2–6) may be the most damaging time for parent-child separation as the child remembers the trauma but cannot adjust to it without help. If these children do not receive assistance or cannot process the separation for themselves, their behaviors can become increasingly maladaptive as they grow up, leading to strong negative feelings about the criminal justice and welfare systems, delinquency, poor school performance and other antisocial behaviors.

There are a handful of programs around the country that work with these children. The Child Welfare League of America has published, ''Working with Children and Families Separated by Incarceration'', a handbook for child welfare agencies and staff. There is also a major initiative funded by the U.S. Department of Health and Human Services, the goals of which are to: (1) Develop a research and practice baseline on the effects of incarceration on prisoners and their children, families and communities; (2) document the intersection of populations within the criminal justice system and populations served by HHS programs; (3) determine unmet health and human services needs of offenders and their families left behind in the community; and (4) ensure that HHS takes into account the effects of incarceration on the children and families of inmates. HHS has commissioned a literature review and nine papers to explore what is known and knowable about these issues.

Statement of Principles: NIC requires that the planning process will adhere to the following principles:

1. Be child focused as the goal is to help the child become stable and self assured with a strong, positive sense of self.

2. Explain which stage(s) of child development will be addressed. Programs will focus on infancy, early or middle childhood, and/or early or late adolescence.

3. Ensure that programs have a sound theoretical basis.

4. Incorporate what is known about the crisis issues around separation of the child from his/her parent.

5. Improve the child/family relationship, where appropriate, by creating a family-friendly planning environment and subsequent program delivery.

6. Add to the current limited body of research on these children.

7. Include a ''collaborative'' planning group that will continue into the service delivery phase. The ''collaborative'' will include the lead agency, appropriate governmental agencies, and others as appropriate, such as private providers, advocacy groups, academic institutions, and public schools.

Resource Assistance: Once an award has been made for the Resource Center solicitation, awardees will receive training and technical assistance, as needed, from Resource Center staff. The length and scope of this assistance will depend on the awardees' specific interests. The Resource Center will also provide assistance in developing and implementing the outcome evaluations that will accompany each cooperative agreement and will budget for this assistance. The Resource Center will be responsible for developing a data collection plan for the outcome evaluations. Awardees of this solicitation will be responsible for collecting the data. Awardees will also

develop and conduct their process evaluation.

Goals and Objectives of This Solicitation: The purpose of these cooperative agreements is to assist three (3) jurisdictions to develop a comprehensive plan for delivery of services to a clearly identified target population of children/youth who have been traumatized or damaged as a result of parental incarceration. The goal of the planning project is to enhance opportunities for positive life experiences and outcomes for children/youth who have suffered parental separation as a result of incarceration. The objectives are to:

1. Undertake a collaborative planning process with the relevant government and private/community agencies which will result in:

a. The development of a comprehensive plan for the delivery of services to children of incarcerated or formerly incarcerated parents and

b. A final report to NIC that describes the results of the process evaluation and provides a summary of the comprehensive plan, the implementation timeliness and proposed funding strategies.

2. Demonstrate how additional funds will be leveraged to enhance the planning project and ensure its continuation into the program delivery stage.

3. Identify one or more child development stages on which the project will focus.

4. Demonstrate cultural sensitivity in planning and program design.

Application Requirements: The applicant must:

1. Identify the specific agencies that will be part of the planning collaborative project. Provide the name, position and level of responsibility for each proposed member of the planning group. Explain the reasons for each agency's inclusion. Include a letter of support from each government agency and from at least half of the remaining agencies. Each agency's representative should have sufficient authority to make decisions for his/her respective agency.

2. Provide a statement of the problems children/youth of incarcerated parents face in your jurisdiction.

3. Identify the goals and objectives of the planning process.

4. Describe the project methodology, including the planning collaborative's proposed tasks, resource needs, and the roles and responsibilities of the lead agency and collaborative agencies.

5. Describe how implementation funds will be secured, including any commitment letters that have been obtained during the proposal development process.

6. Describe the goals of the process evaluation and your approach to developing and conducting the evaluation.

7. Provide a budget summary and budget narrative for the full 18 months, including budgeting for the process evaluation.

8. Prepare a final report that includes, but is not limited to, the process evaluation, proposed project design, implementation timeline and funding strategies.

9. Applications are limited to 25 double spaced pages using a 12 point font, not including letters of support, resumes, other supporting documents and SF–424 forms. Provide 6 copies of the application, including one that is not bound. One unbound copy must be signed in blue ink by the agency administrator or chief executive officer.

Authority: Public Law 93–415.

Funds Available: There is funding for three (3) cooperative agreement planning projects. Applicant agencies may be any private or non-profit organization working in close collaboration with the appropriate government agencies. Each award will be up to $100,000 for an 18 month project. Applicants are encouraged to submit joint applications with other agencies in their jurisdictions. At this time, there are no plans for additional funding in the future.

Deadline for Receipt of Applications: Applications must be received at the NIC offices by 4 p.m. EDT on August 2, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications may be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Germaine Jefferson or Bobbi Tinsley at 202–307–3106 ext. 0 for pickup.

Addresses and Further Information: Requests for the application kit, which consists of copies of this announcement and the required forms, should be downloaded from the NIC website at *http://www.nicic.org* Click on ''Cooperative Agreements''.

All technical and/or programmatic questions concerning this announcement should be directed to Mary Whitaker at the above address or by calling 800–995–6423, extension 40378, or 202–514–0378 or by e-mail via *mwhitaker@bop.gov*

All specific questions regarding the application process should be directed to Judy Evans, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 44222 or 202–307–3106, extension 44222 or by e-mail via *jevens@bop.gov*

Eligible Applicants: Applicants are private and not for profit agencies. Public corrections and human services (government) agencies are not eligible to apply for these funds. Appropriate government agencies, e.g., juvenile detention centers and probation agencies, jails, prisons, community based facilities, and private juvenile and adult correctional facilities, must be included in the planning process and must submit letters of support.

Review Considerations: Applications will be reviewed by a three- to five-member team using a peer review process.

Number of Awards: Three (3).

NIC Application Number: NIC application number: 01K61. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424. It must also appear on the outside of the package in which the application arrives at NIC.

Catalog of Federal Domestic Assistance Number: 16.602. This application is not subject to Executive Order 12372.

Dated: June 18, 2001.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 01–15689 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Children of Prisoners From High Crime/Incarceration Communities

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: This is one of five solicitations to address issues of children who have experienced parental incarceration. Up to $1.675 million will be awarded to three (3) to five (5) private and/or non profit agencies for 36 months. The purpose is to develop three-year demonstration programs to enhance opportunities for positive life experiences and outcomes for children/youth living in communities which have high crime and/or incarceration rates. Up to one year may be spent planning the programs, the second and

third years will focus on program implementation and evaluation.

Background

The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds for fiscal year 2001 for five (5) solicitations to fund projects for children of incarcerated or formerly incarcerated parents. Congress appropriated $4 million to NIC ''to work with cooperative agreements to fund private sector or not for profit groups that have effective, tested programs to help children of prisoners''. These cooperative agreements may be for up to three (3) years.

To prepare for this solicitation, NIC convened a Children of Prisoners planning meeting, inviting federal and state government, association, academic and private provider representatives. The goals of the two-day meeting were to: (1) Identify the problems and issues that children of prisoners or former prisoners face that put them at risk of potential future delinquency; (2) identify the problems and greatest needs of incarcerated parents/caretakers of these children; (3) identify and describe evidence-based and promising approaches to support these children and prevent their future delinquency; and (4) describe and prioritize how the newly appropriated funds can best address these issues.

Based on this meeting, NIC staff is announcing the following five (5) solicitation:

1. *Resource Center*—Up to $1 million for 36 months will be awarded to one (1) organization or group (joint applications are encouraged) to provide training and technical assistance, develop a plan for a public awareness program, support and manage an advisory group, and develop and conduct, as appropriate, process and outcome evaluations with awardees.

2. *Planning Awards*—Three (3), 18-month planning awards, of up to $100,000 each will be made to three private or non profit agencies in three different jurisdictions. The purpose of this solicitation is to assist three (3) jurisdictions to develop a comprehensive plan for the delivery of services to a clearly identified target population of children/youth who have been traumatized or damaged as a result of parental incarceration. These awards will be given to agencies that create or build on an existing collaborative planning process. All applications must include the appropriate Federal, State and/or local agency/agencies.

3. *Awards to Communities with High Crime and High Incarceration Rates*—(This announcement) Up to $1.675 million will be awarded to three (3) to five (5) private and/or non profit agencies working with children living in communities with high crime and incarceration rates. The purpose is to develop three-year demonstration programs. Up to one year will be spent planning the programs, the second and third years will focus on program implementation and evaluation.

4. *Children of Parents in Prison*—(This announcement) Three-year demonstration awards to two (2) agencies that work with children of parents held in State or Federal prisons. A total of $500,000 will be available for these awards. One award will be $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

5. *Children of Parents in Jail*—Three-year demonstration awards to two (2) agencies that work with children of parents in jail. A total of $500,000 will be available for these awards. One award will be for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

Applicants may apply for more than one solicitation.

Information About This Population: According to Senate Report 106–404 from the FY2001 DOJ appropriations bill, ''* * * children of prisoners are six times more likely than other children to be incarcerated at some point in their lives * * *''. Yet, little research and few programs have targeted children of offenders.

The number of men and women confined in prisons and jails has increased in the 1990s from just under 1.2 million to 1.9 million. The Bureau of Justice Statistics in its August 2000 Bulletin, ''Incarcerated Parents and Their Children'', states that 721,500 State and Federal inmates are parents to nearly 1.5 million children under the age of 18, an in crease of 500,000 children in the past 8 years. This means that 2.1% of all children in the United States have a parent in State or Federal prison. The number of children of parents in detention is not known, but half of all youth in custody have a parent or close relative who has been in jail.

Prior to prison admission, 64% of the women and 44% of the men lived with their children. Once incarcerated, 90% of the men indicated that at least one child lived with his/her mother; 28% of the women said the father was the child's care giver. One in five of these children was under 5 years of age, and the majority were less than 10 years old. Black children were nearly 9 times more likely to have a parent in prison than white children, and Hispanic children were 3 times more likely than white children to have an imprisoned parent.

While the number of fathers in prison far outweighs the number of mothers, it is mostly the mothers who were primary care givers before incarceration. When fathers are incarcerated, the care giver usually becomes the mother; when the mother is confined, the care giver often becomes the child's grandparent or other relative. Three of four parents in State prisons reported a prior conviction compared to one out of three in Federal prisons. Many children, then, have experienced more than one parental separation.

Parental arrest and confinement lead to stress, trauma, stigmatization and separation problems for the children. These problems are coupled with existing problems that include poverty, violence, parental substance abuse, high crime environments, intrafamily abuse, abuse and neglect, multiple care givers and/or prior separations. As a result, these children often exhibit a broad variety of behavioral, emotional, health and educational problems that are compounded by the pain of separation.

Denise Johnston from the Center for Children of Incarcerated Parents in California found that early childhood (between the ages of 2–6) may be the most damaging time for parent-child separation as the child remembers the trauma but cannot adjust to it without help. For those who do not receive assistance or who cannot process the separation for themselves, these children's behaviors can become increasingly maladaptive as they grow up, leading to strong negative feelings about the criminal justice and welfare systems, delinquency, poor school performance and other antisocial behaviors.

There are a handful of programs around the country that work with these children. The Child Welfare League of America has published, ''Working with Children and Families Separated by Incarceration'', a handbook for child welfare agencies and staff. There is also a major initiative funded by the U.S. Department of Health and Human Services, the goals of which are to: (1) Develop a research and practice baseline on the effects of incarceration on prisoners and their children, families and communities; (2) document the intersection of populations within the criminal justice system and populations served by HHS programs; (3) determine unmet health and human services needs of offenders and their families left behind in the community; and (4) ensure that HHS takes into account the

effects of incarceration on the children and families of inmates. HHS has commissioned a literature review and nine papers to explore what is known and what is knowable about these issues.

Statement of Principles: NIC requires that all proposals will:

1. Be child focused as the goal is to help the child become stable and self assured with a strong, positive sense of self.
2. Explain which stage(s) of child development will be addressed. Programs will focus on infancy, early or middle childhood, and/or early or late adolescence.
3. Ensure that programs have a sound theoretical basis.
4. Incorporate what is known about the crisis issues around separation of the child from his/her parent.
5. Improve the child/family relationship, where appropriate, by creating a family-friendly planning environment and subsequent program delivery.
6. Add to the current limited body of research on these children.
7. Include a ''collaborative'' planning group that will continue into the service delivery phase. The ''collaborative'' will include the lead agency, appropriate governmental agencies, and others as appropriate, such as private providers, advocacy groups, academic institutions, and public schools.

Resource Assistance: Once an award has been made for the Resource Center solicitation, awardees will receive training and technical assistance, as needed, from Resource Center staff. The length and scope of this assistance will depend on the awardees' specific interests. The Resource Center will also provide assistance in developing and implementing the outcome evaluations that will accompany each cooperative agreement and will budget for this assistance. The Resource Center will be responsible for developing a data collection plan for the outcome evaluations. Awardees for this solicitation will be responsible for collecting the data. Awardees will also develop their own process evaluations.

Up to one year may be spent planning and developing services. If that is the case, the implementation phase (Years 2 and 3) will not be as detailed as the planning phase, but it will include an outline of what the collaborative hopes to achieve and how they hope to achieve it.

Goals and Objectives of this Solicitation: Cooperative agreements will be awarded to agencies operating in communities with high crime and high incarceration rates. The twin goals are to reduce children's trauma, stigmatization and stress of separation caused by parental incarceration and enhance opportunities for positive life experiences and outcomes for children/youth whose parents have experienced incarceration. Up to one year may be spent developing a service delivery plan that will include, but not be limited to, data collection and analysis that will define the problem, identifying the target population, resources needed, types of service options and a process evaluation.

The plan will identify the developmental stage(s) of the target population and will look to provide a continuum of services across criminal and juvenile justice, child welfare, education and health, employment and housing systems. It will also take into account the cultural diversity of the community. Where possible, it will include the identification of additional funding from other sources, either public or private, to ensure that the services will continue beyond NIC's three-year funding commitment.

This plan will be developed by a group of collaborating agencies that will have direct involvement in its implementation. Among the types of potential types of agencies that may be included are local service providers, researchers, government agencies (e.g., criminal and juvenile justice, child welfare), educators, medical and mental health providers and advocacy groups).

These awards will encourage communities to focus on multi-systemic approaches to alleviating the range of problems associated with children/youth of incarcerated parents. The goal of this project is work with children and the communities in which they live, using positive child and family focused strategies that have shown promising or significant outcomes with similar populations, e.g., low income, at risk children and youth.

It is understood that, when working with children/youth in high crime/high incarceration communities, not all children involved with a program will have experienced parental incarceration. It will be the responsibility of the awardee to, at some point in the program, define which children have or have not had an incarcerated parent and keep records on each separate group.

The following three objectives will be required: (1) Develop services that improve child/parent relationships, where appropriate; (2) approach the services from a child development perspective; and (3) demonstrate cultural sensitivity in program design and implementation. Additional objectives will include four or more of the following:

- Reduce violence, including family violence, maltreatment, stress and other trauma in children's lives and the lives of their care givers.
- Approach the planning process and service delivery system from a child development perspective.
- Develop education goals that measure academic and other school successes.
- Develop and implement a parenting education program.
- Provide wraparound services for children/youth.
- Develop supportive relationships between child and primary care giver and/or mentor.
- Develop and implement strategies to positively integrate children into the life of the community.
- Improve housing/living environment and parental employment capabilities and opportunities within the community.
- Improve medical and mental health services and access to them for children/youth and their care givers.
- Assess the quality of care a child/youth receives while the parent is incarcerated and develop a plan to address any deficiencies.

Assess existing community support for these children/youth.

If there are additional outcomes that are appropriate for your community, include them in the proposal.

Each proposal will include process and outcome evaluations in order to demonstrate the effectiveness of the planning and service delivery methods. The Resource Center will provide assistance in designing evaluation instruments and will conduct the outcome evaluation. The Resource Center will include funds for the outcome evaluation. It will be up to the awardees to collect the data for the outcome evaluation instrument designed by the Resource Center. Awardees will develop, implement and budget for their own process evaluation.

Application Requirements: The applicant must:

1. Provide a statement of the problem that includes, but is not limited to, data to demonstrate that the proposed jurisdiction is a high crime/high incarceration jurisdiction; issues faced by children/youth separated from their primary care givers; identification of the target population and the reasons for their selection; and a description of the community's cultural characteristics. It will also address child development stages and how separation from parents may impact children/youth at each of these stages.

2. Describe the planning and service delivery goals and objectives within a continuum of services based on what is known about the general developmental needs of these children/youth.

3. Describe the planning process and service delivery project(s) as they related to the goals and objectives. If there is a substantial planning process, the service delivery program may not be described in detail as it will result from the planning process. However, the proposal should include the types of programs that will be considered, the resources required and the ages of the children/youth to be served.

4. Describe the planning process that will occur during Year 1, including , but not limited to, the following:

a. Identify the specific agencies or types of agencies that will be part of the planning collaborative and the constituencies they represent. The relevant government agencies must be included. Letters of support must be provided from all government agencies and at least half of the remaining agencies.

b. Identify the goals and objectives of the planning process.

c. Describe the planning design, including, but not limited to, the planning collaborative's proposed tasks and the roles and responsibilities of the lead agency and collaborative agencies. Each agency's representative should have sufficient authority to make decisions for his/her respective agency.

e. Describe how additional funds, if any, will be secured, including commitment letters that have been obtained during the application process.

f. Present a timeline for the plan.

g. Describe the purpose of the process evaluation, how it will be developed and who will conduct it. Describe the process for conducting the outcome evaluation.

h. Present a three-year management plan, describe the experience and expertise of key staff, including resumes, and how they will work with NIC and Resource Center staff.

i. Develop a budget and budget narrative for Year 1, including funding for the process evaluation.

5. By the end of the planning process, develop the implementation plan for Years 2 and 3 that includes a service delivery model. The plan will include, but not be limited to:

a. The theoretical reasons behind the interventions chosen for the implementation.

b. Multi-system approaches to developing intervention programs.

c. Multi-agency collaboration for the delivery of services.

d. Continuum of care model.

e. Programs that account for the developmental stages of the targeted population of children/youth.

f. Process for identifying children who have experienced parental incarceration and separate record keeping to articulate differences, if any, with children whose parents have not been incarcerated.

g. Continuation of the planning collaborative beyond this funding initiative.

h. Timeline for implementation and evaluation, including proposed impact on the targeted population.

i. Estimated budgets for Years 2 and 3.

NIC will approve all service delivery plans prior to implementation.

6. Prepare a yearly and final project report.

7. Applications are limited to 25 double spaced pages using a 12 point font, not including letters of support, resumes, other supporting documents and SF–424 forms. Provide 6 copies of the application, including one that is not bound. One unbound copy must be signed in blue ink by the agency administrator or chief executive officer.

Authority: Public Law 93–415.

Funds Available: There is $1.675 million available for three to five cooperative agreement awards. Each award will be for a 36 month project. Awards will be made to private and/or non profit agencies working collaboratively with appropriate government agencies. At this time, there are no plans for additional funding in the future.

Deadline for Receipt of Application: Applications must be received at the NIC offices by 4 p.m. EDT on August 2, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications may be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Germaine Jefferson or Bobbi Tinsley at 202–307–3106 ext. 0 for pickup.

Addresses and Further Information: Requests for the application kit, which consists of copies of this announcement and the required forms, should be downloaded from the NIC website at *http://www/nicic.org.* Click on ''Cooperative Agreements''.

All technical and/or programmatic questions concerning this announcement should be directed to Mary Whitaker at the above address or by calling 800–995–6423, extension 40378, or 202–514–0378 or by e-mail via *mwhitaker@bop.gov*

All specific questions regarding the application process should be directed to July Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 44222 or 202–307–3106, extension 44222 or by e-mail via *jevens@bop.gov*

Eligible Applicants: Applicants are restricted to private and not for profit agencies as government agencies are not eligible to apply for these funds. Appropriate government agencies, e.g., juvenile detention centers and probation agencies, jails, prisons, community based facilities, and private juvenile and adult correctional facilities, must be included in the planning process and will be required to submit letters of support.

Review Considerations: Applications will be reviewed by a three-to five-member team using a peer review process.

Number of Awards: Three (3) to five (5)

NIC Application Number: NIC application number is 01K62. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424. This number must also appear on the outside of the package in which the application arrives at NIC.

Catalog of Federal Domestic Assistance: 16.602. This application is not subject to Executive Order 12372.

Dated: June 18, 2001.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 01–15690 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Children With Parents in Prison

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: This is one of five solicitations to address issues of children who have experienced parental incarceration. A total of $500,000 is available for two awards, one for $30,000 per year and one for $135,000 per year for a period of 3 years. The purpose of this solicitation is to provide a three year demonstration program for children whose primary parent is held in state or federal prison.

Background: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the

availability of funds for fiscal year 2001 for five (5) solicitations to fund projects for children of incarcerated or formerly incarcerated parents. Congress appropriated $4 million to NIC ''to work with cooperative agreements to fund private sector or not for profit groups that have effective, tested programs to help children of prisoners''. These cooperative agreements may be for up to three (3) years.

To prepare for this solicitation, NIC convened a Children of Prisoners planning meeting, inviting federal and state government, association, academic and private provider representatives. The goals of the two-day meeting were to: (1) Identify the problems and issues that children of prisoners of former prisoners face that put them at risk of potential future delinquency; (2) identify the problems and greatest needs of incarcerated parents/caretakers of these children; (3) identify and describe evidence-based and promising approaches to support these children and prevent their future delinquency; and (4) describe and prioritize how the newly appropriated funds can best address these issues.

Based on this meeting, NIC staff is announcing the following five (5) solicitations:

1. Resource Center—Up to $1 million for 36 months will be awarded to one (1) organization or group (joint applications are encouraged) to provide training and technical assistance, develop a plan for a public awareness program, support and manage an advisory group, and develop and conduct, as appropriate, process and outcome evaluations with awardees.

2. Planning Awards—Three (3), 18-month planning awards, of up to $100,000 each will be made to three private or non profit agencies in three different jurisdictions. The purpose of this solicitation is to assist three (3) jurisdictions to develop a comprehensive plan for the delivery of services to a clearly identified target population of children/youth who have been traumatized or damaged as a result of parental incarceration. These awards will be given to agencies that create or build on an existing collaborative planning process. All applications must include the appropriate Federal, State and/or local agency/agencies.

3. Awards to Communities with High Crime and High Incarceration Rates—Up to $1.675 million will be awarded to three (3) to five (5) private and/or non profit agencies with children living in communities with high crime and incarceration rates. The purpose is to develop three-year demonstration programs. Up to one year will be spent planning the programs, the second and third years will focus on program implementation and evaluation.

4. Children of Parents in Prison—(This announcement) Three-year demonstration awards to two (2) agencies that work with children of parents held in State or Federal prisons. A total of $500,000 will be available for these awards. One award will be for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

5. Children of Parents in Jail—Three year demonstration awards to two (2) agencies that work with children of parents in jail. A total of $500,000 will be available for these awards. One award will be for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

Applicants may apply for more than one solicitation.

Information About This Population: According to Senate Report 106–404 from the FY2001 DOJ appropriations bill, ''* * * children of prisoners are six times more likely than other children to be incarcerated at some point in their lives * * *''. Yet, little research and few programs have targeted children of offenders.

The number of men and women confined in prisons and jails has increased in the 1990s from just under 1.2 million to 1.9 million. The Bureau of Justice Statistics in its August 2000 Bulletin, ''Incarcerated Parents and Their Children'', states that 721,500 State and Federal inmates are parents to nearly 1.5 million children under the age of 18, an increase of 500,000 children in the past 8 years. This means that 2.1% of all children in the United States have a parent in State or Federal prison. The number of children of parents in detention is not known, but half of all youth in custody have a parent or close relative who has been in jail.

Prior to prison admission, 64% of the women and 44% of the men lived with their children. Once incarcerated, 90% of the men indicated that at least one child lived with his/her mother; 28% of the women said the father was the child's care giver. One in five of these children was under 5 years of age, and the majority were less than 10 years old. Black children were nearly 9 times more likely to have a parent in prison than white children, and Hispanic children were 3 times more likely than white children to have an imprisoned parent.

While the number of fathers in prison far outweighs the number of mothers, it is mostly the mothers who were primary care givers before incarceration. When fathers are incarcerated, the care giver usually becomes the mother; when the mother is confined, the care giver often becomes the child's grandparent or other relative. Three of four parents in State prisons reported a prior conviction compared to one out of three in Federal prisons. Many children, then, have experienced more than one parental separation.

Parental arrest and confinement lead to stress, trauma, stigmatization and separation problems for the children. These problems are coupled with existing problems that include poverty, violence parental substance abuse, high crime environments, intrafamily abuse, abuse and neglect, multiple care givers and/or prior separations. As a result, these children often exhibit a broad variety of behavioral, emotional, health and educational problems that are compounded by the pain of separation.

Denise Johnston from the Center for Children of Incarcerated Parents in California found that early childhood (between the ages of 2–6) may be the most damaging time for parent-child separation as the child remembers the trauma but cannot adjust to it without help. For those who do not receive assistance or who cannot process the separation for themselves, these children's behaviors can become increasingly maladaptive as they grow up, leading to strong negative feelings about the criminal justice and welfare systems, delinquency, poor school performance and other antisocial behaviors.

There are a handful of programs around the country that work with these children. The Child Welfare League of America has published, ''Working with Children and Families Separated by Incarceration'', a handbook for child welfare agencies and staff. There is also a major initiative funded by the U.S. Department of Health and Human Services, the goals of which are to: (1) Develop a research and practice baseline on the effects of incarceration on prisoners and their children, families and communities; (2) document the intersection of populations within the criminal justice system and populations served by HHS programs; (3) determine unmet health and human services needs of offenders and their families left behind in the community; and (4) ensure that HHS takes into account the effects of incarceration on the children and families of inmates. HHS has commissioned a literature review and nine papers to explore what is known and knowable about these issues.

Statement of Principles: NIC requires that all proposals will:

1. Be child focused as the goal is to help the child become stable and self assured with a strong, positive sense of self.

2. Explain which stage(s) of child development will be addressed. Programs will focus on infancy, early or middle childhood, and/or early or late adolescence.

3. Ensure that programs have a sound theoretical basis.

4. Incorporate what is known about the crisis issues around separation of the child from his/her parent.

5. Improve the child/family relationship, where appropriate, by creating a family-friendly planning environment and subsequent program delivery.

6. Add to the current limited body of research of these children.

7. Include a ''collaborative'' planning group that will continue into the service delivery phase. The ''collaborative'' will include the lead agency, appropriate governmental agencies, and others as appropriate, such as private providers, advocacy groups, academic institutions, and public schools.

Resource Assistance: Once an award has been made for the Resource Center solicitation, awardees will receive training and technical assistance, as needed, from Resource Center staff. The length and scope of this assistance will depend on the awardees' specific interests. The Resource Center will also provide assistance in developing and implementing the outcome evaluations that will accompany each cooperative agreement and will budget for this assistance. The Resource Center will be responsible for developing a data collection plan for the outcome evaluations. Awardees of this solicitation will be responsible for collecting the data. Awardees will also develop their own process evaluations.

Up to one year may be spent planning and developing services. If that is the case, the implementation phase (Years 2 and 3) will not be as detailed as the planning phase, but it will include an outline of what the collaborative hopes to achieve and how they hope to achieve it.

Goals and Objectives of This Solicitation: The twin goals of these awards are to: (1) Reduce children's trauma, stigmatization and stress of separation caused by parental incarceration of the primary parent in prison, and (2) enhance opportunities for positive life experiences and out comes for children/youth whose primary parents has experienced incarceration. The parent may no longer be in prison to be eligible for services, but the original contact must have been made when he/she are incarcerated.

The following three objectives will be required: (1) Improve child-parent relationships, where appropriate; (2) approach the services from a child development perspective; and (3) demonstrate cultural sensitivity in program design and implementation. Additional objectives will include one or more of the following:

- Reduce violence, including family and community violence, maltreatment, and other trauma, in children's lives.
- Develop educational goals that measure academic and other school success for children/youth.
- Develop and implement a parenting education program.
- Develop a mentoring program.
- Provide wraparound services for children.
- Develop supportive relationships between child and primary care giver.
- Develop and implement strategies to positively integrate children into the community.
- Improve housing/living environment for the family and parental employment capabilities and opportunities within the community.
- Improve medical and mental health services and access to them for children/youth and their care givers.
- Work cooperatively with prison staff to develop family-friendly visiting experiences.
- Assess existing community support for these children/youth.
- Examine how the Adoption and Safe Families Act time limits have affected incarcerated parents and children; identify children of incarcerated parents in foster care and kinship care.

