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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 01–016–2]

Brucellosis in Cattle; State and Area Classifications; Oklahoma

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Oklahoma from Class A to Class Free. The interim rule was based on our determination that Oklahoma meets the standards for Class Free status. This interim rule relieved certain restrictions on the interstate movement of cattle from Oklahoma.

EFFECTIVE DATE: The interim rule became effective on April 20, 2001.

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

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective April 20, 2001, and published in the **Federal Register** on April 26, 2001 (66 FR 20899–20900, Docket No. 01–016–1), we amended the brucellosis regulations in 9 CFR part 78 by removing Oklahoma from the list of Class A States in paragraph (b) of § 78.41 and adding it to the list of Class Free States in paragraph (a) of that section.

Comments on the interim rule were required to be received on or before June 25, 2001. We did not receive any comments. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 66 FR 20899–20900 on April 26, 2000.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 24th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–21929 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG83

List of Approved Spent Fuel Storage Casks: NAC–MPC Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC–MPC cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 1 to Certificate of Compliance Number 1025. Amendment No. 1 will modify the present cask system design to permit a licensee to use an alternate fuel basket design with enlarged fuel tubes in corner locations; increase the operational time limits provided in the Technical Specifications (TS) for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; revise the canister surface contamination limits in TS to maintain worker dose as low as is reasonably achievable (ALARA); and revise some drawings to reflect changes identified during cask and component fabrication under a general license.

DATES: The final rule is effective November 13, 2001, unless significant adverse comments are received by October 1, 2001. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at *http://ruleforum.llnl.gov.* You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; email CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the

public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML 011380038. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr@nrc.gov.

CoC No. 1025, the revised TS, and the underlying SER for Amendment No. 1, and the Environmental Assessment, are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email *jmm2@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415–6219, email jmm2@nrc.gov, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of the Department of Energy (DOE)] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new Subpart L within 10 CFR part 72, entitled ''Approval of Spent Fuel Storage Casks'' containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on March 9, 2000 (65 FR 12444) that approved the NAC–MPC cask design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1025.

Discussion

On September 29, 2000, and as supplemented on October 5, 2000, March 16, 2001, April 6, 2001, and July 27, 2001, NAC International, Inc., submitted an application and associated Safety Analysis Report to the NRC to amend CoC No.1025 to permit a Part 72 general licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication. No other changes to the NAC–MPC cask system design were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that the requested changes do not reduce the safety margin. In addition, the NRC staff has determined that the changes do not pose any increased risk to public health and safety.

This direct final rule revises the NAC–MPC cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1025. The amendment consists of changes to TS 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10, and 3.2.2, as identified in the NRC staff's SER for Amendment No. 1.

The amended NAC–MPC cask system, when used in accordance with the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of Part 72; thus, adequate protection of public health and safety will continue to be ensured.

Discussion of Amendments by Section

72.214 List of Approved Spent Fuel Storage Casks

Certificate No. 1025 is revised by adding the effective date of the initial certificate, and the effective date of Amendment Number 1. The CoC and the TS have been modified.

Procedural Background

This rule is limited to the changes contained in Amendment 1 to CoC No. 1025 and does not include other aspects of the NAC–MPC cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on November 13, 2001. However, if the NRC receives significant adverse comments by October 1, 2001, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the Federal Register. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change to the CoC or TS.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC would revise the NAC–MPC cask system design listed in § 72.214 (List of approved spent fuel

storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the Federal Register on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA) or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing'' directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule would amend the CoC for the NAC–MPC cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The amendment will modify the present cask system design to permit a Part 72 licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email jmm2@nrc.gov.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On March 9, 2000 (65 FR 12444), the NRC subsequently issued an amendment to Part 72 that approved the NAC–MPC cask design by adding it to the list of NRC-approved cask designs in § 72.214. On September 29, 2000, and as supplemented on October 5, 2000, March 16, 2001, April 6, 2001, and July 27, 2001, NAC International, Inc., submitted an application and associated Safety Analysis Report to the NRC to amend CoC No.1025 to permit a Part 72 general licensee to: (1) Use an alternate fuel basket design with enlarged fuel tubes in corner locations; (2) increase the operational time limits provided in TS for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; (3) revise the canister surface contamination limits in TS to maintain worker dose ALARA; and (4) revise some drawings to reflect changes identified during cask and component fabrication.