If there are other objectives that are appropriate, include them in your proposal.

Application Requirements: Funds will be available to programs that currently work with children of prison inmates and/or to organizations looking to work with children/youth of this population. If the program already works with offenders and their children, it should describe how these new services will be incorporated into the existing services. A plan and timeline for service delivery should be provided. If the program does not now work with offenders, describe the planning process and proposed implementation strategy.

Up to one year may be spent planning for service delivery. Depending on the funding level, applicants are encouraged to form a collaborative group of representative of the community being served. This could include representatives from prison, probation and/or parole, child welfare, housing, employment, education, medicine and mental health, advocacy groups and community service providers. Each agency's representative should have sufficient authority to make decisions for his/her respective agency. The purpose is to bring together expertise from many disciplines and professions to address these issues, reach consensus on the types of programs to be provided and minimize problems that might arise during implementation.

Applicants must:

1. Prepare a statement of the problem to include, but not be limited to, identifying the target population; issues faced by children/youth separated from their primary parent; explaining the stages of child development and what is known about parental separation at different stages; describing the cultural diversity of the community; discussing what is known or needs to be learned about the effects of parental incarceration on children/youth; and describing existing services and perceived needs.

2. Define planning and service delivery goals and objectives within a continuum of services based on the developmental needs of children/youth.

3. Describe the planning process and service delivery as it relates to the goals and objectives. If the planning process is extensive, the specific service delivery plan will not be required as it will be developed through the planning process. In lieu of the service delivery plan, explain what the applicant hopes to achieve and how it will be achieved. If the applicant seeks to expand existing services, indicate the type(s) of program(s) to be included.

4. If there is an extensive planning process, the application will include the following.

Year 1 Planning:

a. Prepare a list of collaborating agencies and/or types of agencies to be included and the reasons for their inclusion. Letters of support must be included from all governmental groups and at least half of the other collaborating agencies.

b. Present a management plan that includes the tasks of the planning group, resources needed, the roles and responsibilities of the lead agency and collaborating agencies, the experience and expertise of key staff, including resumes, and how staff will work with NIC and Resource Center staff.

c. Develop a timeline for completing the plan.

d. Developing and conducting a process evaluation.

e. Prepare a budget and budget narrative, including funding for the process evaluation.

Years 2 and 3 Service Delivery Plan:

a. Explain the theoretical basis for the implementation strategies selected that are appropriate to the stages of child/youth development.

b. Use a multi-systemic approach to delivering services.

c. Prepare a proposed project design.

d. Develop a timeline for implementation.

e. Develop and conduct the outcome evaluation with the assistance of the Resource Center.

f. Identify the proposed impact on the target population.

g. Develop strategies for developing additional sources of revenue, both dollars and in-kind support, once Federal funds are no longer available.

h. Include letters of support from senior prison staff.

5. If the proposal seeks only to incorporate services into existing programs for primary caretakers in prison and/or those who have been released, a lengthy planning process is not necessary. In this case, the following requirements will be included for all three years:

a. Describe the project design and how it will be incorporated into existing services. Include a discussion of services to children/youth who are of varying ages and may need age-specific services.

b. Provide letters of support from senior prison staff.

c. Develop a timeline for implementation and evaluation.

d. Identify the proposed outcome(s) of the services.

6. Prepare a yearly and final project report.

7. Prepare a budget and budget narrative. The Year 1 budget will be detailed and the narrative the same; the budgets for Years 2 and 3 will be estimates.

8. Applications are limited to 25 typed, double spaced pages using a 12 point font, not including letters of support, resumes, other supporting documents and SF–424 forms. Provide 6 copies of the application, including one that is not bound. One unbound copy must be signed in blue ink by the agency administrator or chief executive officer.

Authority: Public Law 93–415.

Funds Available: A total of $500,000 will be available for two awards for 36 month projects. One award will be for $30,000 per year and one will be for $135,000 per year. Awards will be made to private and/or non profit agencies working collaboratively with State and/or Federal prisons and communities. At this time, there are no plans for additional funding in the future.

Deadline for Receipt of Applications: Applications must be received at the NIC offices by 4 p.m. EDT on August 2, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications may be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Germaine Jefferson or Bobbi Tinsley at 202–307–3106 ext. 0 for pickup.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit, which consists of copies of this announcement and the required forms, should be downloaded from the NIC website at *http://www.nicic.org* click on ''Cooperative Agreements''. All technical and/or programmatic questions concerning this announcement should be directed to Mary Whitaker at the above address or by calling 800–995–6423, extension 40378, or 202–514–0378 or by e-mail via *mwhitaker@bop.gov.*

All specific questions regarding the application process should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 44222 or 202–307–3106, extension 44222 or by e-mail via *jevens@bop.gov.*

Eligible Applicants: Applicants are restricted to private and not for profit agencies as government agencies are not eligible to apply for these funds. Appropriate government agencies, e.g., juvenile detention centers and probation agencies, jails, prisons, community based facilities, and private juvenile and adult correctional facilities, must be included in the planning process and will be required to submit letters of support.

Review Considerations: Applications will be reviewed by a three- to five-member team using a peer review process.

Number of Awards: Two (2).

NIC Application Number: NIC application number is 01K63. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424. This number must also appear on the outside of the package in which the application arrives at NIC.

Catalog of Federal Domestic Assistance: *16.602.*

This application is not subject to Executive Order 12372.

Dated: June 18, 2001.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 01–15691 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Children With Parents in Jail

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: This is one of five solicitations to address issues of children who have experienced parental incarceration. A total of $500,000 is available for two awards, one for $30,000 per year and one for $135,000 per year for a period of 3 years. The purpose of this solicitation is to provide a three year demonstration program for children whose primary parent is held in jail.

Background: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds for fiscal year 2001 for five (5) solicitations to fund projects for children of incarcerated or formerly incarcerated parents. Congress appropriated $4 million to NIC ''to work with cooperative agreements to fund private sector or not for profit groups that have effective, tested programs to help children of prisoners''. These cooperative agreements may be for up to three (3) years.

To prepare for this solicitation, NIC convened a Children of Prisoners planning meeting, inviting federal and state government, association, academic and private provider representatives. The goals of the two-day meeting were to: (1) Identify the problems and issues that children of prisoners or former prisoners face that put them at risk of potential future delinquency; (2) identify the problems and greatest needs of incarcerated parents/caretakers of these children; (3) identify and describe evidence-based and promising approaches to support these children and prevent their future delinquency; and (4) describe and prioritize how the newly appropriated funds can best address these issues.

Based on this meeting, NIC staff is announcing the following five (5) solicitations:

1. Resource Center—Up to $1 million for 36 months will be awarded to one

(1) organization or group (joint applications are encouraged) to provide training and technical assistance, develop a plan for a public awareness program, support and manage an advisory group, and develop and conduct, as appropriate, process and outcome evaluations with awardees.

2. Planning Awards—Three (3), 18-month planning awards, of up to $100,000 each will be made to three private or non profit agencies in three different jurisdictions. The purpose of this solicitation is to assist three (3) jurisdictions to develop a comprehensive plan for the delivery of services to a clearly identified target population of children/youth who have been traumatized or damaged as a result of parental incarceration. These awards will be given to agencies that create or build on an existing collaborative planning process. All applications must include the appropriate Federal, State and/or local agency/agencies.

3. Awards to Communities with High Crime and High Incarceration Rates—Up to $1.675 million will be awarded to three (3) to five (5) private and/or non profit agencies working with children having in communities with high crime and incarceration rates. The purpose is to develop three-year demonstration programs. Up to one year will be spent planning the programs, the second and third years will focus on program implementation and evaluation.

4. Children of Parents in Prison—Three-year demonstration awards to two (2) agencies that work with children of parents held in State or Federal prisons. A total of $500,000 will be available for these awards. One award will for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

5. Children of Parents in Jail—(This announcement) Three-year demonstration awards to two (2) agencies that work with children of parents in jail. A total of $500,000 will be available for these awards. One award will be for $30,000 per year and one will be for $135,000 a year. Planning must be an integral part of the application.

Applicants may apply for more than one solicitation.

Information About This Population: According to Senate Report 106–404 from the FY2001 DOJ appropriations bill, ''* * * children of prisoners are six times more likely than other children to be incarcerated at some point in their lives * * * ''. Yet, little research and few programs have targeted children of offenders.

The number of men and women confined in prisons and jails has increased in the 1990s from just under 1.2 million to 1.9 million. The Bureau of Justice Statistics in its August 2000 Bulletin, ''Incarcerated Parents and Their Children'', states that 721,500 State and Federal inmates are parents to nearly 1.5 million children under the age of 18, an increase of 500,000 children in the past 8 years. This means that 2.1% of all children in the United States have a parent in State or Federal prison. The number of children of parents in detention is not known, but half of all youth in custody have a parent or close relative who has been in jail.

Prior to prison admission, 64% of the women and 44% of the men lived with their children. Once Incarcerated, 90% of the men indicated that at least one child lived with his/her mother; 28% of the women said the father was the child's care giver. Once in five of these children was under 5 years of age, and the majority were less than 10 years old. Black children were nearly 9 times more likely to have a parent in prison than white children, and Hispanic children were 3 times more likely than white children to have an imprisoned parent.

While the number of fathers in prison far outweighs the number of mothers, it is mostly the mothers who were primary care givers before incarceration. When fathers are incarcerated, the care giver usually becomes the mother; when the mother is confined, the care giver often becomes the child's grandparent or other relative. Three of four parents in State prisons reported a prior conviction compared to one out of three in Federal prisons. Many children, then, have experienced more than one parental separation.

Parental arrest and confinement lead to stress, trauma, stigmatization and separation problems for the children. These problems are coupled with existing problems that include poverty, violence, parental substance abuse, high crime environments, intrafamily abuse, abuse and neglect, multiple care givers and/or prior separations. As a result, these children often exhibit a broad variety of behavioral, emotional, health and educational problems that are compounded by the pain of separation.

Denise Johnston from the Center for Children of Incarcerated Parents in California found that early childhood (between the ages of 2–6) may be the most damaging time for parent-child separation as the child remembers the trauma but cannot adjust to it without help. For those who do not receive assistance or who cannot process the separation for themselves, these children's behaviors can become increasingly maladaptive as they grow up, leading to strong negative feelings about the criminal justice and welfare systems, delinquency, poor school performance and other antisocial behaviors.

There are a handful of programs around the country that work with these children. The Child Welfare League of America has published, ''Working with Children and Families Separated by Incarceration'', a handbook for child welfare agencies and staff. There is also a major initiative funded by the U.S. Department of Health and Human Services, the goals of which are to: (1) Develop a research and practice baseline on the effects of incarceration on prisoners and their children, families and communities; (2) document the intersection of populations within the criminal justice system and populations served by HHS programs; (3) determine unmet health and human services needs of offenders and their families left behind in the community; and (4) ensure that HHS takes into account the effects of incarceration on the children and families of inmates. HHS has commissioned a literature review and nine papers to explore what is known and what is knowable about these issues.

Statement of Principles: NIC requires that all proposals will:

1. Be child focused as the goal is to help the child becomes stable and self assured with a strong, positive sense of self.

2. Explain which stage(s) of child development will be addressed. Programs will focus on infancy, early or middle childhood, and/or early or late adolescence.

3. Ensure that programs have a sound theoretical basis.

4. Incorporate what is known about the crisis issues around separation of the child from his/her parent.

5. Improve the child/family relationship, where appropriate, by creating a family-friendly planning environment and subsequent program delivery.

6. Add to the current limited body of research on these children.

7. Include a ''collaborative'' planning group that will continue into the service delivery phase. The ''collaborative'' will include the lead agency, appropriate governmental agencies, and others as appropriate, such as private providers, advocacy groups, academic institutions, and public schools.

Resource Assistance: Once an award has been made for the Resource Center solicitation, awardees will receive training and technical assistance, as needed, from Resource Center staff. The length and scope of this assistance will

depend on the awardees' specific interests. The Resource Center will also provide assistance in developing and implementing the outcome evaluations that will accompany each cooperative agreement and will budget for this assistance. The Resource Center will be responsible for developing a data collection plan for the outcome evaluations. Awardees of this solicitation will be responsible for collecting the data. Awardees will also develop their own process evaluations.

Up to one year will be spent planning and developing services. If that is the case, the implementation phase (Years 2 and 3) will not be as detailed as the planning phase, but it will include an outline of what the collaborative hopes to achieve and how they hope to achieve it.

Goals and Objectives of This Solicitation: The twin goals of these awards are to: (1) Reduce the children's trauma, stigmatization and stress of separation caused by parental incarceration in jail of their primary parent, and (2) enhance opportunities for positive life experiences and outcomes for children/youth whose primary parent has experienced incarceration in jail. The parent may no longer be in jail to be eligible for services, but the original contact must have been made when he/she was incarcerated.

The following three objectives will be required: (1) Improve child-parent relationships, where appropriate; (2) approach the services from a child development perspective; and (3) demonstrate cultural sensitivity in program design and implementation. Additional objectives will include one or more of the following:

- Reduce violence, including family and community violence, maltreatment and other trauma, in children's lives.
- Develop education goals that measure academic/school success for children.
- Develop and implement a parenting education program.
- Develop a mentoring program.
- Provide wraparound services for children.
- Develop supportive relationships between child and primary care giver.
- Develop and implement strategies to positively integrate children into the community.
- Improve housing/living environment for the family and parental employment capabilities and opportunities within the community.
- Improve medical and mental health services for children.
- Assess existing community support for these children/youth.

If there are other objectives that are appropriate, include them in your proposal.

Application Requirements: Funds will be available to programs that currently work with children of jail inmates and/or to organizations looking to work with children of this population. If the program already works with offenders and their children, it should describe how these new services will be incorporated into the existing services. A plan and timeline for service delivery should be provided. If the program does not now work with offenders, applicants should describe the planning process and proposed implementation strategy.

Up to one year may be spent planning for service delivery. Depending on the funding level, applicants are encouraged to form a collaborative group of representatives of the community being served. This could include representatives from the jail, probation and/or parole, child welfare, housing, employment, education, medicine and mental health, advocacy groups and community service providers. Each agency's representative should have sufficient authority to make decisions for his/her respective agency. The purpose is to draw on the diverse expertise of many disciplines and professions to address these issues, reach consensus on the types of programs to be provided and minimize problems that might arise during implementation.

Applicants must:

1. Provide a statement of the problem to include, but not be limited to, identifying the target population; issues faced by children/youth separated from their primary parent; explaining the stages of child development and what is known about parental separation at different stages; describing the cultural diversity of the community; discussing what is known or needs to be learned about the effects of parental incarceration on children/youth, describing existing services, if any, and describing the perceived needs of the children/youth.

2. Define planning and service delivery goals and objectives within a continuum of services based on the developmental needs of children/youth.

3. Describe the planning process and service delivery as they relate to the goals and objectives. If the planning process is extensive, the specific service delivery plan will not be required as it will result from the planning process. In lieu of the service delivery plan, explain what the applicant hope sot achieve and how it will be achieved. If the applicant seeks to expand existing services, indicate the type(s) of program(s) to be included.

If there is an extensive planning process, the application will include the following.

Year 1 Planning

a. Prepare a list of collaborating agencies and/or types of agencies to be included and the reasons for their inclusion. Letters of support must be included from all governmental groups and at least half of the other collaborating agencies.

b. Present a management plan that includes the tasks of the planning group, resources needed, the roles and responsibilities of the lead agency and collaborating agencies, the experience and expertise of key staff, including resumes, and how staff will work with NIC and Resource Center staff.

c. Develop a timeline for completing the plan.

d. Developing and conducting a process evaluation.

e. Develop a budget and budget narrative, including funds for a process evaluation.

Years 2 and 3 Service Delivery Plan

a. Explain the theoretical basis for the implementation strategies selected that takes into account the stages of child/youth development.

b. Develop a multi-systemic approach to delivering services.

c. Develop a proposed project design.

d. Prepare a timeline for implementation.

e. Conduct a proposed outcome evaluation program with the assistance of the Resource Center.

f. Identify the proposed impact on the target population.

g. Include letters of support from senior jail staff.

h. Develop strategies for developing additional sources of revenue, both dollars and in-kind support, once Federal funds are no longer available.

5. If the proposal seeks only to incorporate services into existing jail programs, a lengthy planning process is not necessary. In this case, the following requirements will be included for all three years:

a. Describe the project design and how it will be incorporated into existing services. Include a discussion of services to children/youth who are of varying ages and may need age-specific services.

b. Provide letters of support from senior jail staff for the additional service(s).

c. Develop a timeline for implementation and evaluation.

d. Identify the proposed outcome(s) of the services.

6. Prepare a yearly and final project report.

7. Prepare a budget and budget narrative. The Year 1 budget will be detailed and the narrative the same; the budgets for Years 2 and 3 will be estimates.

8. Applications are limited to 25 typed, double space pages using a 12 point font, not including letters of support, resumes, other supporting documents and SF–424 forms. Provide 6 copies of the application, including one that is not bound. One unbound copy must be signed in blue ink by the agency administrator of chief executive officer.

Authority: Public Law 93–415.

Funds Available: A total of $500,000 will be available for two awards for 36 month projects. One award will for $30,000 per year and one will be for $135,000 per year. Awards will be made to private and/or non profit agencies working collaboratively with local jails or detention centers and communities. At this time, there is no assurance of additional funding in the future.

Deadline for Receipt of Applications: Applications must be received at the NIC offices by 4 p.m. EDT on August 2, 2001. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications may be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Germaine Jefferson or Bobbi Tinsley at 202–307–3106 ext. 0 for pickup.

Addresses and Further Information: Requests for the application kit, which consists of copies of this announcement and the required forms, should be downloaded from the NIC website at *http://www.nicic.org.* Click on ''Cooperative Agreements''.

All technical and/or programmatic questions concerning this announcement should be directed to Mary Whitaker at the above address or by calling 800–995–6423, extension 40378, or 202–514–0378 or by e-mail via *mwhitaker@bop.gov*.

All specific questions regarding the application process should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 44222 or 202–307–3106, extension 44222 or by e-mail via *jevens@bop.gov*.

Eligible Applicants: Applicants will be restricted to private and not for profit agencies as government agencies are not eligible to apply for these funds. Appropriate government agencies, e.g., juvenile detention centers and probation agencies, jails, prisons, community based facilities, and private juvenile and adult correctional facilities, must be included in the planning process and will be required to submit letters of support.

Review Considerations: Applications will be reviewed by a three- to five-member team using a peer review process.

Number of Awards: Two (2).

NIC Application Number: NIC application number is 01K64. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424. This number must also appear on the outside of the package in which the application arrives at NIC.

Catalog of Federal Domestic Assistance *16.602*.

This application is not subject to Executive Order 12372.

Dated: June 18, 2001.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 01–15692 Filed 6–21–01; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division, Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage Determinations

Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Delaware
DE010002 (Mar. 2, 2001)
DE010004 (Mar. 2, 2001)
DE010005 (Mar. 2, 2001)
DE010009 (Mar. 2, 2001)

Volume III

Georgia
GA010053 (Mar. 2, 2001)
Mississippi
MS010003 (Mar. 2, 2001)
MS010055 (Mar. 2, 2001)

Volume IV

Indiana
IN010008 (Mar. 2, 2001)
Michigan
MI010001 (Mar. 2, 2001)
MI010002 (Mar. 2, 2001)
MI010003 (Mar. 2, 2001)
MI010004 (Mar. 2, 2001)
MI010005 (Mar. 2, 2001)
MI010007 (Mar. 2, 2001)
MI010008 (Mar. 2, 2001)
MI010010 (Mar. 2, 2001)
MI010013 (Mar. 2, 2001)
MI010015 (Mar. 2, 2001)
MI010017 (Mar. 2, 2001)
MI010019 (Mar. 2, 2001)
MI010020 (Mar. 2, 2001)
Minnesota
MN010015 (Mar. 2, 2001)

Volume V

Oklahoma
OK010013 (Mar. 2, 2001)
OK010014 (Mar. 2, 2001)
OK010016 (Mar. 2, 2001)
OK010017 (Mar. 2, 2001)
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OK010028 (Mar. 2, 2001)
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OK010031 (Mar. 2, 2001)
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OK010034 (Mar. 2, 2001)
OK010035 (Mar. 2, 2001)
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OK010037 (Mar. 2, 2001)
OK010038 (Mar. 2, 2001)
OK010043 (Mar. 2, 2001)
Texas
TX010005 (Mar. 2, 2001)
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Washington
WA010001 (Mar. 2, 2001)
WA010002 (Mar. 2, 2001)
WA010003 (Mar. 2, 2001)
WA010005 (Mar. 2, 2001)
WA010007 (Mar. 2, 2001)
WA010008 (Mar. 2, 2001)
WA010011 (Mar. 2, 2001)

Volume VII

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AZ010002 (Mar. 2, 2001)
AZ010004 (Mar. 2, 2001)
AZ010005 (Mar. 2, 2001)
AZ010010 (Mar. 2, 2001)
AZ010011 (Mar. 2, 2001)
AZ010012 (Mar. 2, 2001)
AZ010013 (Mar. 2, 2001)
AZ010014 (Mar. 2, 2001)
AZ010015 (Mar. 2, 2001)
AZ010016 (Mar. 2, 2001)
AZ010017 (Mar. 2, 2001)
Nevada
NV010001 (Mar. 2, 2001)
NV010002 (Mar. 2, 2001)
NV010003 (Mar. 2, 2001)
NV010004 (Mar. 2, 2001)
NV010005 (Mar. 2, 2001)
NV010006 (Mar. 2, 2001)
NV010007 (Mar. 2, 2001)
NV010008 (Mar. 2, 2001)
NV010009 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 14th day of June 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–15497 Filed 6–21–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. S–777A]

Public Forums on Ergonomics

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

ACTION: Notice; dates, times, and locations of public forums; additional information on procedures for public forums.

SUMMARY: The Department of Labor is providing additional information on the dates, times, locations, and procedures for the public forums on ergonomics announced in the **Federal Register** on June 12, 2001 (66 FR 31694).

DATES, TIMES, LOCATIONS: *Public Forums: Washington, D.C. area.* The public forum in the Washington, D.C. area will take place at George Mason University, Arlington Campus Professional Center, Room 329, 3401 North Fairfax Drive, Arlington, Virginia. The Professional Center is at the Virginia Square/GMU stop on the Metro orange line. The Department of Labor is changing the start time for this public forum. The forum is now scheduled to begin at 9:00 a.m., July 16, 2001. It will continue on July 17, 2001, beginning at 8:30 a.m.

Chicago, Illinois. The forum in Chicago, Illinois will take place at the University of Chicago, Ida Noyes Hall, 1212 East 59th Street, on July 20, 2001, beginning at 9:00 a.m.

Stanford, California. The forum in California will take place at the Kresge Auditorium of Stanford Law School, on the campus of Stanford University in Stanford, California on July 24, 2001, beginning at 9:00 a.m.

Written Forum Statements. Interested persons who file notices of intention to speak at the public forums on ergonomics must submit their written statements in advance. OSHA must receive the statements by July 9, 2001, one week before the first public forum.

ADDRESSES: Written statements may be submitted by mail, facsimile, or

electronic means. If your statement includes documentary evidence that has been previously submitted in the OSHA ergonomics rulemaking docket (Docket S–777), please reference the Exhibit Number rather than providing an additional copy.

Mail: Submit three copies of your written statement to: OSHA Docket Office, Docket No. S–777A, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–2625, Washington, DC 20210, telephone (202) 693–2350. Please note that statements must be mailed early enough to be received by OSHA by July 9, 2001.

Facsimile: If your written statement is 10 pages or fewer, you may fax it to the OSHA Docket Office. The OSHA Docket Office fax number is (202) 693–1648.

Electronic: You may submit your written statement electronically through OSHA's Homepage at *www.osha.gov.* Please note that you may not attach materials such as studies or journal articles to your electronic statement. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic statement by name, date, and subject, so that we can attach the materials to your electronically submitted statement.

FOR FURTHER INFORMATION CONTACT: Paula White, Director, Directorate of Federal/State Operations, telephone (202) 693–2200, or visit the OSHA Homepage at *www.osha.gov.*

SUPPLEMENTARY INFORMATION: In order to allow maximum public participation, the Department has determined that individuals should speak for no more than 10 minutes. As noted above, individuals may submit more lengthy written statements and comments. As appropriate, the Department may schedule a larger amount of time for presentations by selected groups of knowledgeable persons. Participants are encouraged to use their oral presentation to summarize and clarify their written submissions. Use of electronic media such as slides or overhead projections will not be permitted, but charts and graphs may be included with the submission of written statements. Following each presentation, a panel may question the presenter on relevant issues.

Persons who file a timely notice of intention to speak by June 29, as described in the June 12, 2001, **Federal Register** notice (66 FR 31694), will be scheduled to appear to the extent that the allotted time permits. It may not be possible to schedule all interested persons. The statements of those persons not scheduled to speak will be included in the docket. The Department of Labor will notify persons who submit timely notices of intention to speak at a particular forum of the schedule of speakers at that forum. Each participant should plan to be present at the start of the day he or she is scheduled to speak. An Administrative Law Judge will assure that the forums proceed in a fair and orderly manner.

Individuals with disabilities wishing to attend the forums who need special accommodations should contact Veneta Chatmon at (202) 693–1999, or at (877) 889–5627 TTY.

Authority: This notice was prepared under the direction of R. Davis Layne, Acting Assistant Secretary for Occupational Safety and Health. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act (29 U.S.C. 653, 655, 657).

Issued at Washington, DC, this 20th day of June, 2001.

R. Davis Layne,

Acting Assistant Secretary of Labor.

[FR Doc. 01–15841 Filed 6–21–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–079]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Solar System Exploration Subcommittee.

DATES: Wednesday, July 18, 2001, 8:30 a.m. to 5 p.m.; Thursday, July 19, 2001, 8:30 a.m. to 5 p.m., Friday, July, 20, 2001, 8:30 a.m. 2 p.m.

ADDRESSES: National Aeronautics and Space Administration, Conference Room 7H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Jay Bergstralh, Code S, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1588

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—Solar System Program Update
—Space Science Update
—Mars Program
—Outer Planets Program
—Planetary Data System
—Astrobiology Report

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: June 18, 2001.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–15706 Filed 6–21–01; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).

Date/Time: July 18, 2001; 1:30–4:00 p.m. (EDT).

Place: National Science Foundation, 4201 Wilson Boulevard, Room 110, Arlington, VA.

Type of Meeting: Open.

Contact Person: Louise McIntire, National Science Foundation. 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8200.

Purpose of Meeting: Interim meeting as follow-up to the April 26–27, 2001 meeting.

Agenda

July 18, 2001—1:30–4:00 p.m.

- Follow-up discussion on administrative and management planning at NSF
- Plans for Fall 2001 meeting
- Other business

Dated: July 19, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–15723 Filed 6–21–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–28641]

Consideration of License Amendment to U.S. Air Force Master Materials License and Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of amendment request and opportunity for a hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission is considering issuance of a license amendment to Master Materials License No. 42–23539–01AF, issued to the United States Air Force, to perform remediation in accordance with the submitted decommissioning plan of its OT–10 Radiation Training Sites located on Kirtland Air Force Base, New Mexico, and leading to subsequent release of the property for unrestricted use.

FOR FURTHER INFORMATION CONTACT: Dr. Blair Spitzberg, Chief Fuel Cycle Decommissioning Branch (FCDB) at (817) 860–8191 or Rachel Carr, FCDB at (817) 276–6552.

SUPPLEMENTARY INFORMATION: On July 14, 2000, the licensee submitted a decommissioning plan (DP) to the NRC for review that summarized the decommissioning activities which will be undertaken to remediate four training sites on the north central part of Kirtland Air Force Base. The area of land on this part of the base had been used since 1961 until 1990 as a site for the education and training of U.S. Department of Defense (DOD), U.S. Department of Energy (DOE) and Federal Emergency Management Agency (FEMA) and other federal and state personnel as radiological incident responders to detect contaminants generated during a simulated radiological incident. The surface area is seeded with known quantities of Brazilian thorium oxide sludge which was applied and tilled into site solids to simulate dispersed plutonium. The sites are owned by the U.S. Government and are regulated by the Nuclear Regulatory Commission under the United States Air Force Master Materials License 42–23539–01AF.

The NRC will require the licensee to remediate the four radiation training sites to meet NRC's decommissioning criteria and, during decommissioning activities, to maintain doses within NRC requirements and as low as reasonably achievable.

NRC Approval Process

Prior to approving the decommissioning plan, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in an Environmental Assessment. The Environmental Assessment may also lead to the development of an Environmental Impact Statement if the NRC is unable to support the Finding of No Significant Impact (FONSI). A FONSI briefly states the reasons why an action will not have a significant impact on the human environment. The FONSI must be published in the **Federal Register** prior to approval of a DP supported by an Environmental Assessment.

Documents

The Decommissioning Plan submitted by Kirtland Air Force Base is available for public inspection from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). The Accession Number for the document is (ML011560740). ADAMS is accessible from the NRC web site at *http://www.nrc.gov/NRC/ADAMS/index.html* (the Public Electronic Reading Room). Assistance with the Public Electronic Reading Room may be obtained by calling (800) 397–4209.

Notice of Opportunity for Hearing

The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings,'' of NRC's rules of practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by the proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville MD 20852–2738; or

2. By mail, telegram or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's area of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with 2.1205(d)—that is, filed within 30 days of the date of this notice.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Department of the Air Force, USAF Radioisotope Committee, HQ AFMOA/SGZR, 110 Luke Ave, Suite 405, Bolling AFB, DC 20322–7050; and

2. The NRC staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Arlington, Texas, this 13th day of June, 2001.

For the Nuclear Regulatory Commission.

D. Blair Spitzberg,

Chief, Fuel Cycle Decommissioning Branch, Division of Nuclear Materials Safety, Region IV.

[FR Doc. 01–15708 Filed 6–21–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–309]

Maine Yankee Atomic Power Company, et al.; Maine Yankee Atomic Power Station; Notice of Receipt and Availability for Comment of Revised License Termination Plan

The Nuclear Regulatory Commission (NRC) is in receipt of and is making available for public inspection and comment the revised License Termination Plan (LTP) for the Maine Yankee Atomic Power Station (MYAPS) located in Lincoln County, Maine.

Maine Yankee Atomic Power Company (MYAPC) submitted its proposed LTP for MYAPS by application dated January 13, 2000. The NRC published notice of the receipt and availability for comment of the LTP in the **Federal Register** on March 23, 2000 (65 FR 15657). On May 17, 2000, the NRC published notice of the license amendment request and opportunity for hearing associated with the LTP (65 FR 31357).

On June 1, 2001, MYAPC filed a revised LTP. The MYAPS LTP revision is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, where it may be examined, and/or copied for a fee. Publicly available records will be accessible electronically from the ADAMS Public

Library Component on the NRC Web site, http:\\www.nrc.gov (the Electronic Reading Room). In addition, the revised LTP may be accessed on the MYAPC web site, *www.maineyankee.com.*

Comments regarding the MYAPS LTP may be submitted in writing and addressed to Mr. Michael Webb, Mail Stop O–7 D1, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone (301) 415–1347 or e-mail mkw@nrc.gov.

Dated at Rockville, Maryland, this 18th day of June 2001.

For the Nuclear Regulatory Commission.

Robert A. Gramm,

Chief, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–15709 Filed 6–21–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301]

Nuclear Manaagement Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–24 and DPR–27, issued to Nuclear Management Company, LLC (NMC or the licensee), for operation of the Point Beach Nuclear Plant, Units 1 and 2, located in Manitowoc County, Wisconsin.

The proposed amendment would be a full conversion from the current Technical Specifications (CTS) to a set of improved Technical Specifications (ITS) based on NUREG–1431, ''Standard Technical Specifications (STS) for Westinghouse Plants,'' Revision 1, dated April 1995. The STS have been developed by the Commission's staff through working groups composed of both NRC staff members and industry representatives, and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve the Technical Specifications (TSs) for nuclear power plants. As part of the proposed amendment, the licensee has applied the criteria contained in the Commission's ''Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (Final Policy Statement),'' published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the CTS, and, using NUREG–1431 as a basis, proposed ITS for Point Beach, Units 1 and 2. The criteria in the Final Policy Statement were subsequently added to 10 CFR 50.36, ''Technical Specifications,'' in a rule change that was published in the **Federal Register** on July 19, 1995 (60 FR 36953). The rule change became effective on August 18, 1995.

The licensee has categorized the proposed changes to the CTS into four general groupings. These groupings are characterized as administrative changes, relocation changes, more restrictive changes, and less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation, and complex rearranging of requirements, and other changes not affecting technical content or substantially revising an operating requirement. The reformatting, renumbering, and rewording processes reflect the attributes of NUREG–1431 and does not involve technical changes to the existing TSs. The proposed changes include: (a) Identifying plant-specific wording for system names, etc., (b) changing the wording of specification titles in the CTS to conform to STS, (c) splitting up requirements that are currently grouped, or combining requirements that are currently in separate specifications, (d) deleting specifications whose applicability has expired, and (e) wording changes that are consistent with the CTS but that more clearly or explicitly state existing requirements. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocation changes are those involving relocation of requirements and surveillances for structures, systems, components, or variables that do not meet the criteria for inclusion in TSs. Relocated changes are those CTS requirements that do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated to appropriate licensee-controlled documents.

The licensee's application of the screening criteria to Point Beach, Units 1 and 2, is described in Attachment 6 to the November 15, 1999, application. The affected structures, systems, components, or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components, or variables will be relocated from the TSs to administratively controlled documents such as the quality assurance program, the Updated Final Safety Analysis Report (UFSAR), the ITS Bases, the Technical Requirements Manual (TRM) that is incorporated by reference in the UFSAR, the Core Operating Limits Report (COLR), the Offsite Dose Calculation Manual, the Inservice Testing Program, the Inservice Inspection Program, or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms, and may be made without prior NRC review and approval. In addition, the affected structures, systems, components, or variables are addressed in existing surveillance procedures that are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements compared to the CTS for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, and components described in the safety analyses.

Less restrictive changes are those where CTS requirements are relaxed, relocated or eliminated, or new plant operational flexibility is provided. When requirements have been shown to provide little or no safety benefit, their removal from the TSs may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) generic NRC actions, (b) new NRC staff positions that have evolved from the technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the ITS. Generic relaxations contained in NUREG–1431 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG–1431, thus providing a basis for these revised TSs, or if relaxation of the requirements in the CTS is warranted based on the justification provided by the licensee.

These administrative, relocation, more restrictive, and less restrictive changes to the requirements of the CTS do not result in operations that will alter assumptions relative to mitigation of an analyzed accident or transient event.

In addition to the proposed changes solely involving the conversion, there

are also (1) changes proposed that are differences to the requirements in both the CTS and the STS and (2) changes that are in addition to those changes that are needed to meet the overall purpose of the conversion. These changes are referred to as beyond-scope changes and are as follows:

1. Adopts more restrictive action requirements for the emergency safety feature actuation system (ESFAS). The more restrictive action requirements pertain to instrumentation channels for the following functions: Steam line isolation on manual, high steam flow, and high high steam flow (ITS 3.3.2).

2. Adds an exception to Mode 3 applicability of the ESFAS instrument function. The ITS is modified to allow reactor coolant system hydrostatic testing in Mode 3 without the steam line pressure—low safety injection function instrumentation being operable (ITS 3.3.2).

3. Adds a requirement for the condensate isolation functions to be operable in Modes 1, 2, and 3, except when all main feedwater regulating valves and associated bypass valves are closed and deactivated (ITS 3.3.2).

4. Adopts STS requirements to perform a trip actuating device operational test on containment isolation valve position indication post-accident monitoring instrumentation function (ITS 3.3.3).

5. Increases action requirements for loss of power diesel generator start and load sequence instrumentation functions. This item also imposes additional restrictions by adopting the STS-required actions for two inoperable channels of 480 volt buses (ITS 3.3.5).

6. Relocates reactor coolant system pressure temperature limits to the pressure temperature limits report and adopts STS required actions to ensure operation within the pressure and temperature limits (ITS 3.4.3 and ITS 5.6.5).

7. Increases operability and surveillance requirements for reactor coolant system (RCS) loops. For Mode 3, the CTS currently requires one reactor coolant pump to be in operation and one steam generator to be operable. ITS adds the requirement that two RCS loops be operable, which also means that two steam generators are required in Mode 3. ITS also adopts a surveillance to verify one RCS loop is in operation consistent with the current LCO (ITS 3.4.1).

8. Adds explicit operability, action, and surveillance requirements for the containment sump monitor (ITS 3.4.15).

9. Revises applicability and frequency for surveillances of the auto actuation of emergency core cooling system (ECCS) valves and auto start of ECCS pumps in Mode 4. ITS specifies an 18-month frequency as opposed to the once each refueling frequency in CTS. ITS also requires the surveillance requirements to be met during all Mode 4 conditions (ITS 3.5.3).

10. Imposes more restrictive changes to main steam isolation valve and non-return check valve action requirements. The Point Beach plant has a different arrangement for main steam isolation valves and therefore, could not adopt the STS requirements for these TSs (ITS 3.7.2).

11. Adds operability, action, and surveillance TS requirements for main feedwater isolation valves (ITS 3.7.3).

12. Imposes more restrictive changes to the atmospheric dump valve flow path action and surveillance requirements (ITS 3.7.4).

13. Revises the frequency of surveillance requirements for the auxiliary feedwater (AFW) system. This changes also revises some of the nomenclature to the AFW system (ITS 3.7.5).

14. Incorporates changes to the component cooling water system operability and action requirements. Also, adds a note to clarify action requirements for when a residual heat removal loop is made inoperable by component cooling system components (ITS 3.7.7).

15. Adds surveillance requirements to verify the manual start and alignment capabilities of the control room emergency ventilation system (ITS 3.7.9).

16. Adds a limiting condition for operability and an action pertaining to a containment air temperature limit. In addition, a Bases section is added to provide background for the new TS limit (ITS 3.6.5).

17. Adds a surveillance requirement to verify that one residual heat removal loop is in operation during Mode 6 conditions (ITS 3.9.5).

18. Relocates cycle-specific parameters to a core operating limits report (COLR) and establishes administrative control requirements for the COLR in ITS 5.6.4 (ITS 5.6.4).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By July 23, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and is accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief

explanation of the bases of each contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing and petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the request for a hearing and the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated November 15, 1999, as supplemented by letters dated March 15, June 15, June 19, July 28, August 17, September 14, October 19, and December 21, 2000, February 6, February 23, March 19, May 11, and June 13, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 15th day of June 2001.

For the Nuclear Regulatory Commission.

Beth A. Wetzel,

Senior Project Manager, Section I, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–15710 Filed 6–21–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

PSEG Nuclear Limited Liability Company; Hope Creek Generating Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License (FOL) No. NPF–57, issued to PSEG Nuclear LLC, (the licensee), for operation of the Hope Creek Generating Station (HCGS) located in Lower Alloways Creek Township, Salem County, New Jersey.

Environmental Assessment

Identification of the Proposed

The proposed license amendment would revise the FOL and Technical Specifications (TSs) for the HCGS, to allow the licensee to increase the licensed core power level from 3,293 megawatts thermal (MWt) to 3,339 MWt, which represents a 1.4-percent increase in the allowable thermal power. The NRC authorized HCGS for full power production at 3,293 MWt with issuance of the FOL on July 25, 1986. In addition to the power uprate, the proposed license amendment would allow the licensee to make editorial changes to the TS Bases and Index sections.

The proposed action is in accordance with the licensee's application for license amendment dated December 1, 2000, as supplemented by letters dated February 12, May 7, and May 14, 2001.

The Need for the Proposed Action

The proposed action would allow an increase in power generation at HCGS to provide additional electrical power for distribution to the grid. In certain circumstances, power uprate has been recognized as a safe and cost-effective method to increase generating capacity. The proposed action would also allow editorial changes to the TS Bases and Index sections to provide corrections to references and typographical errors.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that implementation of the proposed amendment would not have a significant impact on the environment.

With regard to potential radiological impacts, the licensee has evaluated the proposed 1.4-percent power uprate with respect to its effect on the consequences of postulated design-basis accidents and on normal releases of liquid and gaseous effluents. For postulated design-basis accidents, the effects of the proposed power uprate are bounded by current licensing basis dose analyses. No increase in the probability of these accidents is expected to occur. For liquid and gaseous effluents, the offsite doses resulting from normal releases are not impacted by the proposed power uprate because the uprated power is less than the core power level that was used for the source term development in the existing analyses. The release volumes from the liquid and solid waste processing systems are not expected to change as a result of the proposed power level change. The proposed editorial changes to the TSs are administrative in nature and would have no radiological impact. 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 offsite, and there is no significant increase in occupational or public radiation exposure. Based on the

above, the staff concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. With regard to other non-radiological impacts, the licensee performed an environmental evaluation, as documented in the submittal dated May 14, 2001, that considered thermal effects, consumptive uses, and particulate emissions. This evaluation was performed assuming a 1.5-percent uprated power value, thus bounding the proposed 1.4-percent power uprate. The evaluation was performed as required by the Environmental Protection Plan (EPP) for HCGS (Appendix B to FOL No. NPF–57). The EPP states that ''[e]nvironmental concerns identified in the FES–OL [Final Environmental Statement—Operating Licensing Stage (NUREG–1074, dated December 1984)] which relate to water quality matters are regulated by way of the licensee's NPDES [New Jersey Pollution Discharge Elimination System] permit.'' The NJDES permit imposes limits on plant effluents that are discharged to the Delaware River estuary. The licensee's environmental evaluation concluded that there are no significant non-radiological environmental impacts associated with the proposed power uprate and that the current NJDES permit limits would not require any changes. The proposed editorial changes to the TSs are administrative in nature and would have no non-radiological impact. Based on the above, the staff concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the HCGS.

Agencies and Persons Consulted

In accordance with its stated policy, on June 7, 2001, the staff consulted with the New Jersey State official, Mr. Dennis Zannoni, of the New Jersey Department of Environmental Protection, 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 December 1, 2000, as supplemented by letter dated February 12, May 7, and May 14, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 18th day of June 2001.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–15707 Filed 6–21–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Stillwater Mining, Common Stock, $.01 Par Value) File No. 1–13053

June 15, 2001.

Stillwater Mining Company, a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

The Board of Directors (''Board'') of the Issuer approved a resolution on January 9, 2001 to withdraw the Security from listing on the Exchange and to list the Security on the New York Stock Exchange (''NYSE''). The Issuer represents that on June 26, 2001 the Security will begin trading on the NYSE. The Issuer stated that the Board took such action in order to avoid the direct and indirect costs and the division of the market resulting from dual listing on the Amex and NYSE.

The Issuer stated in its application that is has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the withdrawal of the Security from listing on the Amex and shall have no affect upon its listing on the NYSE or its registration under Section 12(b) of the Act.[3]

Any interested person may, on or before July 9, 2001 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–15681 Filed 6–21–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44437; File No. SR–Amex–2001–39]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Industrial 15 Notices

June 18, 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 June 8, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade notes, the return on which is based upon an equal-dollar weighted portfolio of securities representing the fifteen highest dividend yielding stocks from a group of certain stocks in the Standard & Poor's (''S&P'') Industrial Index[3] from year to year that meet the additional criteria set forth below (the ''Industrial 15 Index'' or ''Index'').[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The 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

Under section 107A of the Amex Company Guide (''Company Guide''), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[5] The Amex proposes to list for trading under section 107A of the Company Guide notes based on the Industrial 15 Index (the ''Industrial 15 Notes'' or ''Notes''). The Industrial 15 Index will be determined, calculated, and maintained solely by the Amex.[6]

The Industrial 15 Notes will conform to the initial listing guidelines under Section 107[7] and continued listing guidelines under sections 1001–1003[8] of the Company Guide. Industrial 15 Notes are senior non-convertible debt securities of Merrill Lynch & Co., Inc. (''Merrill Lynch''). The Industrial 15 Notes will have a term of not less than one nor more than ten years. Industrial 15 Notices will entitle the owner at maturity to receive an amount based upon the percentage change between the ''Starting Index Value'' and ''Ending Index Value'' (the ''Redemption Amount''). The ''Starting Index Value'' is the value of the Industrial 15 Index on the date on which the issuer prices the Industrial 15 Notes issue for the initial offering to the public. The ''Ending Index Value'' is the value of the Industrial 15 Index over a period shortly prior to the expiration of the Industrial 15 Notes. The Ending Index Value will be used in calculating the amount owners will receive upon maturity. The Industrial 15 Notes will not have a minimum principal amount that will be repaid and, accordingly, payments on the Notes prior to or at maturity may be less than the original issue price of the Industrial 15 Notes. During the designated month each year, the investors may have the right to require the issuer to repurchase the Industrial 15 Notes at a redemption amount based on the value of the Industrial 15 Index at such repurchase date. Industrial 15 Notes are not callable by the issuer.

Industrial 15 Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security or any other ownership right or interest in the portfolio securities, although the return on the investment is based on the aggregate portfolio value of the securities comprising the Industrial 15 Index.

The Industrial 15 Index will consist of a portfolio of the fifteen qualifying stocks (the ''Qualifying Stocks'') with the highest dividend yields at the time of initial composition or any reconstitution of the Industrial 15 Index. ''Qualifying Stocks'' are those stocks from the S&P Industrial Index that are (1) in the top 75% of the Index, as measured by market capitalization after elimination of stocks included in the Dow Jones Industrial Average (''DJIA''), and (2) have an S&P Common Stock Ranking of A or A+.

Components of the Industrial 15 Index approved pursuant to this filing

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The S&P Industrial Index is a subset of the S&P 500 Index consisting of the largest 400 industrial stocks of the S&P 500. The S&P Industrial Index is calculated by starting with the S&P 500 Index and then excluding financial, utility and transportation stocks.

[4] As of May 31, 2001, the portfolio of securities comprising the Industrial 15 Index are: Albertson's Inc.; ALLTEL Corporation; Avery Dennison Corporation; Bristol-Myers Squibb Company; The Clorox Company; ConAgra, Inc.; Emerson Electric Co.; Hershey Food Corporation; The Gillette Company; Johnson Controls, Inc.; The Mays Department Stores Company; Newell Rubbermaid Inc.; Pitney Bowes Inc.; Rohm and Haas Company; and Textron Inc. Telephone conversation between Jeffrey P. Burns, Senior Counsel, Amex, and Sapna C. Patel, Attorney, Division of Market Regulation, Commission, on June 15, 2001.

The portfolio of securities will include the fifteen highest dividend yielding stocks from a group of certain stocks in the S&P Industrial Index for that year and the Amex will not have any discretion in the selection process.

[5] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[6] Subject to the criteria in the prospectus regarding the construction of the Index, the Exchange has sole discretion regarding changes to the Index due to annual reconstitutions and adjustments to the Index and the multipliers of the individual components.

[7] The initial listing standards for Industrial 15 Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

[8] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Industrial 15 Notes, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than $400,000.

will meet the following criteria: (1) A minimum market value of at least $75 million, except that up to 10% of the component securities in the Industrial 15 Index may have a minimum market value of $50 million; (2) average monthly trading volume in the last six months of not less than 1,000,000 shares, except that up to 10% of the component securities in the Industrial 15 Index may have an average monthly trading volume of 500,000 shares or more in the last six months; (3) 90% of the Industrial 15 Index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; and (4) all components stocks will either be listed on the Amex, the New York Stock Exchange, Inc. (''NYSE''), or traded through the facilities of the National Association of Securities Dealers Automated Quotation System (''NASDAQ'') and reported National Market System securities.

As of May 31, 2001, the market capitalization of the securities that would represent the Industrial 15 Index would range from a high of $105.4 billion to a low to $6.1 billion. The average monthly trading volume of those same securities for the last six months, as of the same date, ranged from a high of 107.8 million shares to a low of 8.9 million shares. Moreover, as of May 31, 2001, all of the securities that would comprise the Industrial 15 Index were eligible for standardized options trading pursuant to Amex Rule 915.

At the outset, each of the securities in the Industrial 15 Index will represent approximately an equal percentage of the Starting Index Value. Specifically, each security included in the portfolio will be assigned a multiplier on the date of issuance so that the security represents approximately an equal percentage of the value of the entire portfolio underlying the Industrial 15 Index on the date that the Industrial 15 Notes are priced for initial sale to the public. The multiplier indicates the number of shares (or fraction of one share) of a security, given its market price on an exchange or through NASDAQ, to be included in the calculation of the portfolio. Accordingly, initially each of the fifteen companies included in the Industrial 15 Index will represent approximately 6.67% of the total portfolio at the time of issuance. The Industrial 15 Index will initially be set to provide a benchmark value of 100.00 at the close of trading on the day the Notes are priced for initial sale to the public.

The value of the Industrial 15 Index at any time will equal: (1) The sum of the products of the current market price for each stock underlying the Industrial 15 Index and the applicable share multiplier, plus (2) an amount reflecting current calendar quarter dividends, and less (3) a pro rata portion of the annual index adjustment factor.[9] Current quarter dividends for any day will be determined by the Amex and will equal the sum of each dividend paid by the issuer on one share of stock underlying the Industrial 15 Index during the current calendar quarter multiplied by the share multiplier applicable to such stock on the ex-dividend date.

As of the first day of the start of each calendar quarter, the Amex will allocate the current quarter dividends as of the end of the immediately preceding calendar quarter to each then outstanding components of the Industrial 15 Index. The amount of the current quarter dividends allocated to each stock will equal the percentage of the value of such stock contained in the portfolio of securities comprising the Industrial 15 Index relative to the value of the entire portfolio based on the closing market price of such stock on the last day in the immediately preceding calendar quarter. The share multiplier of each stock will be increased to reflect the number of shares, or portion of a share, that the amount of the current quarter dividend allocated to each stock can purchase of each stock based on the closing market price on the last day in the immediate preceding calendar quarter.

As of the close of business on each anniversary date (anniversary of the date of the initial issuance of Industrial 15 Notes) through the applicable anniversary date in the year preceding the maturity of the Notes, the portfolio of securities comprising the Industrial 15 Index will be reconstituted by the Amex so as to include the fifteen Qualifying Stocks in the S&P Industrial Index having the highest dividend yield on the second scheduled index business day prior to such anniversary date. The Exchange will announce such changes to investors at least one day prior to the anniversary date.[10]

The portfolio will be reconstituted and rebalanced on the anniversary date so that each stock in the Industrial 15 Index will represent 6.67% of the value of the Industrial 15 Index. To effectuate this, the share multiplier for each new stock will be determined by the Amex and will indicate the number of shares or fractional portion thereof of each new stock, given the closing market price of such new stock on the anniversary date, so that each new stock represents an equal percentage of the Industrial 15 Index value at the close of business on such anniversary date. For example, if the Industrial 15 Index value at the close of business on an anniversary date was 150, then each of the fifteen new stocks comprising the Industrial 15 Index would be allocated a portion of the value of the Index equal to 10, and if the closing market price of one such new stock on the anniversary date was 20, the applicable share multiplier would be 0.5. Conversely, if the Industrial 15 Index value was 60, then each of the fifteen new stocks comprising the Industrial 15 Index would be allocated a portion of the value of the Industrial 15 Index equal to 4, and if the closing market price of one such new stock on the anniversary was 20, the applicable share multiplier would be 0.2. The last anniversary date on which such reconstitution will occur will be the anniversary date in the year preceding the maturity of the Notes. As noted above, investors will receive information on the new portfolio of securities comprising the Industrial 15 Index at least one day prior to each anniversary date.

The multiplier of leach component stock in the Industrial 15 Index will remain fixed unless adjusted for quarterly dividend adjustments, annual reconstitutions or certain corporate events, such as payment of a dividend other than an ordinary cash dividend, a distribution of stock of another issuer to its shareholders,[11] stock split, reverse stock split, and reorganization.

The multiplier of each component stock may be adjusted, if necessary, in the event of a merger, consolidation, dissolution or liquidation of an issuer or in certain other events such as the distribution of property by an issuer to

[9] At the end of each day, the Industrial 15 Index will be reduced by a pro rata portion of the annual index adjustment factor, expected to be 1.5% (*i.e.,* 1.5%/365 days=0.0041% daily). This reduction to the value of the Index will reduce the total return to investors upon the exchange or at maturity. The Amex represents that an explanation of this deduction will be included in any marketing materials, fact sheets, or any other materials circulated to investors regarding the trading of this product.

[10] The Exchange will publish a notice to advise investors of changes to the securities underlying the Index if any such changes are made following an annual reconstitution.

[11] If the issuer of a component security in the Industrial 15 Index issues to all of its shareholders publicly traded stock of another issuer, such new securities will be added to the portfolio comprising the Industrial 15 Index until the subsequent anniversary date. The multiplier for the new component will equal the product of the original issuer's multiplier and the number of shares of the new component issued with respect to one share of the original issuer.

shareholders. If the issuer of a stock included in the Industrial 15 Index were to no longer exist, whether by reason of a merger, acquisition or similar type of corporate transaction, a value equal to the stock's final value will be assigned to the stock for the purpose of calculating the Industrial 15 Index value prior to the subsequent anniversary date. For example, if a company included in the Industrial 15 Index were acquired by another company, a value will be assigned to the company's stock equal to the value per share at the time the acquisition occurred. If the issuer of stock included in the Industrial 15 Index is in the process of liquidation or subject to a bankruptcy proceeding, insolvency, or other similar adjudication, such security will continue to be included in the Industrial 15 Index so long as a market price for such security is available or until the subsequent anniversary date. If a market price is no longer available for an Industrial 15 Index stock due to circumstances including but not limited to, liquidation, bankruptcy, insolvency, or any other similar proceeding, then the security will be assigned a value of zero when calculating the Industrial 15 Index for so long as no market price exists for that security or until the subsequent anniversary date. If the stock remains in the Industrial 15 Index, the multiplier of that security in the Industrial 15 Index may be adjusted to maintain the component's relative weight in the Industrial 15 Index at the level immediately prior to the corporate action. In all cases, the multiplier will be adjusted, if necessary, to ensure Industrial 15 Index continuity.

The Exchange will calculate the Industrial 15 Index and, similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every fifteen seconds over the Consolidated Tape Association's Network B. The Index value will equal the sum of the products of the most recently available market prices and the applicable multipliers for the component securities.

Because Industrial 15 Notes are linked to a portfolio of equity securities, the Amex's existing equity floor trading rules will apply to the trading of Industrial 15 Notes. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading Industrial 15 Notes.[12] Second, Industrial 15 Notes will be subject to the equity margin rules of the Exchange.[13] Third, the Exchange will, prior to trading Industrial 15 Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in Industrial 15 Notes and highlighting the special risks and characteristics of the Industrial 15 Notes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[14] in general and furthers the objectives of Section 6(b)(5)[15] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The exchange did not receive any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–39 and should be submitted by July 13, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.[16] The Commission finds that this proposal is similar to several approved instruments currently listed and traded on the Amex and the NYSE.[17] Accordingly, the Commission finds that the listing and trading of Industrial 15 Notes is consistent with the Act and will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and

[12] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

[13] *See* Amex Rule 462 and Section 107B of the Company Guide.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] *See* Securities Exchange Act Release Nos. 44342 (May 23, 2001), 66 FR 29613 (May 31, 2001) (accelerated approval order for the listing and trading of Select Ten Notes); 42582 (March 27, 2000), 65 FR 17685 (April 4, 2000) (accelerated approval order for the listing and trading of notes linked to a basket of no more than twenty equity securities) (File No. SR–Amex–99–42); 41546 (June 22, 1999), 64 FR 35222 (June 30, 1999) (accelerated approval order for the listing and trading of notes linked to a narrow based index with a non-principal protected put option) (File No. SR–Amex–99–15); 39402 (December 4, 1997), 62 FR 65459 (December 12, 1997) (notice of immediate effectiveness for the listing and trading non-principal protected commodity preferred securities linked to certain commodities indices) (File No. SR–Amex–97–47); 37533 (August 7, 1996), 61 FR 42075 (August 13, 1996) (accelerated approval order for the listing and trading of the Top Ten Yield Market Index Target Term Securities (''MITTS'')) (File No. SR–Amex–96–28); 33495 (January 19, 1994), 59 FR 3883 (January 27, 1994) (accelerated approval order for the listing and trading of Stock Upside Note Securities) (File No. SR–Amex–93–40); 32840 (September 2, 1993), 58 FR 47485 (September 9, 1993) (accelerated approval order for the listing and trading of MITTS on the NYSE) (File No. SR–NYSE–93–31); and 32343 (May 20, 1993), 58 FR 30833 (May 27, 1993) (accelerated approval order for the listing and trading of non-principal protected notes linked to a single equity security) (File No. SR–Amex–92–42).

the public interest consistent with section 6(b)(5) of the Act.[18]

Industrial 15 Notes are not leveraged instruments; however, their price will still be derived and based upon the underlying linked security. Accordingly, the level of risk involved in the purchase or sale of Industrial 15 Notes is similar to the risk involved in the purchase or sale of traditional common stock. Nonetheless, because the final rate of return of Industrial 15 Notes is derivatively priced, based on the performance of a portfolio of securities, and the components of the Industrial 15 Index are more likely to change each year, over the terms of the Industrial 15 Notes, than products previously issued, there are several issues regarding the trading of this type of product.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to Industrial 15 Notes. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of Industrial 15 Notes. Moreover,the Exchange will distribute a circular to its membership calling attention to the specific risks associated with Industrial 15 Notes.