This direct final rule will revise the NAC–MPC cask design listing in § 72.214 by adding Amendment No. 1 to CoC No. 1025. The amendment consists of changes to TS 3.1.2, 3.1.3, 3.1.5, 3.1.6, 3.1.10, and 3.2.2, as identified in the NRC staff's SER for Amendment No. 1. The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate the above described problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and NAC International, Inc. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1025 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1025.

Initial Certificate Effective Date: April 10, 2000.

Amendment Number 1 Effective Date: November 13, 2001.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC Multi-Purpose Canister System (NAC–MPC System).

Docket Number: 72–1025.

Certificate Expiration Date: April 10, 2020.

Model Number: NAC–MPC.

* * * * *

Dated at Rockville, Maryland, this 20th day of August, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–21934 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective August 21, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202)452–3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The ''basic discount rate'' is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 3.25 percent to 3.0 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors noted that household demand has been sustained, but business profits and capital spending continue to weaken and growth abroad is slowing, weighing on the U.S. economy. The associated easing of pressures on labor and product markets is expected to keep inflation contained.

Although long-term prospects for productivity growth and the economy remain favorable, the FOMC continues to believe that against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in

fostering price stability and sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	3.0	Aug. 21, 2001.
New York	3.0	Aug. 21, 2001.
Philadelphia	3.0	Aug. 21, 2001.
Cleveland	3.0	Aug. 23, 2001.
Richmond	3.0	Aug. 21, 2001.
Atlanta	3.0	Aug. 23, 2001.
Chicago	3.0	Aug. 21, 2001.
St. Louis	3.0	Aug. 23, 2001.
Minneapolis	3.0	Aug. 22, 2001.
Kansas City	3.0	Aug. 21, 2001.
Dallas	3.0	Aug. 21, 2001.
San Francisco	3.0	Aug. 21, 2001.

By order of the Board of Governors of the Federal Reserve System, August 27, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–21924 Filed 8–29–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–22–AD; Amendment 39–12425; AD 2001–17–33]

RIN 2120–AA64

Airworthiness Directives; Agusta Model AB412 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Agusta Model AB412 helicopters. This action prohibits use of the hoist until certain modifications are accomplished. This amendment is prompted by the loss of a hoist hook during flight due to an uncommanded firing of the cable cutter cartridge caused by wire chafing. The actions specified in this AD are intended to prevent wire chafing, inadvertent firing of the cable cutter cartridge, loss of a hoist hook and section of cable, impact with the main or tail rotor, and subsequent loss of control of the helicopter.

DATES: Effective September 14, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 14, 2001.

Comments for inclusion in the Rules Docket must be received on or before October 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–22–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The service information referenced in this AD may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert McCallister, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Ente Nazionale per l'Aviazione Civile (ENAC), the airworthiness authority for Italy, notified the FAA that an unsafe condition may exist on Agusta Model AB412 helicopters. ENAC advises that they have issued an AD that requires compliance with Agusta Alert Bollettino Tecnico 412–83, Revision A, dated December 29, 2000 (ABT). The ABT specifies, before further flight, removing the hoist cable cutter cartridge and subsequently inspecting/modifying the hoist cable cut harness. ENAC classified this ABT as mandatory and issued AD 2001–001, dated January 2, 2001, to ensure the continued airworthiness of these helicopters in Italy.

This helicopter model is manufactured in Italy and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to this bilateral agreement, the ENAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the ENAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

We have identified an unsafe condition that is likely to exist or develop on other Agusta Model AB412 helicopters of the same type design registered in the United States. Therefore, this AD is being issued to prevent wire chafing, inadvertent firing of the cable cutter cartridge, loss of a hoist hook and section of cable, cable impact with the main or tail rotor, and subsequent loss of control of the helicopter. The actions must be accomplished in accordance with the ABT described previously.