In approving the product, the Commission recognizes that the components are likely to change each year over the life of the product. Nevertheless, the Commission believes that this is acceptable because the Amex has clearly stated its guidelines and formula for replacing components from a specific group of well-known and highly capitalized securities. Each year, as noted above, the portfolio of securities comprising the Industrial 15 Index will represent the fifteen highest dividend yielding Qualifying Stocks in the S&P Industrial Index. Amex will do the calculation for replacements based on a set formula to determine which of the S&P Industrial Index securities will be in the Index for the following year. The Commission believes that within these confines the potential frequent changes in the components of the Industrial 15 Index are reasonable and will meet the expectation of investors.

In addition, the Commission notes that the Industrial 15 Notes. are non-principal protected. The Notes may not have a minimum principal amount that will be repaid and that payments on the Notes prior to or at maturity may be less than the original issue price of the Industrial 15 Notes. The Commission also recognizes that during the designated month Industrial 15 Notes at a redemption amount based on the value of the Industrial 15 Index at such repurchase date.

The Commission notes that Industrial 15 Notes are dependent upon the individual credit of the issuer, Merrill Lynch. To some extent this credit risk is minimized by the Exchange's listing standards in section 107A of the Company Guide which provide the only issuers satisfying substantial asset and equity requirements may issue securities such as Industrial 15 Notes. In addition, the Exchange's hybrid listing standards further require that Industrial 15 Notes have at least $4 million in market value.[19] In any event, financial information regarding Merrill Lynch, in addition to the information on the issuers of the underlying securities comprising the Industrial 15 Index, will be publicly available.[20]

The Commission also has a systemic concern, however, that a broker-dealer, such as Merrill Lynch, or a subsidiary providing a hedge for the issuer will incur position exposure. As discussed in the prior approval orders for similar instruments (*e.g.,*the Select Ten Notes), the Commission believes this concern is minimal given the size of Industrial 15 Notes issuance in relation to the net worth of Merrill Lynch.

The Commission also believes that the listing and trading of Industrial 15 Notes should not unduly impact the market for the underlying securities comprising the Industrial 15 Index. First, the underlying securities comprising the S&P Industrial Index, from which the Industrial 15 Index components are selected, are well-capitalized, highly liquid stocks. Second, because all of the components of the Industrial 15 Index will be equally weighted, initially and immediately following each annual reconstitution of the Industrial 15 Index, no single stock or group of stocks will likely dominate the Industrial 15 Index. Finally, the issuers of the underlying securities comprising the Industrial 15 Index, are subject to reporting requirements under the Act, and all of the portfolio securities are either listed or traded on, or traded through the facilities of, U.S. securities markets. Additionally, the Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.

Finally, the Commission notes that the value of the Industrial 15 Index will be disseminated at least once every fifteen seconds throughout the trading day. The Commission believes that providing access to the value of the Industrial 15 Index at least once every fifteen seconds throughout the trading day is extremely important and will provide benefits to investors in the product.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex and the NYSE.[21] In determining to grant the accelerated approval for good cause, the Commission notes that the Industrial 15 Index is a portfolio of highly capitalized and actively traded securities similar to hybrid securities products that have been approved by the Commission for U.S. exchange trading. Additionally, Industrial 15 Notes will be listed pursuant to existing hybrid security listing standards as described above. Moreover, the Index's applicable equal-dollar weighting methodology is a commonly applied index calculation method. Based on the above, the Commission finds, consistent with Section 6(b) of the Act,[22] that there is good cause for accelerated approval of the product.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule change (SR–Amex–2001–39), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–15725 Filed 6–21–01; 8:45 am]

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[18] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] *See* Company Guide Section 107A.

[20] The companies that comprise the Industrial 15 Index are reporting companies under the Act.

[21] *See supra* note 17.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44433; File No. SR–CBOE–2001–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Joint Account Trading in Certain Broad-Based Index Options and Options on Exchange-Traded Fund Shares

June 15, 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 May 30, 2001, he Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The proposed rule change has been filed by the CBOE as a ''non-controversial'' rule change under Rule 19b–4(f)(6) of the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE's OEX/SPX/DJX Joint Account Circular (''Circular'') currently applies to the trading activities of joint account participants in Standard & Poor's (''S&P'') 100 Index options (''OEX''), S&P 500 Index options (''SPX''), and Dow Jones Industrial Average options (''DJX''). The CBOE proposes to amend the Circular to apply its terms to trading in options on the Mini-NDX Index (''MNX℠''), the Nasdaq-100 Index (''NDX''), and the Nasdaq-100 Tracking Stock (''QQQ'').[4]

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Circular currently applies to the trading activities of joint account participants in OEX, SPX, and DJX options. The CBOE proposes to apply the terms of the Circular to trading in certain additional broad-based index options and options on exchange-traded fund shares.[5] Specifically, the CBOE proposes to amend the Circular to apply its terms to trading in MNX, NDX, and QQQ options. The CBOE does not propose to modify any of the joint account trading policies or procedures set forth in the Circular.

The Circular provides that joint accounts may be represented in the crowd by participants trading in-person for he joint account. In addition, the Circular provides that joint account participants who are not trading in-person in the crowd may enter orders for the joint account with floor brokers even if other participants are trading the same joint account in-person. The joint account circular applicable to equity options does not allow a joint account participant to enter orders while another joint account participant is trading in-person on behalf of the joint account.

The Exchange believes the OEX/SPX/DJX model is more appropriate for MNX, NDX, and QQQ options because these trading crowds are comparable in size to the OEX, SPX, and DJX trading crowds.

The Exchange believes that options on exchange-traded fund shares derived from broad-based indexes, such as the QQQ options, share trading characteristics similar to the trading characteristics of broad-based index options. Accordingly, the CBOE believes that the same rules should apply to options on exchange-traded fund shares derived from broad-based indexes. The CBOE states that QQQ options can be used as a hedge against broad-based index options such as MNX and NDX because the QQQ contract derives its value from the Nasdaq-100 Index. According to the CBOE, joint account participants who trade MNX, NDX, and other broad-based index options may want to place hedging trades in QQQ options into their joint accounts. For these reasons, the Exchange believes the joint account trading procedures in the Circular should also apply to joint account trading in QQQ options.

The Exchange believes that applying the terms of Circular to MNX, NDX, and QQQ options will inform the CBOE's members that the existing Exchange policies and procedures regarding permissible joint account trading in OEX, SPX, and DJX Index options will now apply also to trading in MNX, NDX, and QQQ options. The Circular profits market-makers from trading with their joint account and prohibits trades in which the buyer and seller represent the same joint account and are on opposite sides of the transaction. The CBOE's Department of Market Regulation will conduct surveillance of joint account trading in MNX, NDX, and QQQ options by applying existing surveillance procedures that are designed to detect and deter abusive trading by joint account participants.

The CBOE believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national system and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] QQQ options are options overlying the Nasdaq-100 Index Tracking Stock, an exchange-traded fund designed to track the performance of the Nasdaq-100 Index. The CBOE has determined to treat options on exchange-traded fund shares like index options and to generally apply to exchange-traded fund shares the same rules that are applicable to index options.

[5] The Commission approved the Circular on September 10, 1992. *See* Securities Exchange Act Release No. 31174 (September 10, 1992), 57 FR 42789 (September 16, 1992) (order approving File No. SR–CBOE–91–40). The CBOE updated the Circular to allow more than one SPX participant to participate on a trade on behalf of the joint account. *See* Securities Exchange Act Release No. 35579 (April 7, 1995), 60 FR 18867 (April 13, 1995) (notice of filing and immediate effectiveness of File No. SR–CBOE–95–17). In addition, the CBOE updated the Circular to apply the terms of the Circular to trading in DJX options. *See* Securities Exchange Act Release No. 39092 (September 18, 1997), 62 FR 50412 (September 25, 1997) (notice of filing and immediate effectiveness of File No. SR–CBOE–97–44). The CBOE also updated the Circular to allow certain transactions between joint accounts that have common participants. *See* Securities Exchange Act Release No. 44152 (April 5, 2001), 66 FR 19262 (April 13, 2001) (order approving File No. SR–CBOE–00–13).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE has filed the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative for 30 days after the date of the filing, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6). The CBOE also provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filling of the proposed rule change. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2001–30 and should be submitted by July 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Marget H. McFarland,

Deputy Secretary.

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[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44435; File No. SR–CBOE–2001–34]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Goldman, Sachs Technology Composite Index (''GSTI'') and the GSTI Sub-Indexes

June 15, 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 June 14, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The proposed rule change has been filed by the CBOE as a ''non-controversial'' rule change under Rule 19b–4(f)(6) of the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE currently lists and trades European-style, cash-settled options on the Goldman Sachs Technology Composite Index (''GSTI Composite Index'' or ''Index'')[4] and on six GSTI Sub-indexes (''Sub-Indexes'').[5] Pursuant to determinations by Goldman, Sachs & Co. (''Goldman Sachs''), the CBOE proposes to: (1) Revise the guidelines governing the selection of stocks in the GSTI Composite Index to allow Goldman Sachs to exclude from the GSTI Composite Index companies that Goldman Sachs believes are classified inappropriately as technology companies despite their Standard Industrial Classification (''SIC'')/Russell code; (2) revise the weighting criteria for the six Sub-Indexes so that all components will be subject to a maximum weight cap of 8.5% of the total capitalization of any Sub-Index; and (3) change the dates of the semi-annual rebalancing for the GSTI Composite Index and the six Sub-Indexes from the third Friday in January and July of each year to the third Friday in December and June of each year. The CBOE seeks continued approval to list and trade options on the GSTI Composite Index and on the Sub-Indexes after the proposed revisions become effective after the close of trading on June 15, 2001. In addition, the CBOE proposes to amend CBOE rule 24.14, ''Disclaimers,'' to include a specific reference to Goldman Sachs as entitled to the benefit of the disclaimer of liability with respect to the GSTI Composite Index and the six Sub-Indexes.

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE currently lists and trades European-style, cash-settled options on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 37693 (September 17, 1996), 61 FR 50362 (September 25, 1996) (order approving File No. SR–CBOE–96–43).

[5] *See* Securities Exchange Act Release No. 37696 (September 17, 1996), 61 FR 50358 (September 25, 1996) (order approving File No. SR–CBOE–96–44) (''Sub-Index Order''). The six Sub-Indexes include: the GSTI Hardware Index, the GSTI Internet Index, the GSTI Semiconductor Index, the GSTI Software Index, the GSTI Services Index, and the GSTI Multimedia Networking Index.

the GSTI Composite Index and on the six GSTI Sub-Indexes. The GSTI Composite Index is a broad-based, modified capitalization-weighted index of the universe of technology-related company stocks meeting certain objective criteria. The narrow-based Sub-Indexes are also calculated using a modified capitalization-weighting methodology. Components for each of the six GSTI Sub-Indexes are chosen from the GSTI Composite Index.

Goldman Sachs has informed the CBOE that as of June 15, 2001 (after the close of trading), Goldman Sachs will change certain guidelines governing the selection of stocks included in the GSTI Composite Index to refine the definition of ''technology-related'' companies. Under the proposal, the Goldman Sachs Technology Index Committee (''Committee'') will have the discretion to exclude companies that, based on its knowledge of the technology sector, the Committee believes are inappropriately classified as technology companies despite their SIC/Russell code.[6]

Currently, the components of the GSTI Composite Index are drawn from a universe of companies that fall within a set of predetermined Russell or SIC code classifications. Notwithstanding the Russell and SIC classifications, Goldman Sachs may believe that some companies are not in actuality technology companies and thus are not proper components for inclusion in the GSTI Composite Index. In these limited instances, Goldman Sachs seeks the flexibility to remove these components from the Index. The Committee, which will make the decision to exclude a component, will meet before every scheduled rebalancing date to determine whether a GSTI Composite Index constituent meets the industry membership criterion. In making the determination, the Committee will examine a component company's primary source of revenue or, alternatively, its emerging business activity and strategy. If the Committee determines that a company's primary source of revenue is from sources that are not technology-related, the Committee may determine that the company should not be classified as a technology company and, therefore, the Committee will remove the component from the GSTI Composite Index. Similarly, the Committee may determine to remove a company from the GTSI Composite Index if it determines that the company's emerging business strategy is not technology-related.[7]

Goldman Sachs believes that these changes will prevent the inclusion in the GSTI Composite Index of stocks that are not commonly considered to be part of the universe of technology-related companies, even though they may have the proper SIC or Russell code. Goldman Sachs expects that the GSTI Composite Index, as a result of the proposed change, will more accurately represent the technology sector and will be better suited to track future changes in the industry.[8]

Goldman Sachs also intends to revise the weighting criteria for the Sub-Indexes, effective June 15, 2001 (after the close of trading). Currently, component weights are capped in each of the Sub-Indexes so that no component accounts for more than 12.5% of the total capitalization of any Sub-Index. Goldman Sachs proposes to revise the weighting criteria for the Sub-Indexes so that all components will be subject to a maximum weight cap of 8.5%. By reducing the maximum weight cap, Goldman Sachs notes that the revised weighting methodology will require that each of the Sub-Indexes be comprised of at least 12 components.[9] Goldman Sachs expects this revised methodology to promote portfolio weight diversification, thereby further limiting the domination of the Sub-Indexes by a few large stocks.

Goldman Sachs also proposes to change the dates of the semi-annual rebalancing for the GSTI Composite Index and the six Sub-Indexes from the third Friday in January and July of each year to the third Friday in December and June of each year.

With the exception of the foregoing changes, the Exchange proposes no other changes to the GSTI Composite Index and the six Sub-Indexes.

The CBOE will notify market participants of Goldman Sach's decision to alter the guidelines for inclusion in the GSTI Composite Index and the revised calculation methodology in the Sub-Indexes through a notice to members and member firms in advance of the changeover.

On the Monday following the expiration Friday when Goldman Sachs implements these changes, the CBOE will bring up new series of options overlying the GSTI Composite Index and the six Sub-Indexes under the current ticker symbols. The outstanding series will be traded under new ticker symbols and will continue to settle based on the present guidelines and calculation method. No new series will be added to the ''old'' index classes and when the existing series expire, the ''old'' indexes will cease to trade.[10] The Exchange believes this action will be adequate to prevent any problems because, as noted above, the Exchange will continue to list outstanding series under a different symbol that will settle under the old methodology; thus, there will be no change to outstanding contracts. The Exchange previously has employed the same system for introducing new series after a change in the calculation of the index value or settlement value of an index.[11]

[6] In 1999, a CBOE proposal in which Goldman Sachs added a supplemental sector/industry classification method used for identifying the universe of technology stocks eligible for inclusion in the Index became effective on filing. *See* Securities Exchange Act Release No. 41882 (Sept. 17, 1999), 64 FR 51818 (Sept. 24, 1999) (notice of filing and immediate effectiveness of File No. SR–CBOE–99–54) (''1999 Notice''). In that proposal; Goldman Sachs refined the definition of ''technology-related'' to include Internet-related companies.

[7] Goldman Sachs views the decision by the Committee regarding changes to the Index to be material non-public information. In this respect, a Chinese wall has been erected around the personnel at Goldman Sachs who have access to information concerning changes and adjustments to the Index. Further, upon the completion of any addition or deletion of a security from the Index, Goldman will review trading in the subject securities for any irregularities. Goldman Sachs' revised Chinese wall procedures, which have been submitted to CBOE, are closely modeled on existing procedures for other Goldman Sachs indexes underlying standardized options. The CBOE notes that in the Sub-Index Order the Commission found that Goldman Sachs' Chinese wall procedures ''adequately serve to minimize the susceptibility to manipulation of the Sub-Indexes and the securities in the Sub-Indexes.'' *See* Sub-Index Order, *supra* note 5. Further, in the 1999 Notice, the Exchange represented that ''Goldman Sachs will not have any informational advantage concerning modifications to the composition of the GSTI composite Index and the Sub-Indexes due to Goldman Sachs' role in maintaining such indexes, including the classification of stocks.'' *See* 1999 Notice, *supra* note 6. Upon reviewing Goldman Sachs' revised Chinese wall procedures, the CBOE again represents that Goldman Sachs will not have any informational advantage concerning modifications to the composition of the GSTI Composite Index and the Sub-Indexes due to Goldman Sachs' role in maintaining the indexes, including the classification of the stocks.

[8] *See* 1999 Notice, *supra* note 6.

[9] A proposal that similarly reduced the maximum weighting criteria applicable to the Sub-Indexes became effective on filing with the Commission. *See* 1999 Notice, *supra* note 6.

[10] On June 18, 2001, the ''old'' series will be fixed and no new series of the ''old'' index will be introduced. As of June 13, 2001, there was open interest in the September and December 2001 series for the GSTI Composite Index and/or five of the Sub-Indexes. There are no LEAPS trading on any of the ''old'' indexes.

[11] *See* Securities Exchange Act Release Nos. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (order approving File No. SR–CBOE–92–09) (continued listing and trading of SPX options after a change to a.m. settlement); 37089 (April 9, 1996), 61 FR 16660 (April 16, 1998) (order approving File No. SR–CBOE–96–12) (change in the method of determining the settlement value for NDX options); and 40642 (November 5, 1998), 63 FR 63759 (November 16, 1998) (order approving File No. SR–CBOE–98–43) (continued listing and trading of

Continued

Combinations of options based on the ''old'' GSTI Composite Index and the ''new'' GSTI Composite Index will be aggregated and cannot exceed 100,000 contracts. In addition, options based on an ''old'' Sub-Index will be aggregated with options based on the corresponding ''new'' Sub-Index and cannot exceed 31,500 contracts.[12]

Finally, the Exchange proposes to amend CBOE Rule 24.14 to include specific reference to Goldman Sachs as entitled to the benefit of the disclaimer of liability with respect to the GSTI Composite Index and the Sub-Indexes.

2. Statutory Basis

The CBOE believes that the proposed changes to the GSTI Composite Index will help to ensure that the Index continues to provide an accurate representation of the technology sector. Further, by reducing the maximum allowable weighting of any single component of the Sub-Indexes from 12.5% to 8.5% of the total capitalization of the Sub-Index, the CBOE believes that Goldman Sachs is providing for better portfolio weight diversification. For these reasons, the Exchange believes that the proposed rule change is consistent with and furthers the objectives of section 6(b)(5) of the Act, in that it is designed to perfect the mechanism of a free and open market and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE has filed the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The CBOE has requested that the Commission designate such shorter time period so that the Exchange may continue to list and trade options based on the GSTI Composite and Sub-Indexes without interruption following the implementation of the new guidelines and weighting methodology after the close of trading on June 15, 2001.

The CBOE believes that the proposed changes do not present any unique or novel questions. In addition, the Exchange believes that the proposed revisions will strengthen the GSTI Composite and Sub-Indexes by providing for the inclusion of components that better represent the current state of the technology sector and will be better suited to track future changes in the industry. The Exchange also believes that the revisions to the weighting criteria will promote portfolio weight diversification, thereby further limiting domination of the Sub-Indexes by a few large stocks. The CBOE also notes that the Commission previously approved the continued listing of options on the GSTI Composite Index after a similar change in its weighting methodology.[16]

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative after the close of trading on June 15, 2001, for the following reasons.[17] As noted above, the proposal will permit Goldman Sachs to remove or exclude a component company from the GSTI Composite Index regardless of the company's SIC/Russell classification if Goldman Sachs determines that the company's primary sources of revenue are not technology-related or if the company's emerging business strategy is not technology-related. The Commission believes that this limited flexibility with regard to the selection of Index components may help Goldman Sachs to ensure that the GSTI Composite Index accurately reflects the market for technology-related companies.

The Commission believes that the change in the component weighting guidelines for the Sub-Indexes will ensure greater weight diversification among the component stocks of the Sub-Indexes and will eliminate concentrations in weighting that might cause the Sub-Indexes to be dominated by a few highly-capitalized stocks.

The Commission believes that the proposal to change the dates of the semi-annual rebalancing for the GSTI Composite Index and the six Sub-Indexes from the third Friday in January and July of each year to the third Friday in December and June of each year, and the proposal to amend CBOE Rule 24.14 to include a specific reference to Goldman Sachs as entitled to the benefit of the disclaimer of liability with respect to the GSTI Composite Index and the Sub-Indexes, do not raise new regulatory issues.

The Commission believes that the proposed changes to the GSTI Composite Index and the Sub-Indexes are reasonable and that investors should be permitted to trade options on he revised GSTI Composite Index and the Sub-Indexes on an uninterrupted basis as the old GSTI Composite Indexes and the Sub-Indexes are phased out. The Commission notes that the CBOE will advise members and member organizations of the changes in the guidelines for inclusion in the GSTI Composite Index and in the revised calculation methodology for the Sub-Indexes through a notice to members and member firms in advance of the changeover. The notice to members also will note that positions in the ''old'' and ''new'' GSTI Composite Index and the corresponding ''old'' and ''new'' Sub-Indexes will be aggregated for purposes

NDX options after a change in the weighting methodology of the Nasdaq-100 Index).

[12] In its notice to members regarding the revised guidelines for inclusion in the GSTI Composite Index and the revised calculation methodology for the Sub-Indexes, the CBOE will advise members and member organizations that positions in the ''old'' and ''new'' GSTI Composite Index and in the corresponding ''old'' and ''new'' Sub-Indexes will be aggregated for the purpose of calculating position and exercise limits. Telephone conversation between Stephen M. Youhn, Attorney, CBOE, and Yvonne Fraticelli, Special Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on June 13, 2001 (''June 13 Conversation'').

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See* Securities Exchange Act Release No. 38852 (July 18, 1997), 62 FR 40128 (July 25, 1997) (order approving File No. SR–CBOE–97–30).

[17] For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

of calculating position exercise limits.[18] The different symbols for the old and revised indexes also should help to avoid confusion.

For all of the reasons set forth above, the Commission finds that it is consistent with the protection of investors and the public interest for the proposal to become operative on June 15, 2001. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it 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., 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 at the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2001–34 and should be submitted by July 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

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[18] *See* June 13 Conversation, *supra* note 12.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44423; File No. SR–NASD–2001–34]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to the Restated Certificate of Incorporation of The Nasdaq Stock Market, Inc.

June 13, 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 May 8, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On June 4, 2001 the NASD filed Amendment No. 1 to the Proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend its Restated Certification of Incorporation (''Certificate''). Additions are italicized; deletions are bracketed.

* * * * *

Restated Certificate of Incorporation of the NASDAQ Stock Market, Inc.

* * * * *

Article Fourth

A. No change.

B. No change.

C. 1. *(a)* Except as may otherwise be provided in this Restated Certificate of Incorporation (including any Preferred Stock Designation) or by applicable law, each holder of Common Stock, as such, shall be entitled to one vote for each shore of Common Stock held of record by such holder on all matters on which stockholders generally are entitled to vote, and no holder of any series of Preferred Stock, as such, shall be entitled to any voting powers in respect thereof.

(b) Except as may otherwise be provided in this Restated Certificate of Incorporation or by applicable law, the holders of the 4.0% Convertible Subordinate Notes due 2006 (the ''Notes'') which may be issued from time to time by Nasdaq shall be entitled to vote on all matters submitted to a vote of the stockholders of Nasdaq, voting together with the holders of the Common Stock (and of any other shares of capital stock of Nasdaq entitled to vote at a meeting of stockholders) as one class. Each principal amount of Notes shall be entitled to a number of votes equal to the number of votes represented by the Common Stock of Nasdaq that could then be acquired upon conversion of such principal amount of Notes into Common Stock, subject to adjustments as provided in the Notes. Holders of the Notes shall be deemed to be stockholders of Nasdaq, and the Notes shall be deemed to be shares of stock, solely for the purpose of any provision of the General Corporation Law of the State of Delaware or this Restated Certificate of Incorporation that requires the vote of stockholders as a prerequisite to any corporate action.

2. Notwithstanding any other provision of this Restated Certificate of Incorporation, but subject to subparagraph 6 of this paragraph C. of this Article Fourth, in no event shall *(i)* any record owner of any outstanding Common Stock which is beneficially owned, directly or indirectly, as of any record date for the determination of stockholders *and/or holders of Notes entitled to vote on any matter, or (ii) any holder of any Notes which are beneficially owned, directly or indirectly, as of any record date for the determination of stockholders and/or holders of Notes* entitled to vote on any matter, by a person (other than an Exempt Person) who beneficially owns shares of Common Stock *and/or Notes* (''Excess Shares *and/or Notes*'') in excess of five percent (5%) of the then-outstanding shares of Common Stock, be entitled or permitted to vote any Excess Shares *and/or Notes*. For all purposes hereof, any calculation of the number of shares of Common Stock outstanding at any particular time, including for purposes of determining the particular percentage of such outstanding shares of Common Stock of which any person is the beneficial owner, shall be made in accordance with the last sentence of Rule 13d–3(d)(1)(i) of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), as in effect on the date of filing this Restated Certificate of Incorporation.

3. The following definitions shall apply to this paragraph C. of this Article Fourth:

(a) ''Affiliate'' shall have the meaning ascribed to that term in Rule 12b–2 of the General Rules and Regulations under the Exchange Act, as in effect on the date of filing this Restated Certificate of Incorporation.

(b) A person shall be deemed the ''beneficial owner'' of, shall be deemed to have ''beneficial ownership'' of and shall be deemed to ''beneficially own'' any securities:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mary M. Dunbar, Vice President, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated June 12, 2001 (''Amendment No. 1''). In Amendment No. 1, Nasdaq changed the term ''debenture'' to ''note'' throughout the proposed rule text and filing, and clarified the circumstances under which Hellman and Friedman would be entitled to an exemption from the restriction contained in the Restated Certificate of Incorporation that prohibits any beneficial owner of more than five percent of common stocks or notes from voting those excess shares or notes.

(i) which such person or any of such person's Affiliates is deemed to beneficially own, directly or indirectly, within the meaning of Rule 13d–3 of the General Rules and Regulations under the Exchange Act as in effect on the date of the filing of this Restated Certificate of Incorporation;

(ii) which such person or any of such person's Affiliates has (A) the right to acquire (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities), or upon the exercise of conversion rights, exchange rights, rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the beneficial owner of, or to beneficially own, securities tendered pursuant to a tender or exchange offer made by or on behalf of such person or any of such person's Affiliates until such tendered securities are accepted for purchase; or (B) the right to vote pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the beneficial owner of, or to beneficially own, any security by reason of such agreement, arrangement or understanding if the agreement, arrangement or understanding to vote such security (1) arises solely from a revocable proxy or consent given to such person in response to a public proxy or consent solicitation made pursuant to, and in accordance with, the applicable rules and regulations promulgated under the Exchange Act and (2) is not also then reportable on Schedule 13D under the Exchange Act (or any comparable or successor report); or

(iii) which are beneficially owned, directly or indirectly, by any other person and with respect to which such person or any of such person's Affiliates has any agreement, arrangement or understanding (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities) for the purpose of acquiring, holding, voting (except to the extent contemplated by the proviso to (b)(ii)(B) above) or disposing of such securities; provided, however, that (A) no person who is an officer, director or employee of an Exempt Person shall be deemed, solely by reason of such person's status or authority as such, to be the ''beneficial owner'' of, to have ''beneficial ownership'' of or to ''beneficially own'' any securities that are ''beneficially owned'' (as defined herein), including, without limitation, in a fiduciary capacity, by an Exempt Person or by any other such officer, director or employee of an Exempt Person, and (B) the Voting Trustee, as defined in the Voting Trust Agreement by among Nasdaq, the National Association of Securities Dealers, Inc., a Delaware corporation (the ''NASD''), and The Bank of New York, a New York banking corporation, as such may be amended from time to time (the ''Voting Trust Agreement''), shall not be deemed, solely by reason of such person's status or authority as such, to be the ''beneficial owner'' of, to have ''beneficial ownership'' of or to ''beneficially own'' any securities that are governed by and held in accordance with the Voting Trust Agreement.

(c) A ''person'' shall mean any individual, firm, corporation, partnership, limited liability company or other entity.

(d) ''Exempt Person'' shall mean Nasdaq or any Subsidiary of Nasdaq, in each case including, without limitation, in its fiduciary capacity, or any employee benefit plan of Nasdaq or of any Subsidiary of Nasdaq, or any entity or trustee holding Common Stock for or pursuant to the terms of any such plan or for the purpose of funding any such plan or funding other employee benefits for employees of Nasdaq or of any Subsidiary of Nasdaq.

(e) ''Subsidiary'' of any person shall mean any corporation or other entity of which securities or other ownership interests having ordinary voting power sufficient to elect a majority of the board of directors or other persons performing similar functions are beneficially owned, directly or indirectly, by such person, and any corporation or other entity that is otherwise controlled by such person.

(f) The Board shall have the power to construe and apply the provisions of this paragraph C. of this Article Fourth and to make all determination necessary or desirable to implement such provisions, including, but not limited to, matters with respect to (1) the number of shares of Common Stock beneficially owned by any person, (2) *the number of Notes beneficially owned by any person, (3)* whether a person is an Affiliate of another, ([3]*4*) whether a person has an agreement, arrangement or understanding with another as to the matters referred to in the definition of beneficial ownership, ([4]*5*) the application of any other definition or operative provision hereof to the given facts, or ([5]*6*) any other matter relating to the applicability or effect of this paragraph C. of this Article Fourth.

(4) The Board shall have the right to demand that any person who is reasonably believed to hold of record or beneficially own Excess Shares *and/or Notes* supply Nasdaq with complete information as to (a) the record owner(s) of all shares *and/or Notes* beneficially owned by such person who is reasonably believed to own Excess Shares *and/or Notes,* and (b) any other factual matter relating to the applicability or effect of this paragraph C. of this Article Fourth as may reasonably be requested of such person.

5. Any constructions, applications, or determinations made by the Board, pursuant to this paragraph C. of this Article Fourth, in good faith and on the basis of such information and assistance as was then reasonably available for such purpose, shall be conclusive and binding upon Nasdaq [and], its stockholders *and the holders of the Notes*.

6. Notwithstanding anything herein to the contrary, subparagraph 2 of this paragraph C. of this Article Fourth shall not be applicable to any Excess Shares *and/or Notes* beneficially owned by (a) the NASD or its Affiliates until such time as the NASD beneficially owns five percent (5%) or less of the outstanding shares of Common stock [or] *and/or Notes*, (b) any other person as may be approved for such exemption by the Board prior to the time such person beneficially owns more than five percent (5%) of the outstanding shares of Common Stock *and/or Notes or (c) Hellman & Friedman Capital Partners IV, L.P., H&F International Partners IV–A, L.P., Hellman & Friedman International Partners IV–B, L.P., and H&F Executive Fund, L.P. if the Board has approved an exemption for any other person pursuant to Section 6(b) of this paragraph C. of this Article Fourth (other than an exemption granted in connection with the establishment of a strategic alliance with another exchange or similar market*). The Board, however, may not approve an exemption under [this] Section 6(b): (i) for a registered broker or dealer or an Affiliate thereof (provided that, for these purposes, an Affiliate shall not be deemed to include an entity that either owns ten percent or less of the equity of a broker or dealer, or the broker or dealer accounts for one percent or less of the gross revenues received by the consolidated entity); or (ii) an individual or entity that is subject to a statutory disqualification under Section 3(a)(39) of the Exchange Act. The Board, may approve an exemption for any other stockholder *or holder of Notes* if the Board determines that granting such exemption would (A) not reasonably be expected to diminish the quality of, or public confidence in, The Nasdaq Stock Market or the other operations of Nasdaq, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public, and (B) 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 or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

7. In the event any provision (or portion thereof) of this paragraph C. of this Article Fourth shall be found to be invalid, prohibited or unenforceable for any reason, the remaining provisions (or portions thereof) of this paragraph C. of this Article Fourth shall remain in full force and effect, and shall be construed as if such invalid, prohibited or unenforceable provision (or portion hereof) had been stricken herefrom or otherwise rendered inapplicable, it being the intent of Nasdaq [and], its stockholders *and the holders of the Notes* that each such remaining provision (or portion thereof) of this paragraph C. of this Article Fourth remains, to the fullest extent permitted by law, applicable and enforceable as to all stockholders *and all holders of Notes,* including stockholders *and holders of Notes* that beneficially own Excess Shares *and/or Notes,* notwithstanding any such finding.

* * * * *

Article Ninth

Nasdaq reserves the right to amend, alter, change, or repeal any provisions contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred herein are granted subject to this reservation; provided, however, that the affirmative vote of the

holders of at least 66⅔% of the voting power of the outstanding Voting Stock, voting together as a single class, shall be required to amend, repeal or adopt any provision inconsistent with paragraph C. of Article Fourth, Article Fifth, Article Seventh, Article Eighth or this Article Ninth; *provided further, however, the affirmative vote of at least 66⅔% of the voting power of the holders of the outstanding Notes shall also be required to (i) amend paragraph C. of Article Fourth in a manner that would adversely affect the rights of the holders of the Notes thereunder without similarly affecting the rights of the holders of the Common Stock thereunder or (ii) amend this clause.*

* * * * *

Article Eleventh

In light of the unique nature of Nasdaq and its operations and in light of Nasdaq's status as a self-regulatory organization, the Board of Directors, when evaluating (A) any tender or exchange offer or invitation for tenders of exchanges, or proposal to make a tender or exchange offer or request or invitation for tenders or exchanges, by another party, for any equity security of Nasdaq, (B) any proposal or offer by another party to (1) merge or consolidate Nasdaq or any subsidiary with another corporation or other entity, (2) purchase or otherwise acquire all or a substantial portion of the properties or assets of Nasdaq or any subsidiary, or sell or otherwise dispose of to Nasdaq or any subsidiary all or a substantial portion of the properties or assets of such other party, or (3) liquidate, dissolve, reclassify the securities of, declare an extraordinary dividend of, recapitalize or reorganize Nasdaq, (C) any action, or any failure to act, with respect to any holder or potential holder of Excess Shares *and/or Notes* subject to the limitations set forth in subparagraph 2 of paragraph C. of Article Fourth, (D) any demand or proposal, precatory or otherwise, on behalf of or by a holder or potential holder of Excess Shares *and/or Notes* subject to the limitations set forth in subparagraph 2 of paragraph C. of Article Fourth or (E) any other issue, shall, to the fullest extent permitted by applicable law, take into account all factors that the Board of Directors deems relevant, including, without limitation, to the extent deemed relevant, (i) the potential impact thereof on the integrity, continuity and stability of The Nasdaq Stock Market and the other operations of Nasdaq, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public, and (ii) whether such would 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 or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set fort 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 purpose of the proposed rule change is to amend the Certificate to afford the holders of 4.0% Convertible Subordinated Notes due 2006 (the ''Notes'') the right to vote with Nasdaq stockholders. Nasdaq has sold $240 million of the Notes to Hellman & Friedman Capital Partners IV. L.P., H&F International Partners IV–A, L.P., H&F International Partners IV–B, L.P., and H&F Executive Fund IV. L.P. (collectively the ''HFCP IV LPs''). The Notes are convertible at any time during a five-year period into shares of Nasdaq common stock at a conversion price of $20 per share; thus, the Notes purchased by the HFCP IV LPs would be convertible into 12,000,000 shares of Nasdaq common stock.

Nasdaq and the NASD have entered into an agreement pursuant to which Nasdaq has used substantially all of the cash raised from the sale of the Notes to repurchase outstanding shares of Nasdaq common stock owned by the NASD. The purchase of shares from the NASD allows the NASD and Nasdaq to reduce the NASD's ownership interest in Nasdaq without diluting other existing equity holders in Nasdaq. The NASD will, however, retain voting control of Nasdaq until Nasdaq obtains approval of its application to register as a securities exchange, which it submitted to the Commission on November 9, 2000.[4] Prior to exchange registration, Nasdaq's activities that involve functions or responsibilities of a registered securities association will be subject to the NASD's oversight under the Plan of Allocation and Delegation by NASD to Subsidiaries, as approved by the Commission, as well as the NASD's voting control.

Article Fourth

Paragraph C.1. Nasdaq proposes to amend this paragraph of the Certificate to provide that holders of the Notes have the right to vote with Nasdaq stockholders, with each holder of Notes entitled to a number of votes equal to the number of shares of common stock such holder would obtain upon conversion of the principal among of Notes held by such person. The amendment will also provide that holders of Notes shall be deemed to be stockholders and the Notes shall be deemed to be shares of stock solely for the purposes of provisions of the Delaware General Corporation Law and the Certificate that require the vote of stockholders as a prerequisite to corporate action.

Paragraph C.2. Nasdaq proposes to amend the provision of the Certificate that imposes restrictions on stockholders voting shares in excess of 5% of outstanding stock. The amendment would make the same restriction applicable to holders of the Notes. Any person who beneficially owns shares of common stock and/or Notes in excess of 5% of then then-outstanding shares of common stock would not be permitted to vote such excess shares and/or Notes. As is true under the current Certificate, the calculation of the number of shares of common stock outstanding at any particular time is to be made in accordance with the last sentence of SEC Rule 13d–3(d)(1)(i).[5] As a result, shares of common stock that may be acquired by a holder of Notes through conversion would be deemed to be outstanding for purposes of calculating the voting power owned by such holder.

Paragraph C.3.(f), C.4., and C.5. Currently, these paragraphs (1) authorize the Nasdaq Board of Directors to make determinations necessary to implement Paragraph C of Article Fourth of the Certificate, including determinations about stockholders' beneficial ownership of shares, (2) empower the Nasdaq Board of Directors to demand that any person who is reasonably believed to be the beneficial owner of shares in excess of the 5% voting limitation provide information about such person's ownership interests, and (3) provide that determinations made by the Nasdaq Board of Directors to implement Paragraph C of Article Fourth of the Certificate are conclusive and binding

[4] Certain exhibits to Nasdaq's application were incomplete, and therefore on March 15, 2001, Nasdaq submitted to the Commission revised exhibits to address the deficiencies. As a result, Nasdaq's Form 1 was completed and officially filed with the Commission on March 15, 2001.

[5] 17 CFR 240.13d–3(d)(1)(i).

upon Nasdaq and its stockholders. Nasdaq proposes to amend these paragraphs to include conforming references to the Notes.

Paragraph C.6. Currently, this paragraph provides that the 5% voting limitation does not apply to (1) the NASD or its affiliates until such time as the NASD beneficially owns 5% or less of Nasdaq's outstanding common stock, or (2) any other person that the Nasdaq Board of Director may exempt prior to the time that such person beneficially owns more than 5% of the outstanding shares of common stock. The paragraph also provides that the Board may not approve an exemption from the 5% limit for a registered broker or dealer or an affiliate thereof[6] or a person that is subject to a statutory disqualification under Section 3(a)(39) of the Act.[7] In addition, before granting an exemption, the Nasdaq Board must make certain findings with respect to the effect of an exemption on enumerated aspects of Nasdaq's regulatory obligations.

The proposed rule amendment would add conforming references to the Notes and would also provide that the HFCP IV LPs will be exempted from the 5% voting limitation if the Nasdaq Board of Directors approves an exemption from the 5% voting limitation for any other person (other than an exemption granted in connection with the establishment of a strategic alliance with another exchange or similar market). This exemption would not apply to any other person to whom the HFCP IV LPs might transfer Notes and/or common stock.

Paragraph C.7. This paragraph is a savings clause that provides that if any portion of Paragraph C. of Article Fourth of the Certificate is found to be invalid, the validity of remaining provisions shall not be affected. Nasdaq proposes to amend the paragraph to include conforming references to the Notes.

Article Ninth

Nasdaq proposes to amend this article to provide that a two-third vote of the holders of outstanding Notes is required (1) to amend Paragraph C. of Article Fourth of the Certificate in a manner that would adversely affect the rights of the holders of the Notes without similarly affecting the rights of stockholders or (2) to amend such two-thirds voting requirement.

Article Eleventh

This article authorizes the Nasdaq Board of Directors to consider the effect of proposed corporate action on enumerated aspects of Nasdaq's regulatory obligations. Nasdaq proposes to amend the provision to include conforming references to the Notes.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(2) and (6) of the Act, which require, among other things, that the Association be so organized and have the capacity to be able to carry out the purposes of the Act and to comply with and enforce compliance with the provisions of the Act, and that the Association's rules are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Nasdaq believes that the changes proposed to its Certificate are consistent with maintaining the 5% voting limitation that is currently contained in the Certificate, which serves the public interest by ensuring that certain individuals and entities cannot gain undue influence over the operations of Nasdaq. In its order approving the Certificate, the Commission found that this 5% voting limitation and other limitations affecting the control of Nasdaq fulfill the obligations arising under Section 15A(b)(2) and (6).[8]

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No.

[6] A small number of the limited partners of the HFCP IV LPs are registered broker/dealers or affiliates of registered broker/dealers (the ''Broker/Dealer Investors''). The Certificate provides that Nasdaq may not exempt a registered broker/dealer or an affiliate thereof from the 5% voting limitation. The Certificate defines ''affiliate'' with reference to SEC Rule 12b–2, 17 CFR 240.12b–2, which in turn defines an ''affiliate'' of a specified person as ''a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.'' The interests of the Broker/Dealer Investors in the HFCP IV LPs are minimal. Moreover, the limited partnership agreements that govern the HFCP IV LPs provide that the limited partners shall take no part in the control or management of the business or affairs of the limited partnership, nor shall they have any authority to act for or on behalf of the limited partnership. Accordingly, the HFCP IV LPs are not affiliates of the Broker/Dealer Investors. Similarly, the investment by the HFCP IV LPs in Nasdaq will not raise issues under proposed Rule 2130, as proposed in Nasdaq's application for registration as a national securities exchange, if the Broker/Dealer Investors or any of their affiliates become members of Nasdaq following its registration as a national securities exchange. Proposed Rule 2130 provides that no Nasdaq member or person associated with a member may be the beneficial owner of more than 5% of the outstanding shares of Nasdaq's common stock, and further provides that the term ''beneficial owner'' shall have the meaning set forth in Article Fourth, Paragraph C of the Certificate. Because the Broker/Dealer Investors do not meet the definition of ''beneficial owner'' in Article Fourth, Pargraph C of the Certificate, beneficial ownership of the Notes (and the common stock underlying the Notes) would not be attributable to them for purposes of proposed Rule 2130.

[7] 15 U.S.C. 78c(a)(39).

[8] *See* Securities Exchange Act Release No. 42983 (June 26, 2000), 65 FR 41116 (July 3, 2000) (File No. SR–NASD–00–27).

SR–NASD–2001–34 and should be submitted by July 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–15677 Filed 6–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44432; File No. SR–PCX–2001–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Fees for Application for Approved Status Despite Grounds for Statutory Disqualification Fee

June 15, 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 June 1, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to change its schedule of Fees and Charges for Exchange Services by adding a fee for an Application for Approved Status Despite Grounds for Statutory Disqualification.[3] The text of the proposed rule change is below. New text is in italics.

Text of the Proposed Rule Change

SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

* * * * *

PCX GENERAL MEMBERSHIP FEES

Application for Approved Status Despite Ground for Statutory Disqualification.	$250.00 per application.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed new fee is to cover the expenses of handling the Application for Approved Status Despite Grounds for Statutory Disqualification.

This fee is payable whenever a person or entity is subject to a statutory disqualification under the Act and (1) is an applicant for Exchange membership, (2) is seeking to be an associated person of an Exchange Member (except where the Exchange is merely asked to concur in an SEC Rule 19h–1 filing by another self-regulatory organization), or (3) is an existing Exchange member or associated person who submits an Application for Approved Status Despite Grounds for Statutory Disqualification. This fee is in addition to any other membership fees that might be applicable.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[4] in general, and Section 6(b)(4) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.[6]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, view 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.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* PCX Rule 1.7(a)—Denial of and Conditions to Membership.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] The proposed fee will be applied to the expenses of Exchange staff review, investigation and evaluation of Applications for Approved Status Despite Grounds for Statutory Disqualification. Telephone discussion between Cindy L. Sink, Senior Staff Attorney, Regulatory Policy, PCX, Karl Varner, Senior Counsel, Division of Market Regulation (''Division''), Commission, and Frank N. Genco, Attorney Advisor, Division, Commission (June 11, 2001).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 U.S.C. 240.19b–4.

[9] *See* 15 U.S.C. 78(b)(3)(C).

SR–PCX–2001–22 and should be submitted by July 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–15678 Filed 6–21–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3349]

State of Florida

As a result of the President's major disaster declaration on June 17, 2001, I find that Gadsden, Jefferson, Leon, Liberty, and Wakulla Counties in the State of Florida constitute a disaster area due to damages caused by Tropical Storm Allison occurring on June 11 and continuing through June 15, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 16, 2001 and for economic injury until the close of business on March 18, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Florida may be filed until the specified date at the above location: Calhoun, Franklin, Gulf, Jackson, Madison, and Taylor; and Brooks, Decatur, Grady, Seminole, and Thomas counties in the State of Georgia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Inquiry:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

[10] 17 CFR 200.30–3(a)(12).

The number assigned to this disaster for physical damage is 334908. For economic injury the number is 9L9200 for Florida, and 9L9300 for Georgia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 18, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–15738 Filed 6–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3348; Amendment #1]

State of Louisiana

In accordance with a notice received from the Federal Emergency Management Agency, dated June 14, 2001, the above-numbered Declaration is hereby amended to include Beauregard, Iberia, Jefferson, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa and Washington Parishes in the State of Louisiana as disaster areas caused by Tropical Storm Allison occurring on June 5, 2001 and continuing.

In addition, applications for economic injury loans from small businesses located in Allen, Calcasieu, Plaquemines and Vernon Parishes in the State of Louisiana; Amite, Hancock, Marion, Pearl River, Pike, and Walthall in the State of Mississippi; and Newton County in the State of Texas may be filed until the specified date at the previously designated location. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

The economic injury number assigned is 9L9100 for Texas and 9L9400 for Mississippi.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 10, 2001, and for loans for economic is March 11, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 18, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–15739 Filed 6–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IV, North Florida District, Jacksonville, Florida, Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, North Florida District Office, Jacksonville, Florida, Advisory Council will hold a public meeting from 12:00 p.m. to 2 p.m., eastern standard time July 11, 2001, at the North Florida District Office, 7825 Baymeadows Way, Suite 100–B, in the Conference Room, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Claudia Taylor, in writing by letter or fax no later than June 25, 2001, in order to be put on the agenda. For further information, write or call Claudia D. Taylor, U.S. Small Business Administration, 7825 Baymeadows Way, Suite 100–B, Jacksonville, Florida 32256–7504, telephone (904) 443–1933, fax (904) 443–1980.

Nancyellen Gentile,

Committee Management Office.

[FR Doc. 01–15737 Filed 6–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

RIN: 3245–AE72

Small Business Innovation Research Program Policy Directive

AGENCY: U.S. Small Business Administration.

ACTION: Notice of proposed policy directive; Notice of reopening of the comment period.

SUMMARY: The proposed rule proposes revisions to the Small Business Innovation Research (SBIR) Program Policy Directive. The revised proposed policy directive reflects recently enacted statutory requirements. It is proposed to provide guidance to participating Federal agencies for the general conduct of the SBIR Program. The notice of proposed policy directive was published on May 18, 2001, 66 FR 27721. The comment period closed on June 18, 2001. We are reopening the comment period because the Small Business Administration believes that affected businesses need more time to adequately respond.

DATES: The comment period for the proposed policy directive published on May 18, 2001 (66 FR 27721) is reopened through July 23, 2001.

ADDRESSES: Address all comments to Maurice Swinton, Assistant Administrator for Technology, Office of Technology, Office of Policy, Planning, and Liaison, Office of Government Contracting/Business Development, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416 or via e-mail to technology@sba.gov.

Dated: June 14, 2001.

William A. Fisher,

Acting Associate Deputy Administrator.

[FR Doc. 01–15717 Filed 6–21–01; 8:45 am]

BILLING CODE 8025–01–U

TENNESSEE VALLEY AUTHORITY

Use of Lands Acquired for the Columbia Dam Component of the Duck River Project and Future Water Supply Needs in the Upper Duck River Basin

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Issuance of records of decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR 1500 to 1508) and TVA's implementing procedures. TVA has decided to implement Alternative D/C (intermediate alternative) in its Final Environmental Impact Statement (EIS), Use Of Lands Acquired For The Columbia Dam Component Of The Duck River Project. In addition, TVA has decided to recommend to local utilities, government agencies, and other interested parties in the upper Duck River watershed that one or more of the action alternatives addressed in the TVA Final EIS, Future Water Supply Needs in the Upper Duck River Basin be pursued to meet the future water needs in that area. TVA is not proposing to implement any of these water supply alternatives itself.

The Columbia Land Use Final EIS was made available to the public in April 1999. A Notice of Availability of the Final EIS was published in the **Federal Register** on April 16, 1999. TVA made a decision to implement Option 2 to stabilize the unfinished Columbia Dam structure on May 17, 1999. Under Alternative D/C, the agency preferred land use alternative, TVA seeks to balance public use and protection of project lands and to be responsive to public comments received during the EIS process.

To implement Land Use Alternative D/C, TVA has decided to transfer all of the Columbia Project lands, 5200 hectares (12,800 acres) of land in Maury County, Tennessee, to the state of Tennessee subject to various easements and restrictions.

Under the deed restrictions, most of the land is to be managed to enhance recreational use of the area and to protect natural and cultural resources. Up to 800 hectares (2000 acres) of land could be devoted to other recreational uses, including residential development if the State decides to do this. An additional 1550 hectares (3800 acres) would be preserved for the possible construction of a water supply and compatible recreation reservoir (Water Supply EIS Alternative B). This reservoir was identified as one way to meet the future water supply needs of the Maury/southern Williamson County Water Service Area. In the interim, these preserved tracts would be managed for wildlife and other recreation uses.

The Columbia Water Supply Final EIS was made available to the public in February 2001. A Notice of Availability of the Final EIS was published in the **Federal Register** on March 2, 2001. TVA's preferred alternative is that one or more of the action alternatives should be pursued by local utilities, government agencies, and other interested parties in the upper Duck River watershed to meet the future water needs in the Maury/southern Williamson County Water Service Area.

FOR FURTHER INFORMATION CONTACT: Linda B. Oxendine, Senior NEPA Specialist, Environmental Policy & Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902–1499; telephone (865) 632–3440 or e-mail lboxendine@tva.gov.

SUPPLEMENTARY INFORMATION: In 1968, TVA proposed the Duck River Project, a project that would have resulted in the construction of two dams and reservoirs on the Duck River in middle Tennessee, south of Nashville. As proposed, one dam was to be built at River Mile 248, near Normandy, and the other at River Mile 136, near Columbia. Congress began appropriating money for the Duck River Project in December 1969. Construction of Normandy Dam and Reservoir began in June 1972 and was completed in 1976. Construction of Columbia Dam and Reservoir was begun in August 1973, but was halted in 1983 because of potential impacts to at least two endangered mussel species which occur in the proposed reservoir pool area.

In 1995, after conservation efforts for the endangered mussel species had failed to meet established criteria, TVA decided that Columbia Dam and Reservoir could not be completed. At that time, TVA proposed to address two partially-related purposes of the original project: future use of the lands that had been acquired, and water supply needs in the upper Duck River watershed.

The Columbia Project lands are located along the Duck River between the city of Columbia (on the west) and U.S. Route 431, Lewisburg-Franklin Pike (on the east), in Maury County, Tennessee. The reach of the Duck River included in this study extends from approximately River Mile 130, in Columbia, upstream to River Mile 165, at Carpenters Bridge, 3 kilometers (2 air miles) west of U.S. Route 431.

When construction was halted in 1983, the Columbia Project was about 45 percent complete. The concrete portion of the dam was about 90 percent complete and the earth-filled section was about 60 percent complete. The river had been moved to flow through a 600-meter (2000-foot) long diversion channel located along the east side of the work site and a dike had been built to keep normal stream flow out of the spillway construction site. Approximately 46 percent of the land required for the reservoir (5200 of 11,140 hectares (12,800 of 27,500 acres)) had been acquired, and approximately half of the 72 kilometers (45 miles) of roads affected by the reservoir had been relocated.

Present status of sensitive resources in the project area includes the presence of at least four federal endangered species, unusually diverse aquatic and terrestrial communities, and a number of important archaeological sites. During the past decade, the Columbia Project lands have become important public hunting grounds in middle Tennessee. At the same time, increasing numbers of people are building homes and businesses around the area.

On February 25, 1995, TVA issued a Notice of Intent (NOI) to prepare an EIS on alternative uses for the land acquired as part of the Columbia Project. A similar NOI for the Water Supply EIS was published in the **Federal Register** on March 9, 1995. The Tennessee Duck River Development Agency, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service decided to cooperate in the preparation of both EIS documents. In addition, the Tennessee Department of Environmental and Conservation decided to cooperate in the preparation of the Water Supply EIS. Public scoping meetings were held at Culleoka School near the Project site on April 18 and May 2, 1995, on the Land Use EIS and Water Supply EIS, respectively. The Notice of Availability (NOA) on the Draft Land Use EIS was published on January 6, 1997, and a

similar NOA on the Draft Water Supply EIS was published on September 15, 2000. The public and interested agencies were invited to submit written comments on the draft Land Use EIS and to attend a public meeting on January 27, 1997, at Columbia Senior High School. The public and interested agencies were invited to submit written comments on the draft Water Supply EIS and to attend a public meeting on September 28, 2000, at the same location.

For the Land Use EIS, TVA received a total of 2,890 separate sets of comments which included input from over 4,600 individuals, three federal agencies, four state agencies, six identified county and local governmental agencies, and over 20 other organizations. The comments indicated that most people and agencies want the bulk of the Columbia Project lands to be available for a variety of public uses. Comments also included making land available for public services, such as schools and convenience centers, and to resolve access problems created when only part of the proposed Columbia Reservoir lands were acquired. The Notice of Availability of the Final EIS was published on April 16, 1999.

With regard to the Water Supply EIS, TVA received comments from 130 participants at the public meeting and a total of 364 letters, which included input from 339 individuals, three federal agencies, seven state agencies, two municipalities, eight state-level non-governmental agencies, and four local-level non-governmental agencies. Many of the comments made about the Land Use EIS also addressed issues covered in the Water Supply EIS.

Alternatives Considered

Land Use Alternatives

Based on comments received during the scoping process, TVA initially considered four land use alternatives and three dam stabilization options in the Draft EIS. In response to public and agency comments on the Draft EIS, TVA and the cooperating agencies identified and evaluated a fifth, intermediate, alternative in the Final EIS.

On May 17, 1999, TVA issued a Record of Decision on dam stabilization and decided to implement Option 2 to stabilize flood elevation at their present levels, address public safety concerns, and avoid substantial additional construction in the river.

With respect to the land use alternatives, under *Alternative A—Continue Present Uses (No Action)*, there would be no wholesale change in TVA ownership or use of the Columbia Project lands. Most of the land would continue to be used for informal recreation while some would be licensed for agricultural uses. Parcels of land could be transferred to other agencies, sold at public auction, or used for specific purposes following completion of appropriate NEPA reviews.

Under *Alternative B—Protective River Corridor*, only those Columbia Project lands in a narrow corridor along the Duck River would remain in public ownership. Informal recreation could occur on the river and in the corridor, so long as it did not cause negative impacts on the natural or cultural resources which occur there. Nearly all Columbia Project lands outside of this corridor would be transferred to other agencies or sold at public auction.

Under *Alternative C—Protective and Recreation Corridor*, additional lands would remain in public ownership beyond those identified as part of the protective river corridor. The additional land would provide better protection for the river and enhance the potential for various types of formal recreational development. Lands not included in this larger corridor would be transferred to other agencies or sold at public auction.

Under *Alternative D—Resource Management Area*, most of the Columbia Project lands would be transferred to a federal or state agency to be managed, in part, to protect natural and cultural resources. The extent of recreational development and other compatible uses of the land would be determined by the receiving agency. Only a few outlying parcels of Columbia Project land would be sold at public auction.

Under *Alternative D/C—Public Use and Protection*—all of the Columbia Project lands would be transferred to the state of Tennessee or some specific state or federal agency. The extent of recreational development and other compatible uses of this land would be determined by the State or receiving agency but would have to meet land use and environmental restrictions included in the transfer document. Up to 800 hectares (2000 acres) of land (Possible Development Areas) could be devoted to other recreational-based uses, including residential development. An additional 1550 hectares (3800 acres) in the Fountain Creek area would be set aside for a possible water supply and compatible recreation reservoir in the future. In the interim, this land would be managed for wildlife and recreation activities.

While the land use alternatives differ from each other in several ways, each proposed setting aside the 1550 hectares (3800 acres) of project lands in the Fountain Creek watershed for a water supply and compatible recreation reservoir project later described as Alternative B in the Water Supply EIS. Of the five alternatives, four (Alternatives A, B, C, and D/C) include varying amounts of residential, commercial, and/or industrial development on parts of the Columbia Project lands; Alternative D/C includes no industrial development.

Water Supply Alternatives

The Water Supply EIS was developed to achieve three purposes: (1) To document if one or more of the three water service areas in the upper Duck River basin has a projected need for additional water before about 2050, (2) to identify potential ways to meet any identified water needs in the three water service areas, and (3) to determine the likely environmental effects of the water-supply alternatives that were identified.