None of the Model AB412 helicopters affected by this action are on the U.S. Register. All helicopters included in the applicability of this rule are currently operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these helicopters are imported and placed on the U.S. Register in the future.

Should an affected helicopter be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required actions, at an average labor rate of $60 per work hour.

Required parts would be negligible because the materials are common stock. Based on these figures, the cost impact of this AD would be $120 per helicopter.

Since this AD action does not affect any helicopter that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–22–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that notice and prior public comment are unnecessary in promulgating this regulation; therefore, it can be issued immediately to correct an unsafe condition in aircraft since none of these model helicopters are registered in the United States. The FAA has also determined that this regulation is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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 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 a new airworthiness directive to read as follows:

2001–17–33 Agusta: Amendment 39–12425. Docket No. 2001–SW–22–AD.

Applicability: Model AB412 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 wire chafing, inadvertent firing of the cable cutter cartridge, loss of a hoist hook and section of cable, impact with the main or tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before operating the hoist or within 60 days, whichever occurs first, inspect and modify the wire harness in accordance with the Accomplishment Instructions of Agusta Alert Bollettino Tecnico 412–83, Revision A, dated December 29, 2000, which constitutes terminating action for the requirements of this AD. Hoist operations allowed by the note in the Accomplishment Instructions utilizing a manual cable cutter are not authorized.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter without any hoist operation to a location where the requirements of this AD can be accomplished.

(d) The inspection and modification shall be done in accordance with the Accomplishment Instructions (except the note is not required by this AD) of Alert Bollettino Technico 412–83, Revision A, dated December 29, 2000. 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 Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective September 14, 2001.

Note 3: The subject of this AD is addressed in Ente Nazionale per l'Aviazione Civile (Italy) AD 2001–001, dated January 2, 2001.

Issued in Fort Worth, Texas, on August 17, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–21748 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–47–AD; Amendment 39–12424; AD 2001–17–32]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Eurocopter France (ECF) Model AS350B, B1, B2, B3, BA, D, AS355E, F, F1, F2, and N helicopters. That AD requires inspecting certain versions of the tail rotor pitch change spider assembly (spider assembly) for the proper rotational torque, axial play, and any brinelling of the bearing. This AD requires identifying the spider assembly with index marks to detect bearing spacer rotation, visually checking to ensure that the index marks are aligned before the first flight of each day, and subsequently modifying the spider assembly. This AD also adds the ECF Model AS350D1 helicopters to the applicability. This AD is prompted by operator reports that the spider assembly bearing spacers are rotating. The actions specified by this AD are intended to detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Effective October 4, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 4, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 99–24–18, Amendment 39–11443 (64 FR 66762, November 30, 1999), which applies to ECF Model AS350B, B1, B2, B3, BA, D, D1, and AS355E, F, F1, F2, and N helicopters, was published in the **Federal Register** on May 22, 2001 (66 FR 28133). That action proposed the following:

- Within 10 hours time-in-service (TIS), install index marks on the spider assembly to detect any bearing spacer rotation;
- Before the first flight of each day, visually check to ensure that the index marks are aligned; and
- Within 25 hours TIS if bearing spacer rotation is detected or at the next 500 hours inspection if no bearing spacer rotation is detected, modify the spider assembly.

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

The FAA estimates that this AD will affect 514 helicopters of U.S. registry. It will take approximately 0.25 work hour per helicopter to identify each spider assembly with index marks and 6 work hours to modify the spider assembly. The average labor rate is $60 per work hour. Required parts will cost approximately $200 per helicopter. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $295,550, assuming that the index marks are installed on all helicopters and that the spider assembly is modified on all the helicopters.

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 removing Amendment 39–11443 (64 FR 66762, November 30, 1999), and by adding a new airworthiness directive (AD), Amendment 39–12424, to read as follows:

2001–17–32 Eurocopter France: Amendment 39–12424. Docket No. 2000–SW–47–AD. Supersedes AD 99–24–18, Amendment 39–11443, Docket No. 99–SW–41–AD.