The results from the needs analysis indicate that water releases from Normandy Dam would meet projected needs in the Bedford County and Marshall County Water Service Areas through 2050; however, the Maury/southern Williamson County Service Area (the area around Columbia) would need additional water starting some time after 2015. Five broad concepts for meeting water supply needs were evaluated in detail, including the No Action alternative. Under *Alternative A—No Action*, no new source of water would be developed to meet the projected future needs of the Maury/southern Williamson County Water Service Area. Under *Alternative B—Fountain Creek Reservoir*, a water supply reservoir would be constructed on Fountain Creek along with a five-mile long pipeline to transport water from the reservoir to a new treatment plant and to the existing water-distribution system. Under *Alternative C—Downstream Intake*, a water-supply intake and pumping station would be constructed on the Duck River in western Maury County along with a 13-mile pipeline to transport water to a new treatment plant and to the existing water-distribution system. Under *Alternative D—Raise Normandy Pool Level*, the pool level on Normandy Reservoir would be raised and the minimum discharge from Normandy Dam would be increased. Under *Alternative E—Tims Ford Intake*, a water-supply intake and pumping station would be constructed on Tims

Ford reservoir along with a 20-mile pipeline to transport water to a discharge point on the Duck River near Shelbyville in Bedford County.

In the Water Supply EIS, TVA found that three alternatives would meet the future needs of the Columbia area through 2050. Raising the pool level on Normandy Reservoir would meet projected water needs through 2035; however, the use of available water conservation measures could extend the utility of this alternative through 2050. Preliminary reviews presented in the EIS indicated that all four conceptual action alternatives could be constructed and operated without seriously harming the environment.

Decisions

Land Use EIS

TVA has decided to implement Alternative D/C (Public Use and Protection). TVA will transfer all of the Columbia Project lands to the state of Tennessee subject to certain easements and restrictions. This alternative, which incorporates components of both Alternative D (Resource Management Area) and C (Protective and Recreational Corridor), responds to the public comments TVA received during the EIS process. The bulk of the lands will be retained in public ownership and devoted to recreation and natural resource management. This will protect the cultural and natural resources, including endangered species and wetlands, which exist in the area. Under restrictions in the document transferring ownership of the property, the State could choose to make up to 800 hectares (2,000 acres) of land in the Possible Development Areas available for other recreational uses including residential development which would help respond to some of the development pressures in the area. Prior to the transfer, TVA will convey certain easements to address property access issues and to provide for specific public uses, such as a site for a new school.

TVA closely coordinated the formulation of Alternative D/C with the U.S. Fish and Wildlife Service and Tennessee state natural resource management agencies. The Service has agreed with TVA's determination that implementation of Alternative D/C will not jeopardize the continued existence of any of the endangered or threatened species that are present on, or could be affected by, the restricted use of the former Columbia Project lands. This action will preserve a substantial block of land for open space, wildlife management, and natural resource protection in an area that is under increasing development pressures. Devoting lands to these uses is important now and will become increasingly important to future generations in the middle Tennessee region.

Water Supply EIS

Although agencies typically identify only one EIS alternative as preferable, agencies can identify multiple alternatives as preferable under CEQ's NEPA regulations. 40 CFR § 1502.14.(e). Considering the programmatic nature of the Water Supply EIS and TVA's lack of involvement in future implementation of the action alternatives, TVA identified all of the action alternatives as preferable to not taking any action at all. Accordingly, TVA has concluded that one or more of the action alternatives should be pursued to meet the future water needs in the Maury/southern Williamson County Water Service Area. TVA is not proposing to design or construct any of the facilities. However as a regional water resource agency, TVA can assist in evaluating available alternatives and encourage cooperation among all communities that are dependent on common water resources. Local utilities, government agencies, and other interested parties in the upper Duck River watershed will be the ones to actually decide which water supply alternatives should be pursued.

Environmentally Preferable Alternative

TVA has concluded that Alternative D, Resource Management Area, is the environmentally preferable alternative in the Land Use EIS. Alternative D would likely result in little disturbance of project lands and would best protect natural resources in the area. Little or no land would be transferred or sold out of public ownership. The federal or state agency recipient would commit to manage these lands to protect natural and cultural resources and to enhance recreational use of the area. Most of the Columbia Project lands would become a resource management area. However, TVA decided that Alternative D/C adequately protects the area's natural resources and is the second-most environmentally preferable alternative.

With regard to the Water Supply EIS, TVA has concluded that any of the action alternatives could be implemented with acceptable impacts on the environment. However, the extent of potential environmental effects of the conceptual alternatives is related to the amount of land area that would be modified or disturbed. TVA agrees with EPA that the two alternatives which would involve the least amount of land disturbance (Alternative C—Downstream Water Intake, and Alternative E—Tims Ford Pipeline) also appear likely to have the least potential for adverse effects on the environment (almost exclusively short-term effects associated with construction of the pipelines and other facilities). Both of the other alternatives (Alternative B—Fountain Creek Reservoir, and Alternative D—Raise Normandy Pool Level) would involve modifications in much larger areas and would have substantially more potential for adverse environmental effects. Each of the alternatives also would result in some level of benefits to water quality, aquatic life, and recreation on parts of the Duck River where at least the minimum flow would be higher than under the No Action Alternative. Assuming that the construction impacts per mile of waterline would be comparable, the small size of the intake site and the shorter length of pipeline that would be involved would combine to make Alternative C the most environmentally-preferable alternative.

Environmental Mitigation

Although implementation of Alternative D would have resulted in heightened environmental protection on more land, Alternative D/C was purposefully formulated to safeguard the sensitive natural resources found on the Columbia Project lands. Setting aside land in an expanded river corridor and protecting such lands with a set of comprehensive restrictions substantially avoids the risks of adverse environmental impacts. These comprehensive restrictions also require appropriate review and mitigation of any subsequent potential impacts on natural and cultural resources.

In the Water Supply EIS, the action alternatives have been generally described in light of their conceptual nature at this early stage. If and when a decision is made to provide some additional water for the Maury/southern Williamson County Water Service Area, the sponsors would determine the specific purposes of each project and would develop site-specific plans for the various facilities. As those plans are developed and proposals are made, detailed, site-specific evaluations of environmental effects would be conducted, if required and as appropriate, under the National Environmental Policy Act.

Dated: June 18, 2001.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

[FR Doc. 01–15729 Filed 6–21–01; 8:45 am]

BILLING CODE 8120–08–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee on Services (ISAC–13) will hold a meeting on June 28, 2001, from 9 a.m. to 12 noon. The meeting will be open to the public from 9 a.m. to 9:45 a.m. and closed to the public from 9:45 a.m. to 12 noon.

DATES: The meeting is scheduled for June 28, 2001, unless otherwise notified.

ADDRESSES: The meeting will be held in Conference Room 6057, of the Department of Commerce, located at 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ingrid Mitchem, Acting Designated Officer for ISAC–13, (202) 482–3268, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230 (principal contacts), or myself on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the meeting the following topics will be addressed:

- Trade Promotion Authority; and
- International Trade Agreements

Heather K. Wingate,

Assistant United States Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 01–15772 Filed 6–21–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–9938]

Merchant Marine Personnel Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard is seeking applications for appointment to membership on the Merchant Marine Personnel Advisory Committee (MERPAC). MERPAC provides advice and makes recommendations to the Coast Guard on matters related to the training, qualification, licensing, certification, and fitness of seamen serving in the U.S. merchant marine.

DATES: Applications should reach us on or before August 31, 2001.

ADDRESSES: You may request an application form by writing to Commandant (G–MSO–1), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001. Please submit applications to the same address.

FOR FURTHER INFORMATION CONTACT: Commander Brian J. Peter, Executive Director of MERPAC, or Mr. Mark C. Gould, Assistant to the Executive Director, telephone 202–267–0229, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: This notice is available on the Internet at *http://dms.dot.gov.* The application form is available on the Internet at *http://www.uscg.mil/hg/g-m/advisory/index.htm.* You may also obtain an application by calling Mr. Mark Gould at (202) 267–0229; by e-mailing him at *mgould@comdt.uscg.mil;* by faxing him at (202) 267–4570; or by writing him at the location in **ADDRESSES** above.

MERPAC is chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2. It provides advice and makes recommendations to the Assistant Commandant for Marine Safety and Environmental Protection, on matters of concern to seamen serving in our merchant marine such as implementation of the international Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended and activities of regional examination centers.

MERPAC meets at least twice a year, once at Coast Guard Headquarters, Washington, DC, and once elsewhere in the country. Its subcommittees and working groups may also meet to consider specific tasks as required.

The Coast Guard will consider applications for six positions that expire or become vacant in January 2002. It needs applicants with one or more of the following backgrounds to fill the positions:

(a) Licensed Deck Officer.

(b) Managerial employee of a shipping company.

(c) Licensed Engineer.

(d) Unlicensed Member of the Deck Department.

(e) Marine Educator associated with a Federal or State maritime academy.

(f) Pilot.

Each member serves for a term of 3 years. No member may serve more than two consecutive 3-year terms. MERPAC members serve without compensation from the Federal Government; however, they do receive travel reimbursement and per diem.

In support of the policy of the Department of Transportation on gender and ethnic diversity, the Coast Guard encourages applications from qualified women and members of minority groups.

If you are selected as a member who represents the general public, we will require you to complete a Confidential Financial Disclosure Report (OGE Form 450). Neither the report nor the information it contains may be released to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act [5 U.S.C. 552a].

Dated: June 12, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–15660 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Seattle, Washington

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public, Tribes, and agencies that an environmental impact statement will be prepared for a proposed highway project in Seattle, King County, Washington.

FOR FURTHER INFORMATION CONTACT: Jim Leonard, FHWA, 711 South Capitol Way, Suite 501, Olympia, Washington, 98501 (telephone 360–753–9408); Carroll Hunter, WSDOT Office of Urban Mobility, 401 Second Avenue South, Suite 300, Seattle, WA 98104–2887 (telephone 206–464–6231), and Kristen Nielsen, City of Seattle, 600 Fourth Avenue, Suite 401, Seattle, WA 98140–1879 (telephone 206–684–0983).

SUPPLEMENTARY INFORMATION: The FHWA, the Washington State Department of Transportation (WSDOT), and the City of Seattle will prepare an environmental impact statement (EIS) to document the environmental consequences for alternative solutions to improve the existing SR 99 corridor now partially served by the Alaskan Way Viaduct located in downtown Seattle, King County, Washington. The proposed action would provide a facility with improved earthquake resistance that maintains or improves mobility for people and goods along the existing SR 99 Corridor. The proposed action would involve improvements to the existing 2-mile viaduct structure or construction of a new facility. The southern terminus of the project would

be the First Avenue South Bridge. The north terminus would be north of the existing Battery Street Tunnel and will be determined after project scoping to (1) not preclude a possible connection to the south Lake Union vicinity (the Mercer Street Corridor connection to Interstate 5), (2) not preclude a possible realignment of the SR 99 corridor, and (3) not preclude using the existing Battery Street Tunnel and existing Alaskan Way Viaduct facilities.

Improvement to the corridor are considered necessary because the age, design, and location of the existing viaduct make it vulnerable to soil liquefaction and could render the structure unusable in a strong earthquake. Built in the 1950's, the viaduct does not meet current seismic standards. Damage sustained to the structure during a February 2001 earthquake compounded its seismic vulnerability. The structure also does not meet current roadway design standards for lane widths, shoulders, and ramp sight distances and tapers, which contribute to the number and severity of traffic accidents. Four areas along this section of SR 99 are designated High Accident Locations (HAL). The SR 99 Alaskan Way Viaduct is one of two primary north-south limited access routes through downtown Seattle, and is a vital link in the region's roadway system.

Although alternatives have not yet been identified, preliminary alternatives under early consideration include: taking no action, seismic retrofit of the existing structure, in-kind replacement of the current structure, replacement with a new elevated structure of a different configuration, replacement with a tunnel, removal of the viaduct and reconfiguration of the surface street system, adding transit capacity, or combinations of these solutions. The list of alternatives to be addressed in the EIS will be finalized after scoping has occurred.

Letters soliciting comments on the scope of the EIS and describing the purpose, need, and potential alternatives will be sent to appropriate Federal, State, and local agencies, Tribes, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Two meetings will be held to identify the scope of issues to be addressed, the major impacts, and the potential alternatives. Both meetings will be conducted on June 28, 2001, at the Mountaineers Club, Olympus Room, 300 Third Avenue West, Seattle, Washington. The first meeting, from 1:00 to 4:00 p.m., will focus on input from agencies and Tribes. The second meeting, from 5:00 to 8:00 p.m., will primarily be for the public. Written scoping comments may be submitted to Carol Hunter (WSDOT) at the address provided above and are requested by July 12, 2001. In addition, a public hearing will be held following circulation of the draft EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this action and the EIS should be directed to FHWA or WSDOT or the City of Seattle at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 18, 2001.

James A. Leonard,

Urban Transportation and Environmental Engineer, Olympia, Washington, for the Division Administrator.

[FR Doc. 01–15730 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7739; Notice 2]

Utilimaster Corporation; Denial of Application for Decision of Inconsequential Noncompliance

Utilimaster Corporation (Utilimaster) has determined that some of its vehicles do not comply with some requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment,'' and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Utilimaster has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** on August 14, 2000 (65 FR 49631). Opportunity was afforded for public comment until September 13, 2000. No public comments were received.

Table 1 of FMVSS No. 108, lists motor vehicle lighting equipment, other than headlamps, required for multipurpose passenger vehicles, trucks, trailers, and buses of 80 or more inches in overall width. The requirements for clearance and identifications are contained in Society of Automotive Engineers (SAE) Standard J592e, ''Clearance, Sidemarker, and Identification Lamps,'' July 1972, which is incorporated by reference in FMVSS No. 108. SAE J592e requires that these lamps provide at least 0.62 candela at 10 degrees down and 45 degrees to the left and right.

Utilimaster determined that, between September 30, 1997 and October 6, 1999, it produced 2,730 walk-in van trucks that do not comply with the aforementioned photometric requirements. These trucks have light emitting diode (LED) front clearance and identification lamps mounted at a 30 degree off-vertical set-back position. The photometric noncompliances were as much as 69 percent below the minimum requirement.

Utilimaster supports its application for inconsequential noncompliance by stating that the lighting array and coverage of the clearance, identification, side marker and parking lamps on the subject vehicles provide (and even exceed) the requisite outboard visibility under FMVSS No. 108 on a systems basis. Although the clearance and identification lamps on the subject vehicles do not meet two requirements in the standard, the petitioner believes that the system of lighting as installed on these vehicles meets the standard's intent of providing a visually safe vehicle. It bases its position on the fact that the company is using a front turn signal and parking lamp that is actually designed to meet the greater photometric angles required of turn signal and clearance lamp applications.

More specifically, the front turn signal and parking lamps mounted on each side of the front of the walk-in vans provide light out to a 45-degree angle both left and right. The light intensity at these greater angles (45 degrees) is 50 percent greater than that required for clearance lamps (0.93 cd minimum compared with 0.62 cd minimum required). In addition, these front turn signal/parking lamps are mounted low on the subject vehicles so that the light output covers the lower angles where the clearance and identification lamps are deficient. Further, the front side marker lamps cover the 45 degree to the front to 45 degree to the rear, downward angles of light, so that there is no degradation of visibility to the side of the vehicle. The light from the side marker lamps exactly parallels the outboard light from the parking lamps.

Utilimaster believes that the noncompliance in no way compromises the safety of vehicles on which the clearance and identification lamps have

been installed as original equipment. It claims that the lighting system as a whole on these vehicles provides functionally equivalent lighting to FMVSS 108 requirements.

We have reviewed the application and disagree with Utilimaster that the noncompliance is inconsequential to motor vehicle safety. Utilimaster replaced an incandescent lamp assembly with one that uses LEDs. LEDs emit a very distinct beam of light along their longitudinal axis with almost no light being emitted laterally. This is very different from incandescent light sources, which usually produce light in a much wider pattern. The 30 degree off-vertical set-back position of the lamps tilts the top of the LED-equipped lamps too far back for them to meet the intensity requirements at 10 degrees down and 45 degrees to the right and left. With the increasing prevalence of LEDs in signal lamp assemblies, we believe it is important to stress to lamp and vehicle manufacturers that LED lamp assemblies' different characteristics must be taken into account. Simply replacing lamps that use incandescent bulbs with similarly-sized LED-equipped lamps could have adverse effects on the performance of the lighting system. In this case, the subject lamps have photometric failures that are as high as 69 percent below the required performance.

To support its application, Utilimaster states that, for the areas in which the clearance and identification lamps are possibly noncompliant, the parking and side marker lamps provide additional light to account for these deficiencies. It states that ''on a system basis, the lighting array and coverage of the clearance, identification, side marker, and parking lamps on the subject vehicles provide—and even exceed—the requisite outboard visibility under FMVSS 108.'' We disagree that the parking and side marker lamps serve as adequate substitutes for the deficient areas in the clearance and identification lamps.

Regarding the clearance lamps, their intended purpose is to show the overall width and height of a vehicle. The front parking lamps do not accomplish this because they are not near enough to the edge of the vehicle nor as high as practicable. We call attention to a September 4, 1996, agency interpretation that was requested by Pace American, Inc. We stated that ''locating a clearance lamp within six to eight inches of the outermost edges of a trailer that is 80 or more inches in overall width does not indicate 'overall width' within the meaning of Standard No. 108.'' The center of the front parking lamps on the subject vehicles is more than 12 inches from the edge of the vehicle. Thus, they do not accurately reflect the width of the vehicle due to their inboard mounting. It is also readily apparent that, because the parking lamps are mounted next to the headlamps, they do not help to indicate the height of the subject vehicles.

Regarding the identification lamps, their intended purpose is to identify vehicles with a width of greater than 80 inches (2032 millimeters). Utilimaster's argument that the intent of the standard is met because the front parking lamps provide light in the areas in which the subject identification lamps are deficient is not convincing. The grouping of the three identification lamps is unique to vehicles wider than 80 inches (2032 millimeters). If these lamps are not visible, the front parking lamps are not sufficient to give the same recognition, as they do not provide the universal message that a grouping of three identification lamps at the top front of the vehicle does.

To support its position, Utilimaster cites four inconsequential noncompliance applications which the agency granted. It believes that they all support its position that the lamps on a vehicle should be viewed as a system, where deficient areas in some lamps can be accounted for with light provided by other lamps. It did not elaborate further on the similar characteristics of their applications.

First, Utilimaster cites a General Motors application in which vehicles had turn signals that failed by 10 percent in a particular zone (group of test points). The agency granted the application based on the fact that the other zones in the turn signal lamp exceed the required light output by 20 percent (61 FR 1663). While Utilimaster's vehicles do have other sources of light to account for some of the deficiencies in the subject lamps, its noncompliances are as much as 69 percent below the required minimum level. This is far below the level of noncompliance exhibited by the vehicles covered by the GM application. Further, the additional light in the noncompliant GM turn signals is provided from other zones in the same lamp, not by some other auxiliary lamp.

The second application Utilimaster cites also resulted in a grant to GM (63 FR 70179). GM produced vehicles in which the center high-mounted stop lamp (CHMSL) is partially obscured by blackout paint on the rear window. One of the reasons the agency gave to support granting the application was that the stop lamps on the vehicles ''far exceed the minimum photometric performance levels.'' The CHMSL and stop lamps are designed to notify other drivers of the same event. The lamps that Utilimaster is trying to supplement with additional light from the parking lamps have a very specific meaning, which will not be conveyed by the front parking lamps.

Utilimaster cites a third application from GM which involves daytime running lamps (DRLs) that were too close to the turn signals. In this case, a factor the agency gave in granting the application (64 FR 28864) was that the turn signal was of greater than usual intensity and would not be masked by the DRL. We don't understand how this reasoning is relevant to Utilimaster's situation.

Finally, Utilimaster cites the grant of an application from the American Transportation Corporation (ATC) regarding noncompliant air brakes (65 FR 1946). The air brake systems did not meet the volumetric requirements for the brake chambers. The vehicles' stopping capability was not compromised by the noncompliance and the agency granted ATC's application based on this. We again don't understand how this reasoning is relevant to Utilimaster's situation.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety. Its application is hereby denied, and it must notify and remedy the noncompliance as required by the statute.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: June 18, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–15699 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; BMW

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of BMW of North America, Inc., (BMW) for an exemption of a high-

theft line, the BMW MINI, from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with the 2002 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated April 4, 2001, BMW of North America, Inc. (BMW), requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the BMW MINI vehicle line, beginning with MY 2002. The petition has been filed pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for an entire vehicle line. Based on the evidence submitted by BMW, the agency believes that the antitheft device for the BMW MINI vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

Section 33106(b)(2)(D) of Title 49, United States Code, authorized the Secretary of Transportation to grant an exemption from the parts marking requirements for not more than one additional line of a manufacturer for MYs 1997–2000. However, it does not address the contingency of what to do after model year 2000 in the absence of a decision under Section 33103(d). 49 U.S.C. 33103(d)(3) states that the number of lines for which the agency can grant an exemption is to be decided after the Attorney General completes a review of the effectiveness of antitheft devices and finds that antitheft devices are an effective substitute for parts marking. The Attorney General has not yet made a finding and has not decided the number of lines, if any, for which the agency will be authorized to grant an exemption. Upon consultation with the Department of Justice, we determined that the appropriate reading of section 33103(d) is that the National Highway Traffic Safety Administration (NHTSA) may continue to grant parts-marking exemptions for not more than one additional model line each year, as specified for model years 1997–2000 by 49 U.S.C. 33106(b)(2)(C). This is the level contemplated by the Act for the period before the Attorney General's decision. The final decision on whether to continue granting exemptions will be made by the Attorney General at the conclusion of the review pursuant to section 33103(d)(3).

BMW's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. BMW will install its antitheft device as standard equipment on the MY 2002 BMW MINI vehicle line. The antitheft device is a passive, electronically-coded vehicle immobilizer (EWS) system. The device will prevent the vehicle from being driven away under its own engine power in the event the ignition lock and doors have been manipulated. The device is automatically activated when the engine is shut off and the vehicle key is removed from the ignition lock cylinder. In addition to the key, the antitheft device can be activated by the use of its radio frequency remote control. Locking the vehicle door and trunk by using the key cylinder or the radio frequency remote control will further secure the vehicle. BMW stated that the frequency codes for the remote control constantly change to prevent an unauthorized person from opening the vehicle by intercepting the signals of its remote control.

The EWS system consists of a key with a transponder, a loop antenna (coil) around the steering lock cylinder, an EWS control unit and an engine control unit (DME/DDE) with encoded start release input.

BMW stated that in the key is a transponder, a special transmitter/receiver that communicates with the EWS control through the transceiver module. The transponder chip which is integrated in the key consists of a transmitter/receiver, a small antenna coil, and a memory which can be written to and read from. The memory contains its own unique key and customer service data.

BMW states that the EWS control unit provides the interface to the loop antenna (coil), engine control unit and starter. BMW also states that the engine control unit with coded start release input has been designed in such a manner that the ignition and the fuel supply are only released when a correct release signal has been sent by the EWS control unit. The EWS control unit inspects the key data for correctness and allows the ignition to operate and fuel supply to be released when a correct signal has been received.

The vehicle is also equipped with a central locking system which locks all doors, the hood, the trunk and fuel filler lid. The central locking system also allows the driver to unlock the driver's door while the passenger doors remain locked. This feature offers additional security by preventing unauthorized entry of the vehicle through the passenger doors. BMW also states that it is also possible to unlock all doors via the central locking system. To prevent locking the keys in the car upon exiting, the driver's door can only be locked with a key or by use of the radio frequency remote control after it is closed. This also locks the other doors. If the doors are open at the time of locking, they are automatically locked when they are closed.

BMW discussed the uniqueness of its locks and its ignition key. The keys have guide-ways milled in the middle of both sides of the key bit. The same key operates the door locks and the ignition/steering lock and it can be inserted in a keyhole in either direction. However, BMW stated that its vehicle's locks are almost impossible to pick, and its ignition key cannot be duplicated on the open market.

BMW also stated that a special key blank, key-cutting machine and owner's individual key code are needed to cut a new key, and that its key blanks, machines and codes will be closely controlled. Additionally, new keys will only be issued to authorized persons and spare keys can only be obtained through the dealership because they are not copies of lost originals, but new keys with their original electronic identification. As an additional security measure, lost keys can be disabled at the vehicle and enabled again. BMW also stated that every key request is documented so that any inquiries by insurance companies and investigative authorities can be followed up on.

BMW states that the steering/ignition lock is hardened against the grip of a screw and the housing is reinforced to prevent removal of the lock. When the key is removed, a mechanism causes the lock to engage, thereby preventing steering wheel movement without any additional action. Additionally, vehicles equipped with automatic transmission have an ignition/transmission interlock that prevents ignition key removal

unless the shift lever is in the ''Park'' position preventing movement of the shift lever until the key is turned in the lock.

The battery for BMW's MINI vehicle line will be covered and inaccessibly located. Therefore, if a thief does manage to penetrate and disconnect the battery, it will not unlock the doors. However, in the event of a crash, an inertia switch will automatically unlock all the doors.

BMW also stated that its antitheft device does not incorporate any audible or visual alarms. However, based on the declining theft rate experience of other vehicles equipped with devices that do not have an audio or visual alarm for which NHTSA has already exempted from the parts-marking requirements, the agency has concluded that the data indicate that lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

BMW compared the device proposed for its new line with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of Part 541, and has concluded that the antitheft device proposed for this line is no less effective than those devices in the lines for which NHTSA has already granted exemptions from the parts-marking requirements. The antitheft system that BMW intends to install on its MINI vehicle line for MY 2002 is exactly the same system that is currently installed on its Carline 3, Carline 5, Carline 7 and X5 vehicle lines. The agency granted BMW's petition for modification of its Carline 7 beginning with MY 1995 (See 59 FR 47973, September 19, 1994); and its petitions for exemptions granted in full for Carline 5 beginning with MY 1997, Carline 3 beginning with MY 1999 and its X5 vehicle line beginning with MY 2000. (See 61 FR 6292, February 16, 1996, 62 FR 62800, November 25, 1997 and 64 FR 33947, June 24, 1999, respectively).

In order to ensure reliability and durability of the device, BMW conducted performance tests based on its own specified standards. BMW provided a detailed list of the following tests conducted: climatic tests, high temperature endurance run, thermoshock test in water, chemical resistance, vibrational load, electrical ranges, mechanical shock tests, and electromagnetic field compatibility.

Additionally, BMW stated that its immobilizer system fulfills the requirements of the European vehicle insurance companies which became standard as of January 1995. The requirements prescribe that the vehicle must be equipped with an electronic vehicle immobilizing device which works independently from the mechanical locking system and prevents the operation of the vehicle through the use of coded intervention in the engine management system. In addition, the device must be self-arming (passive), become effective upon leaving the vehicle, or not later than the point at which the vehicle is locked, and allow deactivation of the vehicle by electronic means and not by use of the mechanical key.

Based on evidence submitted by BMW, the agency believes that the antitheft device for the MINI vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

The agency believes that the device will provide four of the five types of performance listed in 49 CFR 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device. The device lacks the ability to attract attention to the efforts of unauthorized persons to enter or operate a vehicle by a means other than a key (§ 541.6(a)(3)(ii).

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that BMW has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information BMW provided about its antitheft device. For the foregoing reasons, the agency hereby grants in full BMW of North America's petition for an exemption for the MY 2002 MINI vehicle line from the parts-marking requirements of 49 CFR part 541. If BMW decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if BMW wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.'' The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself.

The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: June 18, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety, Performance Standards.

[FR Doc. 01–15698 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34053]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail lines between BNSF milepost 885.2 near Bakersfield, CA, and BNSF milepost 1120.54 near Stockton, CA, a distance of approximately 235 miles.[1]

The transaction is scheduled to be consummated on June 17, 2001.

The purpose of the trackage rights is to permit UP to use the BNSF trackage when UP's trackage is out of service for scheduled maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the

[1] On June 8, 2001, UP and BNSF filed a petition for exemption in STB Finance Docket No. 34053 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein UP and BNSF request that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on November 30, 2001. That petition will be addressed by the Board in a separate decision.

conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34053 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 Robert T. Opal, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 13, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–15434 Filed 6–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Activity Under OMB Review; Airline Service Quality Performance

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) , this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on September 22, 2000 (65 FR 57426).

DATES: Written comments should be submitted by July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone Number (202) 366–4387, Fax Number (202) 366–3383 or EMAIL *bernard.stankus@bts.gov.*

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Airline Service Quality Performance.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2138–0041.

Forms: Part 234.

Affected Public: U.S. air carriers that provide scheduled passenger service and account for at least one percent of U.S. domestic schedule passenger revenues.

Consumer Information

Part 234 gives air travelers information concerning their chances of on-time flights and the rate of mishandled baggage by the eleven largest scheduled domestic passenger carriers and Aloha Airlines. This information is made available to the public in the Air Travel Consumer Report and on the web at http:www.dot.gov/airconsumer. The Air Travel Consumer Report is also sent to newspapers, magazines, and trade journals. Other on-time data is available on the web at http:www.bts.gov.

Reducing and Identifying Traffic Delays

The Federal Aviation Administrations uses part 234 data to pinpoint and analyze air traffic delays. Wheels-up and wheels-down times are used in conjunction with departure and arrival times to show the extent of ground delays. Actual elapsed flight time, wheels-down minus wheels-up time, is compared to scheduled elapsed flight time to identify airborne delays. The reporting of aircraft tail number allows the FAA to track an aircraft through the air network, which enables the FAA to study the ripple effects of delays at hub airports. The data can be analyzed for airport design changes, new equipment purchases, the planning of new runways or airports based on current and projected airport delays, and traffic levels.

Estimated Annual Burden Hours: 1,728 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention BTS Desk Officer.

Comments

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department concerning consumer protection. Comments should address whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 18, 2001.

Donald W. Bright,

Assistant Director, Office of Airline Information.

[FR Doc. 01–15697 Filed 6–21–01; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0495]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine whether a surviving spouse is still entitled to dependency and indemnity compensation benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 21, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits

Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail comments to: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0495'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 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. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Titles: Marital Status Questionnaire, VA Form 21–0537.

OMB Control Number: 2900–0495.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: VA Form 21–0537 is used to verify the marital status of a surviving spouse receiving dependency and indemnity compensation benefits (DIC). If a surviving spouse remarries, he or she is no longer entitled to DIC.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,875 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 34,500.

Dated: June 14, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–15774 Filed 6–21–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
June 22, 2001

Part II

Department of Housing and Urban Development

24 CFR Part 982

Section 8 Homeownership Program; Pilot Program for Homeownership Assistance for Disabled Families; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4661–I–01]

RIN 2577–AC24

Section 8 Homeownership Program; Pilot Program for Homeownership Assistance for Disabled Families

AGENCY: Office of Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule establishes regulations to implement the three-year pilot program authorized by section 302 of the American Homeownership and Economic Opportunity Act of 2000. A public housing agency (PHA) may elect to provide homeownership assistance to a disabled family under the pilot program, rather than under the Housing Choice Voucher Program homeownership option. Under the pilot program, a PHA provides homeownership assistance to a disabled family residing in a home purchased and owned by one or more members of the family. The interim rule incorporates the requirements for the pilot program in HUD's regulations for the homeownership option. In addition to the amendments implementing section 302, HUD has taken the opportunity afforded by this interim rule to make several clarifying and technical amendments to its September 12, 2000 final rule establishing the homeownership option.

DATES: *Effective Date:* July 23, 2001. *Comments Due Date:* August 21, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477. (This is not a toll-free number.) Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On September 12, 2000 (65 FR 55134), HUD published its final rule implementing the ''homeownership option'' under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*), as amended by section 555 of the Quality Housing and Work Responsibility Act of 1998 (title V of the Fiscal Year 1999 HUD Appropriations Act; Public Law 105–276, 112 Stat. 2461, 2518, approved October 21, 1998). Under the section 8(y) homeownership option, a public housing agency (PHA) may choose to provide tenant-based assistance to an eligible family that purchases a dwelling unit that will be occupied by the family. The September 12, 2000 final rule implemented the section 8(y) homeownership option by adding a new ''special housing type'' under subpart M of HUD's regulations for the Housing Choice Voucher Program at 24 CFR part 982. Subpart M describes program requirements for alternatives to the basic Housing Choice Voucher Program.

Under the basic homeownership option, special provisions already exist for families with a member who is a person with disabilities. For example, there is no maximum term of homeownership assistance for disabled families (assistance to other families is limited to a fifteen or ten-year term as described in § 982.634). Further, the PHA is required to count welfare assistance provided to the disabled family for purposes of determining whether the family satisfies the minimum income eligibility requirements (generally, such assistance is not counted for other families under § 982.627(c)). In addition, if a PHA determines that a disabled family requires homeownership assistance as a reasonable accommodation, the first-time homeowner requirement does not apply (see § 982.627(b)(3)).

Section 302 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106–569, 114 Stat. 2944, approved December 27, 2000) authorizes a pilot program to assist disabled families. Under the pilot program, a PHA may provide tenant-based homeownership assistance to a disabled family residing in a home purchased and owned by one or more members of the family. The pilot program is authorized to operate for a three-year period commencing on the effective date of HUD's implementing regulations.

The pilot program provides disabled families with certain benefits and disadvantages in comparison to the basic homeownership option. For example, families whose annual income exceeds 80 percent of the median income for the area are usually ineligible for admission to the Housing Choice Voucher Program. PHAs may admit disabled families whose annual income is greater than 80 percent of the area median into the pilot program. On the other hand, whenever the annual income of a disabled family participating in the pilot program exceeds 80 percent of the area median income, the amount of assistance the family would normally receive under the subsidy formula for the basic homeownership option is reduced.

II. This Interim Rule

A. Implementation of Pilot Program to Assist Disabled Families

1. *General.* This interim rule establishes regulations to implement the section 302 pilot program. Because assistance under the pilot program is an alternative to tenant-based homeownership assistance, HUD has incorporated the requirements for the pilot program in its regulations for the homeownership option (codified at §§ 982.625–982.641). Specifically, the interim rule establishes a new § 982.642, which describes those requirements that are unique to the pilot program. Except as provided in new § 982.642, all of the regulatory requirements applicable to the homeownership option are also applicable to the pilot program.

A PHA that administers tenant-based assistance has the choice whether to offer homeownership assistance under the pilot program (whether or not the PHA has also decided to offer the basic homeownership option). However, a PHA that elects to provide homeownership assistance under the pilot program must have the required capacity to operate a successful homeownership program (as required under § 982.625(d) of the existing homeownership option regulations).

2. *Eligibility requirements.* The PHA may not provide homeownership assistance under the pilot program unless the PHA determines that the family satisfies all of the following initial requirements at commencement of homeownership assistance for the family:

- The family is a disabled family (as that term is defined in § 5.403 of HUD's regulations);
- The family's annual income at the time of admission does not exceed 99

percent of the median income for the area;

• The family is not a current homeowner;

• The family will close on the purchase of the home during the three year period commencing on the effective date of this interim rule; and

• The family meets the initial requirements for assistance under the homeownership option described in § 982.626. However, section 302 exempts families seeking to participate in the pilot program from two of the eligibility criteria for basic tenant-based homeownership assistance—the requirement that the family be a ''first-time homeowner'' (as that term is defined in § 982.4) and the income eligibility requirements of § 982.201(b)(1).

Accordingly, a member of the disabled family may have owned a present homeownership interest in a residence during the three-years before commencement of homeownership assistance under the pilot program (as in the basic homeownership option, current homeowners are not eligible to participate in the pilot program). Secondly, the family need not be low-income to participate in the pilot program (however, as noted, the annual income of the family at admission may not exceed 99 percent of the median income for the area). Further, any new admissions to the Housing Choice Voucher Program through this pilot program must be selected from the PHA waiting list and are counted towards the PHA income targeting requirements of § 982.201(b)(2).

3. *Homeownership assistance payments.* While the disabled family is residing in the home, the PHA shall calculate a monthly homeownership assistance payment on behalf of the family by using the lower of (1) the payment standard minus the total tenant payment or (2) the monthly homeownership expenses minus the total tenant payment (see § 982.635). (Total tenant payment is higher of the minimum rent, 10 percent of monthly income, 30 percent of monthly adjusted income, or the welfare rent.) The PHA must use the utility allowance schedule and payment standard schedules applicable to the Housing Choice Voucher Program.

Families will receive a monthly homeownership payment equal to a specified percentage of the amount calculated under § 982.635. The percentage will depend on the annual income of the family at the commencement of assistance under the pilot program, and at subsequent recertifications. The amount of the homeownership payments will be as follows:

• A family that is a low income family (as defined at 24 CFR 5.603(b)) as determined by HUD shall receive the full amount of the monthly homeownership assistance payment calculated under § 982.635.

• A family whose annual income is greater than the low income family ceiling but does not exceed 89 percent of the median income for the area as determined by HUD shall receive a monthly homeownership assistance payment equal to 66 percent of the amount calculated under § 982.635.

• A family whose annual income is greater than the 89 percent ceiling but does not exceed 99 percent of the median income for the area as determined by HUD shall receive a monthly homeownership assistance payment equal to 33 percent of the amount calculated under § 982.635.

• A family whose annual income is greater than 99 percent of the median income for the area shall not receive homeownership assistance under the pilot program.

The family is responsible for the monthly homeownership expenses not reimbursed by the housing assistance payment. The PHA must make the homeownership assistance payments to the lender on behalf of the disabled family (the provisions of § 982.635(d), which permit the PHA to make the payments directly to the family, do not apply to the pilot program). If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

4. *Mortgage defaults.* As in the basic homeownership option, the PHA must terminate assistance for any member of the family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage securing debt incurred to purchase the home, or any refinancing of such debt (whether or not the mortgage is insured by HUD-Federal Housing Administration (FHA)). However, unlike the basic homeownership option, the PHA may permit the family to move to a new unit with continued homeownership assistance if the PHA determines that the default is due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency. In the case of all other mortgage defaults, although the family is not eligible to purchase another home with tenant-based assistance, the PHA may, in its discretion, provide the family with continued voucher rental assistance. The PHA must deny such rental assistance if the family defaulted on an FHA-insured mortgage and the family fails to demonstrate that:

• The family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and

• The family has moved, or will move, from the home within the time period established or approved by HUD.

B. Technical and Clarifying Changes to Homeownership Option Regulations

In addition to implementing the pilot program for disabled families, HUD has taken the opportunity afforded by this interim rule to make several clarifying and technical amendments to the existing regulations for the homeownership option. The amendments do not establish or modify substantive requirements or procedures. Rather, these technical changes are designed to correct a typographical error, improve the clarity of existing requirements, and facilitate administration of the homeownership option. The changes are as follows:

1. *Correction of typographical error (§ 982.4(b)).* This interim rule corrects a typographical error contained in the definition of the term ''*present homeownership interest*'' at § 982.4. The codified text erroneously refers to ''*present homeownership option.*'' Although the appropriate term is made clear by the surrounding text, HUD has taken this opportunity to make the necessary correction.

2. *PHA requirements for financing purchase of home (§ 982.632(a)).* This interim rule clarifies the regulatory provisions governing PHA establishment of lender qualifications. Under § 982.632(a), a PHA may establish requirements for financing the purchase of a home to be assisted under the homeownership option. These requirements may include requirements concerning the qualification of lenders or the terms of financing.

The regulatory language of § 982.632(a) might be interpreted to mean that a PHA may require a family to use the services of specific lenders, thereby restricting the family's ability to secure favorable financing terms. However, as the preamble to the September 12, 2000 final rule makes clear, ''[a] PHA may not reduce a family's choice by limiting the use of homeownership assistance to particular * * * lenders'' (*see,* 65 FR 55134, middle column). This interim rule amends § 982.632(a) to clarify that a PHA may not require that families acquire financing from one or more specified lenders.

This interim rule also amends § 982.632(a) to highlight PHA efforts to curb predatory lending abuses in the

homeownership option. The regulatory language contains a non-exclusive list of financing terms that a PHA may elect to require for financing the purchase of a home with homeownership assistance. This interim rule expands this list of examples to clarify that a PHA may choose to require financing terms necessary to protect borrowers against high cost loans or predatory loans. (See section VII of the preamble to the September 12, 2000 final rule establishing the homeownership option for additional discussion regarding the prevention of predatory lending practices, 65 FR 55159, middle column.)

3. *Continued voucher rental assistance following a default on an FHA-insured mortgage (§ 982.638(d)).* This interim rule amends the provisions regarding the continuation of voucher rental assistance to a family following a default on an FHA-insured mortgage. Currently, § 982.638(d) provides that the PHA may only permit such continued assistance if the family has: (1) conveyed title to the home, as required by HUD, to HUD or HUD's designee, and (2) moved from the home within the period established or approved by HUD. This regulatory requirement has the potential to delay the provision of continued assistance to families who will shortly be complying with the two prerequisite requirements for such assistance, but have not yet conveyed title and moved from the home. Accordingly, this interim rule authorizes a PHA to provide continued voucher rental assistance to a family that has defaulted on an FHA-insured mortgage if the family has complied *or will be complying* with the two requirements described above.

4. *Recapture documentation (§ 982.640(b)).* Under § 982.640, a PHA is required to recapture a percentage of the homeownership assistance provided to a family upon the sale or refinancing of the home. The regulatory language of § 982.640(b) requires that, upon purchase of the home, the family execute documentation ''as required by HUD'' to secure the PHA's recapture rights. However, given the many variations in State and local law regarding liens, HUD does not believe it would be appropriate, or feasible, to develop a single lien document applicable to all recaptures under the homeownership option. Accordingly, HUD is revising § 982.640(b) to provide PHAs with the necessary flexibility to develop lien documentation that is consistent with State and local requirements.

III. Justification for Interim Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, does provide for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary and contrary to the public interest. The reasons for HUD's determination are as follows.

To a large extent, section 302 repeats the statutory language of the section 8(y) homeownership option, which HUD has already implemented through notice and comment rulemaking. Where applicable, the interim rule simply cross-references to those existing regulatory requirements (§ 982.642(b)), and does not elaborate on or modify these provisions. Where the interim rule differs from the regulations for the basic homeownership option (for example, in exempting disabled families from the ''first-time homeowner'' and the income eligibility requirements) it does so as a result of the statutory mandates contained in section 302 and not as an exercise of HUD's rulemaking discretion. Accordingly, HUD's authority to revise these provisions of the interim rule in response to public comment would be limited.

Further, HUD believes that delaying the implementation of the pilot program to permit prior public comment would be contrary to the public interest. As discussed in this preamble, the pilot program is designed to expand the provision of voucher homeownership assistance to disabled families. Immediate implementation of this interim rule will allow disabled families to enjoy the benefits of the pilot program as expeditiously as possible.

In addition to implementing section 302, HUD has taken the opportunity afforded by this interim rule to make several clarifying and technical amendments to the existing regulations for the homeownership option. The amendments do not establish or modify substantive requirements or procedures. Rather, these technical changes are designed to correct a typographical error, improve the clarity of existing requirements, and facilitate administration of the homeownership option. Accordingly, HUD believes it is unnecessary to solicit public comments before making these technical changes effective.

Although HUD believes that good cause exists to publish this rule for effect without prior public comment, HUD recognizes the value of public comment in the development of its regulations. HUD has, therefore, issued these regulations on an interim basis and has provided the public with a 60-day comment period. HUD welcomes comment on the regulatory amendments made by this interim rule. The public comments will be addressed in the final rule.

IV. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This interim rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). This FONSI is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C.

605(b)) (the RFA), has reviewed and approved this interim rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) *A Substantial Number of Small Entities Will Not be Affected.* The interim rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under section 8 of the United States Housing Act of 1937. Specifically, the interim rule implements a pilot program under which a PHA may elect to provide tenant-based assistance to an eligible disabled family residing in a home purchased and owned by one or more members of the family. Under the definition of ''small governmental jurisdiction'' in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few PHAs that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial.

(2) *No Significant Economic Impact.* The interim rule will not change the amount of funding available under the Housing Choice Voucher Program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This interim rule is exclusively concerned with the establishment of an alternative use of rental voucher assistance. Specifically, the rule authorizes a PHA to provide tenant-based assistance for an eligible disabled family that purchases a dwelling unit that will be occupied by the family. This interim rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Catalog of Domestic Assistance Number

The Catalog of Domestic Assistance Number for the Housing Choice Voucher program is 14.871.

List of Subjects in 24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 982 as follows:

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

1. The authority citation for 24 CFR part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

2. In § 982.4(b), revise the definition of ''*Present homeownership interest*'' to read as follows:

§ 982.4 Definitions

* * * * *

(b) * * *

Present homeownership interest. In the homeownership option: ''Present ownership interest'' in a residence includes title, in whole or in part, to a residence, or ownership, in whole or in part, of membership shares in a cooperative. ''Present ownership interest'' in a residence does not include the right to purchase title to the residence under a lease-purchase agreement.

* * * * *

3. Revise § 982.632(a) to read as follows:

§ 982.632 Homeownership option: Financing purchase of home; affordability of purchase.

(a) The PHA may establish requirements for financing purchase of a home to be assisted under the homeownership option. Such PHA requirements may include requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), or concerning terms of financing (for example, a prohibition of balloon payment mortgages, establishment of a minimum homeowner equity requirement from personal resources, or provisions required to protect borrowers against high cost loans or predatory loans). A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

* * * * *

4. Revise § 982.638(d)(2) to read as follows:

§ 982.638 Homeownership option: Denial or termination of assistance for family.

* * * * *

(d) * * *

(2) The family fails to demonstrate that:

(i) The family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and

(ii) The family has moved, or will move, from the home within the period established or approved by HUD.

5. Revise § 982.640(b) to read as follows:

§ 982.640 Homeownership option: Recapture of homeownership assistance.

* * * * *

(b) *Securing the PHA's right of recapture.* Upon purchase of the home, a family receiving homeownership assistance shall execute documentation as required by the PHA and consistent with State and local law, that secures the PHA's right to recapture the homeownership assistance in accordance with this section. The lien securing the recapture of homeownership subsidy may be subordinated to a refinanced mortgage.

* * * * *

6. Add § 982.642 to read as follows:

§ 982.642 Homeownership option: Pilot program for homeownership assistance for disabled families.

(a) *General.* This section implements the pilot program authorized by section 302 of the American Homeownership and Economic Opportunity Act of 2000. Under the pilot program, a PHA may provide homeownership assistance to a disabled family residing in a home purchased and owned by one or more members of the family. A PHA that administers tenant-based assistance has the choice whether to offer homeownership assistance under the pilot program (whether or not the PHA has also decided to offer the homeownership option).

(b) *Applicability of homeownership option requirements.* Except as provided in this section, all of the regulations applicable to the homeownership option (as described in §§ 982.625 through 982.641) are also applicable to the pilot program.

(c) *Initial eligibility requirements.* Before commencing homeownership assistance under the pilot program for a family, the PHA must determine that all

of the following initial requirements have been satisfied:

(1) The family is a disabled family (as defined in § 5.403 of this title);

(2) The family annual income does not exceed 99 percent of the median income for the area;

(3) The family is not a current homeowner;

(4) The family must close on the purchase of the home during the period starting on July 23, 2001 and ending on July 23, 2004; and

(5) The family meets the initial requirements described in § 982.626; however, the following initial requirements do not apply to a family seeking to participate in the pilot program:

(i) The income eligibility requirements of § 982.201(b)(1);

(ii) The first-time homeowner requirements of § 982.627(b); and

(iii) The mortgage default requirements of § 982.627(e), if the PHA determines that the default is due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency.

(d) *Amount and distribution of homeownership assistance payments.* (1) While the family is residing in the home, the PHA shall calculate a monthly homeownership assistance payment on behalf of the family in accordance with § 982.635 and this section.

(2) A family that is a low income family (as defined at 24 CFR 5.603(b)) as determined by HUD shall receive the full amount of the monthly homeownership assistance payment calculated under § 982.635.

(3) A family whose annual income is greater than the low income family ceiling but does not exceed 89 percent of the median income for the area as determined by HUD shall receive a monthly homeownership assistance payment equal to 66 percent of the amount calculated under § 982.635.

(4) A family whose annual income is greater than the 89 percent ceiling but does not exceed 99 percent of the median income for the area as determined by HUD shall receive a monthly homeownership assistance payment equal to 33 percent of the amount calculated under § 982.635.

(5) A family whose annual income is greater than 99 percent of the median income for the area shall not receive homeownership assistance under the pilot program.

(e) *Assistance payments to lender.* The PHA must make homeownership assistance payments to a lender on behalf of the disabled family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family. The provisions of § 982.635(d), which permit the PHA to make monthly homeownership assistance payments directly to the family, do not apply to the pilot program.

(f) *Mortgage defaults.* The requirements of § 982.638(d) regarding mortgage defaults are applicable to the pilot program. However, notwithstanding § 982.638(d), the PHA may, in its discretion, permit a family that has defaulted on its mortgage to move to a new unit with continued voucher homeownership assistance if the PHA determines that the default is due to catastrophic medical reasons or due to the impact of a federally declared major disaster or emergency. The requirements of §§ 982.627(a)(5) and 982.627(e) do not apply to such a family.

Dated: March 19, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–15721 Filed 6–19–01; 2:10 pm]

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Federal Register

Friday,
June 22, 2001

Part III

Department of Housing and Urban Development

24 CFR Part 972

Voluntary Conversion of Developments From Public Housing Stock; Required Initial Assessments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 972

[Docket No. FR–4476–F–03]

RIN 2577–AC02

Voluntary Conversion of Developments From Public Housing Stock; Required Initial Assessments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: On July 23, 1999, HUD published for public comment a proposed rule to implement statutory changes authorizing Public Housing Agencies (PHAs) to convert a development to tenant-based assistance where the conversion would satisfy statutory objectives. The statute requires every PHA to conduct and submit to HUD an initial assessment for its development no later than October 1, 2001. Given this statutory deadline, HUD is issuing this final rule, which provides regulatory guidance on the preparation and submission of the required initial assessments in a streamlined, simplified form. The final rule also takes into consideration the public comments received on the initial assessment requirements contained in the July 23, 1999 proposed rule. HUD is currently developing its more comprehensive final rule on voluntary conversions, and expects to publish this final rule in the near future.

DATES: Effective Date: July 23, 2001.

FOR FURTHER INFORMATION CONTACT: Rod Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 Seventh Street, SW, Room 4116, Washington, DC 20410; telephone (202) 708–0713 (this is not a toll-free telephone number). Persons with hearing or speech disabilities may access this number via TTY by calling the free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On July 23, 1999 (64 FR 40240), HUD published for public comment a proposed rule to implement section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) (the ''1937 Act''), as amended by section 533 of the Quality Housing and Work Responsibility Act of 1998 (Title V of the Fiscal Year 1999 HUD Appropriations Act; Public Law 105–276, approved October 21, 1998) (''QHWRA''). Amended section 22 authorizes Public Housing Agencies (PHAs) to convert a development to tenant-based assistance by removing the development (or a portion of a development) from its public housing inventory and providing for the relocation of, or the provision of tenant-based assistance to, the residents. This action is permitted only when that change would be cost effective, be beneficial to residents of the development and the surrounding area, and not have an adverse impact on the availability of affordable housing. The July 23, 1999 proposed rule would implement the voluntary conversion requirements through the creation of a new 24 CFR part 972, subpart B.

Amended section 22 also requires every PHA to conduct and submit to HUD an initial assessment for its developments no later than October 1, 2001 (see section 22(b)(2) of the 1937 Act and § 972.207(a) of the July 23, 1999 proposed rule). However, the statute gives HUD the authority to exempt certain classes of developments from this requirement, or to streamline the requirements of the required initial assessment. In the proposed rule, HUD streamlined the requirements of the required initial assessment, but proposed to require that every PHA review and determine the best course of action with respect to each development that it operates as public housing.

Given the statutory deadline for submission of the required initial assessments, HUD is issuing this final rule, which provides regulatory guidance on the preparation and submission of these assessments in a streamlined, simplified form. The final rule also takes into consideration the public comments received on the proposed initial assessment requirements. HUD is currently developing its more comprehensive final rule on voluntary conversions, which will address all other public comments received on the July 23, 1999 proposed rule. HUD expects to publish this final rule in the near future.

Nothing in this final rule would preclude a PHA from converting a development (or portion of a development) at a later time, subject to the requirements that will be established in HUD's upcoming comprehensive final rule on voluntary conversions.

II. Significant Differences Between This Final Rule and July 23, 1999 Proposed Initial Assessment Requirements

For the convenience of readers, this section of the preamble briefly summarizes the most significant differences between the initial assessment requirements contained in the July 23, 1999 proposed rule and the initial assessment procedures contained in this final rule. These revisions are discussed in greater detail elsewhere in this preamble. The major changes made by this final rule to the proposed initial assessment requirements are as follows:

A. Reorganization of Required Initial Assessment Requirements

For purposes of clarity, this final rule consolidates the regulatory provisions concerning the preparation and submission of the required initial assessments in a single section (§ 972.200). The July 23, 1999 proposed rule addressed these requirements in various sections (most significantly §§ 972.207 and 972.211).

B. Exemption of Elderly/Disabled Developments From Initial Assessment Requirements

The final rule exempts developments designated for occupancy by the elderly and/or persons with disabilities from the initial assessment requirements. HUD believes that few such developments are likely to be proposed for voluntary conversion, and that including such developments in the required initial assessment process is unnecessary and could be confusing to the public. The additional exemption also will alleviate burden on PHAs, and focus the initial assessments on family (i.e., general occupancy) developments which are more likely to merit consideration for voluntary conversion in some instances.

C. Further Streamlined Initial Assessment Procedures

The final rule expands the availability of the streamlined initial assessment process to all PHAs, not just those that have received passing scores on the physical condition indicator of the Public Housing Assessment System (PHAS). This is necessary because of the advisory status of prior PHAS scores. The proposed rule would have required that PHAs failing the PHAs physical conditions indicator conduct cost analyses comparing the cost of continuing to operate their developments as public housing with the cost of providing tenant-based assistance.

Irrespective of the results of the required initial assessments for particular developments, PHAs retain the discretion whether to propose any particular development for voluntary conversion at a later time.

III. Overview of Final Rule

A. General

This final rule implements the initial assessment requirements in a new § 972.200. A PHA must conduct a required initial assessment once for each of its developments, unless the developments falls under one of the four following categories:

1. The development is subject to required conversion under 24 CFR part 971;
2. The development is the subject of an application for demolition or disposition that has not been disapproved by HUD;
3. The development has been awarded a HOPE VI revitalization grant; or
4. The development is designated for occupancy by the elderly and/or persons with disabilities (i.e., is not a general occupancy development).

B. Certification Procedure

The final rule requires that a PHA certify that it has reviewed each development's operation as public housing and considered the implications of converting the public housing to tenant-based assistance. Further, the PHA must certify that, based on its review, the PHA has concluded that conversion of the development is likely to be either appropriate or inappropriate. Conversion of a public housing development is appropriate only if the PHA concludes that conversion will: (1) Not be more expensive than continuing to operate the development (or portion of it) as public housing; (2) principally benefit the residents of the public housing development to be converted and the community; and (3) not adversely affect the availability of affordable housing in the community.

C. Timing of Submission

The results of each required initial assessment (consisting of the certification described above) must be submitted to HUD as part of the next PHA Annual Plan after its completion. A PHA must maintain documentation of the reasoning with respect to each required initial assessment.

As noted, the statute provides that each PHA must prepare and submit their required initial assessments by October 1, 2001. HUD appreciates the impact of the timing of today's publication on PHAs' ability to complete the required initial assessments by the statutory deadline. HUD expects PHAs now to proceed expeditiously and responsibly to complete the required initial assessments.

IV. Discussion of Public Comments On Proposed Initial Assessment Procedures

The public comment period on the proposed rule closed on September 21, 1999. By close of business on this date, HUD had received 6 public comments on the proposed rule. Comments were submitted by a private citizen; a PHA; two of the three main organizations representing PHAs; and two legal aid organizations. This section of the preamble presents a summary of the significant issues raised by the public commenters regarding the proposed initial assessment requirements and HUD's responses to these comments. HUD's comprehensive final rule on voluntary conversions will address the issues raised by the commenters on all other provisions of the July 23, 1999 proposed rule.

Comment: PHAS should not be used in the required initial assessment process. Three commenters opposed the use of the PHAS in the required initial assessment process. The commenters wrote that the PHAS ''is not fully functional, and in many cases the results of the PHAS do not accurately reflect the quality of the building and its units.'' The commenters suggested that ''no workload or official determinations [should] be made on the basis of PHAS until such time as the system'' is fully in place. One of the commenters wrote that until the PHAS is finalized, all PHAs should be permitted to prepare fully streamlined assessments.

HUD Response. HUD has revised the proposed rule to adopt the suggestion made by these public commenters. The final rule expands the availability of the streamlined initial assessment process to all PHAs, not just those that have received passing scores on the PHAS physical condition indicator. HUD believes that Congressional intent was to ensure that every PHA review the operations of developments operated as public housing, and determine if conversion would be appropriate. However, as noted elsewhere in this preamble, Congress did not intend for the initial assessment process to place an undue burden on PHAs, and therefore gave HUD broad authority to waive or provide for streamlined assessments. Allowing all PHAs to make use of the streamlined certification process for the one-time initial assessments will further both objectives. Although PHAs will no longer be required to conduct a full cost-analysis, each PHA must review and certify to the best course of action with respect to the developments that it operates as public housing.

Comment: PHAs should be allowed to submit a streamlined initial assessment consisting of a basic market study assessing the viability of market units for possible Section 8 assistance. One commenter wrote that ''many smaller PHAs and market areas have little or no market units suitable or affordable for the Section 8 program.'' The commenter wrote that, under such circumstances, ''no conversion plan however well developed would have any basis in reality.'' Therefore, the commenter urged that these PHAs be given the option of submitting a streamlined assessment consisting solely of a basic market study assessing the viability of market units for possible Section 8 assistance. ''Given the nature of the localities and the PHA knowledge of the market, this assessment should not prove difficult as an option to the full cost analysis.''

HUD Response. HUD has revised the proposed rule to be more sensitive to the concerns expressed by the commenter. As noted in the response to the preceding comments, HUD has streamlined the required initial assessment procedures for all PHAs.

V. Findings and Certifications

Public Reporting Burden

The information collection requirements for the voluntary conversion program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2577–0234. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) *A Substantial Number of Small Entities Will Not be Affected.* The entities that are subject to this rule are PHAs that administer public housing. Under the definition of ''Small governmental jurisdiction'' in section 601(5) of the RFA, the provisions of the RFA are applicable only to those PHAs that are part of a political jurisdiction with a population of under 50,000

persons. The number of entities potentially affected by this rule is therefore not substantial.

(2) *No Significant Economic Impact.* This rule requires PHAs to perform required initial assessments for their public housing developments using readily available data to determine whether those developments should be converted to tenant-based assistance. HUD has used its broad statutory authority to streamline the content of the required initial assessments. This is a one-time requirement as contemplated by QHWRA. Smaller PHAs will have fewer developments to consider, and the burden on them should consequently be proportionally smaller. Ultimately, the goal of the rule is to promote more efficient delivery of affordable housing to residents of current public housing developments. This efficiency should benefit small PHAs and large PHAs alike. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, entitled ''Regulatory Planning and Review.'' OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number for the program affected by this rule is 14.850.

List of Subjects in 24 CFR Part 972

Grant programs—housing and community development, Low and moderate income housing, Public housing.

For the reasons discussed in the preamble, HUD amends chapter IX of title 24 of the Code of Federal Regulations by adding part 972 to read as follows:

PART 972—CONVERSION OF PUBLIC HOUSING TO TENANT-BASED ASSISTANCE

Subpart A—[Reserved]

Subpart B—Voluntary Conversion of Public Housing Developments

Sec.
972.200 Required initial assessments.

Authority: 42 U.S.C. 1437t, 1437z–5, and 3535(d).

Subpart A—[Reserved]

Subpart B—Voluntary Conversion of Public Housing Developments

§ 972.200 Required initial assessments.

(a) *General.* A PHA must conduct a required initial assessment, in accordance with this section, once for each of its developments, unless:

(1) The development is subject to required conversion under 24 CFR part 971;

(2) The development is the subject of an application for demolition or disposition that has not been disapproved by HUD;

(3) A HOPE VI revitalization grant has been awarded for the development; or

(4) The development is designated for occupancy by the elderly and/or persons with disabilities (i.e., is not a general occupancy development).

(b) *Certification procedure.* For each development, the PHA shall certify that it has:

(1) Reviewed the development's operation as public housing;

(2) Considered the implications of converting the public housing to tenant-based assistance; and

(3) Concluded that conversion of the development may be:

(i) Appropriate because removal of the development would meet the necessary conditions for voluntary conversion described in paragraph (c) of this section; or

(ii) Inappropriate because removal of the development would not meet the necessary conditions for voluntary conversion described in paragraph (c) of this section.

(c) *Necessary conditions for voluntary conversion.* Conversion of a public housing development may be appropriate if the PHA concludes that conversion will:

(1) Not be more expensive than continuing to operate the development (or portion of it) as public housing;

(2) Principally benefit the residents of the public housing development to be converted and the community; and

(3) Not adversely affect the availability of affordable housing in the community.

(d) *Documentation.* A PHA must maintain documentation of the reasoning with respect to each required initial assessment.

(e) *Timing of submission.* Consistent with statutory submission requirements, the results of each required initial assessment (consisting of the certification described in paragraph (b) of this section) must be submitted to HUD as part of the next PHA Annual Plan after its completion.

Dated: June 12, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–15687 Filed 6–21–01; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Friday,
June 22, 2001

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Reintroduction of Grizzly Bears in the Bitterroot Area of Idaho and Montana; Removal of Regulations; Reevaluation of the Record of Decision; Proposed Rule and Notice

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI03

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Grizzly Bears in the Bitterroot Area of Idaho and Montana; Removal of Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) are reevaluating our decision with respect to grizzly bear recovery in the Bitterroot Ecosystem (BE), published November 17, 2000 (65 FR 69644). The Record of Decision (ROD) for a Final Environmental Impact Statement (FEIS) published in March 2000, selected the Preferred Alternative. This alternative established a nonessential experimental population of grizzly bears in the BE in east-central Idaho and a portion of western Montana pursuant to section 10(j) of the Endangered Species Act of 1973, as amended. A final rule to implement the preferred alternative was published in the **Federal Register** on November 17, 2000. In light of our current recovery needs for grizzly bears in other areas and our available resources, as well as the objections of the States that would be affected by the reintroduction of grizzly bears in the BE, we are reevaluating our prior decision. We are now proposing to select the No Action Alternative as our Preferred Alternative (see Notice of Intent elsewhere in this edition of the **Federal Register**) and are currently requesting public comments on this action. After receipt and review of all comments, the Service will make a final decision with regard to this proposal. If we select the No Action Alternative, we will remove the pertinent regulations.

DATES: A 60-day comment period has been announced on the reconsideration of the Final EIS (see Notice of Intent to reevaluate the Record of Decision for the Final Environmental Impact Statement for Grizzly Bear Recovery in the Bitterroot Ecosystem published in this issue of the **Federal Register**). Written public comments are solicited independently on this action or along with comments on the Notice of Intent. Written comments must be received by August 21, 2001.

ADDRESSES: Written comments should be addressed to Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, Box 25486 DFC, Denver, Colorado 80225. Comments also may be mailed electronically to FW6_grizzly@fws.gov. The Final EIS (FEIS), Record of Decision (ROD), and Final Rule are available for viewing and downloading at http://www.r6.fws.gov/endspp/grizzly/. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Susan Baker, Assistant Regional Director, Ecological Services (see **ADDRESSES** above), at telephone 303–236–7400.

SUPPLEMENTARY INFORMATION:

Background

A Final Environmental Impact Statement (FEIS), published in March 2000 (see 65 FR 12570, March 9, 2000), evaluated a proposal to establish an experimental population and reintroduce grizzly bears into the Bitterroot Ecosystem (BE) in east-central Idaho and western Montana. Six alternatives were discussed. The Preferred Alternative, selected in the Record of Decision (ROD), was to establish a nonessential experimental population of grizzlies in the BE under section 10(j) of the Endangered Species Act (50 CFR Section 17.84) (see 65 FR 69644, November 17, 2000). A final rule to implement the Preferred Alternative was published in the **Federal Register** on November 17, 2000 (65 FR 69624), and is codified at 50 CFR 17.84(l). See FEIS and final rule for a more detailed discussion.

In the ROD we said that implementation of the Preferred Alternative was contingent upon adequate funding, so that the current level of Service activities in other grizzly bear recovery areas would not be compromised. We also stated that bears would be reintroduced in 2002 at the earliest, again contingent upon available funding. While the ESA requires us to identify recovery actions for listed species, we have the discretion and flexibility to identify the highest priority recovery activities and to determine if experimental populations should be established.

There are approximately 1,000 to 1,100 grizzly bears in the western United States, scattered over Montana, Idaho, Washington, and Wyoming. We estimate there are between 400–600 bears in the Yellowstone ecosystem; 400–500 bears in the Northern Continental Divide ecosystem; 40–50 bears in the Selkirk ecosystem; 30–40 bears in the Cabinet-Yak ecosystem; and fewer than 15 bears in the Northern Cascade ecosystem. Although grizzly bears inhabited the BE at one time, they were killed to eliminate threats to humans and domestic livestock, for their fur, and for sport. The last verified death of a grizzly in the Bitterroot was in 1932; the last tracks were observed in 1946.

We are currently conducting a variety of activities relating to the recovery of the grizzly bear. We produce habitat-based recovery criteria; conduct and analyze population surveys; develop and test better population estimation methodologies; trap bears to mark for population studies and monitoring; work with States to address problem bears that endanger livestock or humans; assess food and other habitat resources; provide secure habitat for females to raise their young; educate the public and local governments about living with bears and how to avoid conflicts with them; and work with companies and government agencies on how to manage and develop resources in bear country. Each of these activities is crucial in ensuring the recovery of the grizzly in existing ecosystems. We will spend $494,000 in FY 2001 to carry out grizzly recovery efforts.

Our highest priority for recovery of the grizzly bear is to continue to carry out these recovery activities in ecosystems where the grizzly bear populations currently exist. Rather than diverting resources towards a reintroduction of grizzlies, it is more important at this time to ensure the continued viability of our ongoing recovery efforts in the existing ecosystems.

Apart from higher priority uses of limited recovery funds, reintroduction of grizzlies is strongly opposed by some citizens potentially adversely affected by this action. We propose to reexamine the concerns raised about the safety of human inhabitants in or near the Bitterroot ecosystem to ensure that the potential safety risks to humans are adequately considered. We must be cognizant of the possibility that humans may be killed or injured as grizzly bears are introduced.

Accordingly, we believe that it is neither prudent nor consistent with our recovery priorities to expend our limited recovery funds and staff effort on establishment of a nonessential, experimental grizzly bear population in the BE at this time. Moreover, we believe that further consideration of the legitimate safety concerns of the current residents of BE against reintroduction is warranted.

Proposed Action

We are proposing to select the No Action Alternative analyzed in the Bitterroot FEIS as our Preferred Alternative. The No Action Alternative described in the FEIS is entitled Natural Recovery. This alternative assumes that current management activities will continue over the next 50 + years. The overall environmental effects of taking no action likely would result in continued recovery in the other ecosystems (because bears will not be removed and resources will not be diverted), but no recovery of grizzly bears in the BE in the near future. Although grizzly bears may start to move into the BE within 50 years from the Yellowstone Ecosystem, complete recovery of the grizzly bear population in the BE would require at least 100–160 years. If grizzly bears naturally dispersed to the BE they would be protected as a threatened species under the ESA. (See FEIS for a thorough evaluation of this alternative.)

Should the No Action alternative be selected as the new Preferred Alternative, there will be no action taken by the Service to reintroduce grizzly bears into the Bitterroot area and the Service will concentrate its efforts to recover grizzly bears in existing areas. Therefore, if we select the No Action Alternative, there will be no need for the rule on establishment of an experimental population, and the rule will be removed from 50 CFR 17.84.

Public Comments Solicited

We intend for any rule that is finally adopted to be as effective as possible. Therefore, we invite the public, concerned government agencies, the scientific community, industry, and other interested parties to submit comments or recommendations concerning any aspect of this proposed rule (see **ADDRESSES** section).

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

Required Determinations

Regulatory Planning and Review

The area affected by this rule consists of a limited area of mostly designated wilderness and surrounding lands in east central Idaho and western Montana, recognized as the Bitterroot ecosystem. The Bitterroot ecosystem, as characterized by data from 10 counties in central Idaho and 4 counties in western Montana, has an area of approximately 44,419 square miles (17,976 ha) and is about 76% Federal land. As of 1996, the area had a human population of about 241,000 people; a $4.6 billion/year local economy; 440,570 head of livestock (cattle and sheep); approximately 274,360 deer and elk; a yearly harvest of 28,023 deer and elk; and, received approximately $13.2 million/year from recreational visits to national forests.

This proposed rule is a significant rule and is subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

We certify that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Small entities most likely to be affected by this rule are producers of domestic livestock. Although highly unlikely in the near future, grizzly bears may re-colonize this area from other ecosystems. It is estimated that at least 50 years will pass before grizzly bears might reach this area. If breeding populations became established, it would conservatively require an additional 50–110 years for a recovery of grizzly bears in the BE.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more on local or State governments or private entities. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. Primary grizzly bear management responsibility would reside with the Service. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This designation will not ''take'' private property and will not alter the value of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule will not have substantial direct effects on the States, in the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform

In accordance with Executive Order 12988, we have determined that this regulation does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988. We have made every effort to ensure that this final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule contains no information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

National Environmental Policy Act

A Final EIS on the reintroduction of the grizzly bear in the Bitterroot ecosystem has been prepared and is available to the public (see **ADDRESSES**). The Final EIS should be referred to for analysis of the No-Action alternative.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175 and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this proposed rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule? (6) What else could we do to make the rule easier to understand?

Send your comments concerning how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, D.C. 20240 (e-mail: *Exsec@ios.doi.gov).*

Author

The principal author of this proposed rule is Susan Baker (see Addresses section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Removal

Accordingly, under the authority of 16 U.S.C. 1531–1544, the Service hereby proposes to amend 50 CFR Part 17 as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.84 [AMENDED]

2. Remove § 17.84 (l)

June 8, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–15908 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Reevaluation of the Record of Decision for the Final Environmental Impact Statement and Selection of Alternative for Grizzly Bear Recovery in the Bitterroot Ecosystem

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: A Final Environmental Impact Statement (FEIS), published in March 2000, evaluated a proposal to establish an experimental population rule and reintroduce grizzly bears into the Bitterroot Ecosystem (BE) in east-central Idaho and western Montana. The Preferred Alternative, selected in the Record of Decision (ROD) published November 17, 2000 (65 FR 69644), was to establish a nonessential experimental population of grizzlies in the BE under section 10(j) of the Endangered Species Act. A final rule to implement the Preferred Alternative was published in the **Federal Register** on November 17, 2000 (65 FR 69623), and is codified at 50 CFR 17.84(l). We, the U.S. Fish and Wildlife Service (Service), have reevaluated our decision with respect to grizzly bear recovery in the BE. This change is based on the Service's need to prioritize its recovery activities for grizzly bears, and the objections of affected States to the reintroduction of grizzly bears. We are now proposing to select the No Action Alternative as our Preferred Alternative. We are opening a public comment period and, after receipt and review of all comments, the Service will make a final decision with regard to this proposal.

DATES: Public comments will be accepted in writing on or before August 21, 2001. We particularly request written comments on (1) new information on the impacts of the No Action Alternative and (2) this proposal to select the No Action alternative.

ADDRESSES: Written comments should be addressed to Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, Box 25486 DFC, Denver, Colorado 80225. Comments also may be mailed electronically to FW6_grizzly@fws.gov. The Final EIS, Record of Decision, and final rule are available for viewing and downloading at http://www.r6.fws.gov/endspp/grizzly/. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Susan Baker, Assistant Regional Director, Ecological Services (see **ADDRESSES** above) at telephone 303–236–7400.

SUPPLEMENTARY INFORMATION:

Background

A Recovery Plan for the Grizzly Bear was finalized in 1982. This plan called for the evaluation of the Selway-Bitterroot ecosystem as a potential recovery area. It identified the Bitterroot Ecosystem (BE) as a recovery area for bears and states that bears are not currently known to be present in that ecosystem. We revised the Grizzly Bear Recovery Plan in 1993 and in 1996 produced the Bitterroot Ecosystem Recovery Plan Chapter as an appendix. This Chapter called for the reintroduction of a small number of grizzly bears into the BE as an experimental, nonessential population under section 10(j) of the Act and the preparation of a special rule and an Environmental Impact Statement (EIS) on this proposal. In general, establishing a nonessential experimental population may result in more flexible management practices to address potential negative impacts or concerns during a species' recovery. The Chapter identified a tentative long-term recovery objective of approximately 280 grizzly bears for the BE.

A Final Environmental Impact Statement (FEIS), published in March 2000 (see 65 FR 12570, March 9, 2000), evaluated a proposal to establish an experimental population rule and reintroduce grizzly bears into the BE in east-central Idaho and western Montana. Six alternatives were discussed: (1) Restoration of Grizzly Bears as a Nonessential Experimental Population with Citizen Management (Preferred Alternative); (1A) Restoration of Grizzly Bears as a Nonessential Experimental Population with Service Management; (2) Natural Recovery—The No Action Alternative; (3) No Grizzly Bear Alternative; (4) Restoration of Grizzly Bears as a Threatened Population with Full Protection of the Act and Habitat Restoration; and (4A) Restoration of Grizzly Bears as a Threatened Population with Full Protection of the Act and Service Management.

On November 13, 2000, the Service signed the Record of Decision (ROD) on the Final EIS, and selected the Preferred Alternative (Alternative 1 in the Final EIS) for implementation. This alternative was the Restoration of Grizzly Bears as a Nonessential Experimental Population with Citizen Management. Reintroduction could result in grizzly bear recovery in the BE in a minimum of 50 years. (See FEIS for more detailed information). In order to implement the Proposed Action Alternative in the FEIS, the Service was required to publish a regulation to establish a nonessential experimental population of grizzly bears under section 10(j) of the Act. Section 10(j) of the ESA says that the Secretary may authorize the release of a population if it will further recovery. Thus, establishment of an experimental population is a discretionary action.

The ROD identified the Proposed Alternative as the best balance between Service recovery goals and public needs at that time. Failure to reestablish grizzly bears in the BE does not appreciably diminish the survival probabilities of bears in the other occupied ecosystems. However, recovery of grizzly bears in the BE would have added an additional measure of security for the species over the long term. In the ROD we said that implementation of the Preferred Alternative was contingent upon adequate funding, so that the current level of Service activities in other grizzly bear recovery areas would not be compromised. We also stated that bears would be reintroduced in 2002 at the earliest, again contingent upon available funding.

Recovery Priorities

The Grizzly Bear Recovery Plan identifies six ecosystems in the United States as recovery areas for bears. Of those, only two—the Northern Continental Divide Ecosystem (NCDE) and Yellowstone Ecosystem (YGBE)—are believed to have stable or increasing populations of grizzlies. Many people believe that the population in Yellowstone has met all of its recovery criteria. We have not yet statistically quantified the size and growth rates of the NCDE population. Three other ecosystems, the Cabinet-Yaak, Selkirk, and North Cascades, have smaller bear populations and a higher level of threats than the NCDE and YGBE recovery areas. In fact, there may not be a permanent population of bears in the section of the North Cascades Ecosystem in the United States; however, bears may occasionally move back and forth from the adjacent Canadian section of the Ecosystem. The status of bears in all three of these ecosystems has been evaluated recently and bears in all three areas were found to warrant listing as endangered, rather than their current designation as threatened (66 FR 1295, January 8, 2001). To date, no action to change their status has occurred, due to other higher priority actions in the listing program. In the 1993 Grizzly Bear

Recovery Plan, we state that funds will only be expended contingent upon appropriations, priorities, and other budgetary constraints.

While the ESA requires us to carry out recovery actions for listed species, we have the discretion and flexibility to identify the highest priority recovery activities and to determine if experimental populations should be established. The Service believes that addressing identified recovery needs in the ecosystems that already contain grizzly bears is a high priority. Examples of recovery activities in these ecosystems that should be given priority may include: ongoing mark-recapture population estimation studies in the YGBE; ongoing genetic studies for population size estimation in the NCDE; or finalization and printing of the interagency Conservation Strategy for management of bears inside the YGBE recovery area after delisting occurs. Accordingly, we have determined that it is not prudent or consistent with our recovery priorities to establish a new grizzly population in the Bitterroot Ecosystem at this time. To the extent that funding is available, the Service intends to apply it to the activities identified above, as well as to other priority actions to recover grizzly bears in those ecosystems where grizzlies are currently found.

We remain firmly committed to the recovery of grizzly bears in the lower 48 States. However, we strongly believe that the only way to effectively recover grizzly bears is with the help and support of affected States. In order to achieve this, we will continue to work in close cooperation and consultation with States and local governments. As we look toward future recovery efforts, we also plan to explore our full range of options for recovery, including focusing increased efforts such as relocation, augmentation, or reintroduction of grizzly bears in some or all of the six identified recovery areas for grizzly bears as priorities, need, and resources dictate.

Proposed Action

We are proposing to select the No Action Alternative in the Bitterroot FEIS at this time as our Preferred Alternative. This alternative assumes that current management activities will continue for at least the next 50 years. The overall environmental effects of taking no action would likely result in no recovery of grizzly bears in the BE in the near future, although grizzly bears may begin to repopulate the area in 50 or more years. If grizzly bears did naturally disperse to the BE, they would be protected as threatened under the ESA. (See FEIS for a thorough evaluation of this alternative.) If we select the No Action Alternative, we will remove section 17.84(l) from title 50 of the Code of Federal Regulations (CFR). (See related proposed rule elsewhere in this edition of the **Federal Register**). This does not mean that we are permanently precluding a reintroduced population of grizzly bears in the Bitterroot Ecosystem.

Authority

The authority for this action is the Endangered Species Act of 1973, U.S.C. 1533.

Dated: June 18, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–15909 Filed 6–21–01; 8:45 am]

BILLING CODE 4310–55–U

Federal Register

Friday,
June 22, 2001

Part V

The President

Executive Order 13218—21st Century Workforce Initiative

Federal Register
Vol. 66, No. 121
Friday, June 22, 2001

Presidential Documents

Title 3—

The President

Executive Order 13218 of June 20, 2001

21st Century Workforce Initiative

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and in order to promote the study and the development of strategies to address the needs of the 21st century workforce, it is hereby ordered as follows:

Section 1. *Establishment of the Office of the 21st Century Workforce.* (a) The Secretary of Labor is hereby directed to establish within the Department of Labor the Office of the 21st Century Workforce. The Office shall provide a focal point for the identification and study of issues relating to the workforce of the United States and the development of strategies for effectively addressing such issues.

(b) The Office of the 21st Century Workforce shall gather and disseminate information relating to workforce issues by conducting summits, conferences, field hearings, meetings, and other appropriate forums designed to encourage the participation of organizations and individuals interested in such issues, including business and labor organizations, academicians, employers, employees, and public officials at the local, State, and Federal levels.

(c) Among the issues to be addressed by the Office of the 21st Century Workforce shall be the identification of the ways in which the Department of Labor may streamline and update the information and services made available to the workforce by the Department; eliminate duplicative or overlapping rules and regulations; and eliminate statutory and regulatory barriers to assisting the workforce in successfully adapting to the challenges of the 21st century.

Sec. 2. *Establishment of the Council on the 21st Century Workforce.*

(a) *Establishment and Composition of the Council.*

(i) There is hereby established the ''President's Council on the 21st Century Workforce'' (Council).

(ii) The Council shall be composed of not more than 13 members who shall be appointed by the President. The membership shall include individuals who represent the views of business and labor organizations, Federal, State, and local governments, academicians and educators, and such other associations and entities as the President determines are appropriate. In addition, the Secretary of Labor and the Director of the Office of Personnel Management shall serve as ex officio members representing the views of the Federal Government. The Secretary of Labor shall be the Chairperson of the Council.

(b) *Functions of the Council.* The Council shall provide information and advice to the President through the Secretary of Labor, the Office of the 21st Century Workforce within the Department of Labor, and other appropriate Federal officials relating to issues affecting the 21st century workforce. These activities shall include:

(i) assessing the effects of rapid technological changes, demographic trends, globalization, changes in work processes, and the need for new and enhanced skills for workers, employers, and other related sectors of society;

(ii) examining current and alternative approaches to assisting workers and employers in adjusting to and benefitting from such changes, including

opportunities for workplace education, retraining, access to assistive technologies and workplace supports, and skills upgrading;

(iii) identifying impediments to the adjustment to such changes by workers and employers and recommending approaches and policies that could remove those impediments;

(iv) assisting the Office of the 21st Century Workforce in reviewing programs carried out by the Department of Labor and identifying changes to such programs that would stream line and update their effectiveness in meeting the needs of the workforce; and

(v) analyzing such additional issues relating to the workforce and making such reports as the President or the Secretary of Labor may request.

(c) *Administration of the Council.*

(i) The Council shall meet on the call of the Chairperson, at a time and place designated by the Chairperson. The Chairperson may form subcommittees or working groups within the Council to address particular matters.

(ii) The Council may from time to time prescribe such procedures and policies relating to the activities of the Council as are not inconsistent with law or with the provisions of this order.

(iii) Each member of the Council who is not an officer or employee of the Federal Government shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Federal service (5 U.S.C. 5701–5707).

(iv) The Department of Labor shall make available appropriate funding and administrative support to assist the Council in carrying out the functions under this section, including necessary office space, equipment, supplies, staff, and services. The Secretary of Labor shall perform the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), as amended, except that of reporting to the Congress, with respect to the Council in accordance with the guidelines and procedures established by the Administrator of General Services.

(v) The heads of executive agencies shall, to the extent permitted by law, provide the Council with such information as it may require for purposes of carrying out the functions described in this section.

(d) *Termination of the Council.* The Council shall terminate 2 years from the date of this order unless extended by the President prior to such date.

Sec. 3. *Effect on Prior Orders.*

(a) *Amendments to Executive Order 13111 of January 12, 1999.* In order to ensure the coordination and nonduplication of advice and information regarding 21st century workforce issues, section 6 of Executive Order 13111, relating to the functions of the Advisory Committee on Expanding Training Opportunities, is amended to read as follows:

''*Sec. 6. Functions of the Advisory Committee.* The Committee shall provide the President, through the Secretary of Labor (who shall ensure the coordination of the activities of the Committee with the activities undertaken pursuant to sections 1 and 2 of the Executive Order on the 21st Century Workforce Initiative), an independent assessment of:

(1) progress made by the Federal Government in its use and integration of technology in adult training programs, particularly in addressing the problems of adult illiteracy;

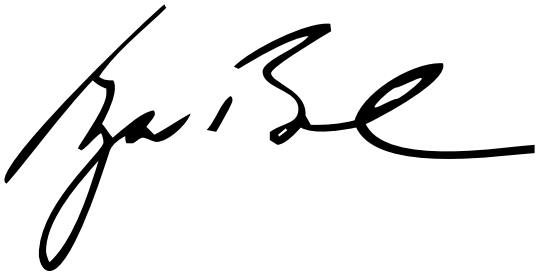
(2) how Federal Government programs, initiatives, and policies can encourage or accelerate training technology to provide more accessible, more timely, and more cost- effective training opportunities for all Americans;

(3) mechanisms for the Federal Government to widely deploy and utilize technology-mediated instruction so all Americans may take advantage of opportunities provided by learning technology;

(4) the appropriate Federal Government role in research and development for learning technologies and their applications in order to develop high-quality training and education opportunities for all Americans; and

(5) such other issues regarding emerging technologies in government training as specified by the Secretary of Labor.''

(b) *Revocation of Executive Order 13174.* Executive Order 13174 of October 27, 2000, relating to the establishment of the Commission on Workers, Communities, and Economic Change in the New Economy, is revoked.



THE WHITE HOUSE,
June 20, 2001.

[FR Doc. 01–15958
Filed 6–21–01; 8:45 am]
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Vol. 66, No. 121

Friday, June 22, 2001

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- Northeastern United States fisheries—
  - Spiny dogfish; published 6-21-01

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Cyprdinil; published 6-22-01
- Tebufenozide; published 6-22-01

FEDERAL COMMUNICATIONS COMMISSION

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- Georgia; published 5-16-01

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Abandoned mine land reclamation:
- Fee collection and coal production reporting; OSM-1 Form; electronic filing; published 5-23-01

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- Effective date delay; published 4-23-01

TRANSPORTATION DEPARTMENT

Coast Guard

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- Louisiana; published 6-22-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Bombardier; published 5-18-01

TREASURY DEPARTMENT

Internal Revenue Service

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- Tentative carryback adjustment in consolidated return context; filing application guidance; published 6-22-01

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- Federal tax lien notice; withdrawal in certain circumstances; published 6-22-01¶

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- Baltimore Convention and Visitors Association Fireworks Display; published 6-22-01
- Sharptown Outboard Regatta; published 6-22-01

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Watermelon research and promotion plan; comments due by 6-29-01; published 4-30-01

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):
- Brucellosis in cattle and bison—
  - State and area classifications; comments due by 6-25-01; published 4-26-01

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Food Safety and Inspection Service

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  - Technical conference and meeting; comments due by 6-28-01; published 4-13-01

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- Elizabeth River, Craney Island, VA; Craney Island Refueling Station; comments due by 6-25-01; published 5-24-01
- Elizabeth River, Lambert's Bend, VA; Craney Island Refueling Station; comments due by 6-25-01; published 5-24-01
- Hampton Roads and Willoughby Bay, VA; Norfolk Naval Base; comments due by 6-25-01; published 5-24-01
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  - Exclusions; comments due by 6-25-01; published 5-11-01

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LIST OF PUBLIC LAWS

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H.R. 1836/P.L. 107–16

Economic Growth and Tax Relief Reconciliation Act of 2001 (June 7, 2001; 115 Stat. 38)

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