Applicability: AS350B, B1, B2, B3, BA, D, D1 and AS355E, F, F1, F2, and N helicopters, with tail rotor pitch change spider assembly (spider assembly), part number (P/N) 350A33–2004–00, –01, –02, –03, –05, or 350A33–2009–00 or –01, installed, and which do not incorporate MOD 076554, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 detect rotation of the spider assembly bearing spacers, prevent seizure of the bearing, loss of tail rotor control, and

subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), install identifying index marks on the spider assembly in accordance with (IAW) the Accomplishment Instructions, paragraph 2.B.1, of Eurocopter France Service Bulletin (SB) No. 05.00.33 for Model AS 350 series helicopters or 05.00.33 for Model AS 355 series helicopters. Both SB's are dated May 15, 2000.

(b) Before the first flight of each day, visually check that the index marks on the rotating plate and on the spacer are aligned. The visual check required by the AD may be performed by an owner/operator (pilot) but must be entered into the aircraft records showing compliance with paragraph (b) of this AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

Note 2: This AD allows a pilot to perform this check because it involves only a visual check of the index marks on the spider assembly and can be performed equally well by a pilot or a mechanic.

(c) At the following intervals, modify the spider assembly:

(1) If bearing spacer rotation is detected, within 25 hours TIS, IAW paragraph 2.B.4 of the applicable SB.

(2) If no bearing spacer rotation is detected, at the next 500-hour (''T'') inspection, IAW paragraph 2.B.3 of the applicable SB.

(d) Modifying the bearing assembly with MOD 076554 constitutes terminating action for the requirements of this AD.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

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

(g) The modifications shall be done in accordance with the Accomplishment Instructions, paragraphs 2.B.1, 2.B.3, and 2.B.4 of Eurocopter France Service Bulletin No. 05.00.33 for Model AS 350 series helicopters or 05.00.33 for Model AS 355 series helicopters. Both service bulletins are dated May 15, 2000. 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 American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on October 4, 2001.

Note 4: The subject of this proposal is addressed in Direction Generale de L'Aviation Civile (France) AD No.'s T2000–222–079(A) and T2000–223–059(A), both dated June 2, 2000.

Issued in Fort Worth, Texas, on August 17, 2001.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–21747 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–163–AD; Amendment 39–12426; AD 2001–17–34]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that currently requires an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. That AD also requires modification of the electrical connectors, which terminates the inspection requirement. That action was prompted by reports of failures of the electrical connectors in the sidewall fluorescent lighting, which resulted in smoke or lighting interruption in the passenger cabin. This amendment expands the applicability of the existing AD to include additional airplanes. This amendment is intended to prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn-through and smoke and/or fire in the passenger cabin.

DATES: Effective October 4, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 4, 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: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–19–09, amendment 39–9371 (60 FR 48639, September 20, 1995), which is applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, was published in the **Federal Register** on June 5, 2001 (66 FR 30095). That action proposed to require an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. That action also proposed to require modification of the electrical connectors, terminating the inspection requirement. That action also proposed to expand the applicability of the existing AD to include additional airplanes.

Comments

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

Two airplane operators state that they have previously accomplished the actions required by the proposed AD and, therefore, would not be affected by the proposed AD. A third operator states that it does not own or operate any of the equipment affected by the proposed AD and, therefore, has no comments to offer.

Conclusion

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

Cost Impact

There are approximately 970 Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 470 airplanes of U.S. registry will be affected by this AD, that it will take approximately between 24 and 31 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 $1,199 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $1,240,330, and $1,437,730, or between $2,639, and $3,059 per airplane.

The cost impact figures discussed above are 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 removing amendment 39–9371 (60 FR 48639, September 20, 1995), and by adding a new airworthiness directive (AD), amendment 39–12426, to read as follows:

2001–17–34 McDonnell Douglas: Amendment 39–12426. Docket 2000–NM–163–AD. Supersedes AD 95–19–09, Amendment 39–9371.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 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 (d) 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.

Note 2: Actions required by this AD that were done before the effective date of this AD per McDonnell Douglas MD–80 Service Bulletin 33–99, Revision 1, dated February 23, 1995; or Revision 02, dated December 15, 1995; are considered acceptable for compliance with the requirements of this AD.

To prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn-through and smoke and/or fire in the passenger cabin, accomplish the following:

General Visual Inspection

(a) Perform a general visual inspection to detect damage, burn marks, or black or brown discoloration caused by electrical arcing at electrical plugs, having part number (P/N) MS3126F–15P, and receptacles, having P/N MS3124E–15S, of the sidewall lighting in the passenger cabin, per Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000; at the applicable time indicated in Table 1 of this AD, below:

TABLE 1.—INSPECTION COMPLIANCE TIMES

Affected airplanes	Compliance time
(1) DC–9–81, –82, –83, and –87 series airplanes, and MD–88 airplanes, serial numbers 49614, 49626 through 49632 inclusive, 49668, and 49707.	Within 18 months after October 5, 1995 (the effective date of AD 95–19–09).
(2) Other than those airplanes identified in paragraph (a)(1) of this AD	Within 18 months after the effective date of this AD.

Note 3: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Corrective Action

(b) If any discrepancy is found during the inspection required by paragraph (a) of this AD, before further flight, replace the damaged connectors, pins, sockets, or wires with new parts, per Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000.

Modification

(c) At the applicable time indicated in Table 1 of this AD, modify the electrical connectors of the sidewall lighting in the passenger cabin, per Boeing Alert Service

Bulletin MD80–33A099, Revision 03, dated January 27, 2000. Accomplishment of this modification constitutes compliance with the requirements of this AD.

Alternative Methods of Compliance

(d) 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 4: 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

(e) 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

(f) The actions shall be done in accordance with Boeing Alert Service Bulletin MD80–33A099, Revision 03, dated January 27, 2000. 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

(g) This amendment becomes effective on October 4, 2001.

Issued in Renton, Washington, on August 22, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–21745 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–35–AD; Amendment 39–12421; AD 2001–17–30]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Pratt & Whitney JT9D–7R4 series turbofan engines. This amendment requires initial and repetitive fluorescent penetrant inspection (FPI) of the high pressure turbine (HPT) 1st stage disk aft lugs, and if the aft lug(s) are cracked, replacement of the HPT 1st stage disk and HPT 1st stage airseals. Also, for certain configuration HPT disk assemblies, this amendment requires replacement of the HPT 1st stage airseals with newly designed airseals at the next accessibility. This amendment is prompted by reports of cracks in HPT 1st stage disk firtrees and failure of firtree lugs. The actions specified by this AD are intended to prevent 1st stage HPT disk firtree fracture, which could result in an uncontained engine failure, and damage to the airplane.

DATES: Effective date October 4, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter White, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Pratt & Whitney JT9D–7R4 series turbofan engines was published in the **Federal Register** on February 27, 2001 (66 FR 12440). That action proposed to require initial and repetitive fluorescent penetrant inspection (FPI) of the high pressure turbine (HPT) 1st stage disk aft lugs, and if the aft lug(s) are cracked, replacement of the HPT 1st stage disk and HPT 1st stage airseals. Also, for certain configuration HPT disk assemblies, this action proposed to require replacement of the HPT 1st stage airseals with newly designed airseals at the next accessibility.

Comments

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

Clarifications Requested

One commenter addresses four issues:

- First, the commenter states that there is confusion regarding the phrase ''before the latest of'' which the commenter interprets to mean ''whichever comes last.'' The commenter is correct. The phrase means whichever of the two cyclic limits occurs last.
- Secondly, the commenter states that clarification is needed for ''initial F.P.I.'' because there is a difference between FPI as it is proposed in the NPRM and as it is described in applicable Pratt & Whitney service bulletins. The commenter wants to know if the standard SPOP84 full disk FPI inspection at HPT overhaul fulfills the requirements of the NPRM. It is the intent of this AD that the disk lug be inspected for cracks. The full disk FPI covers the requirement.
- Thirdly, the commenter states that the NPRM requires that airseal P/N 820121 must be installed on HPT part number (P/N) 787521 (powder metal disks) at the next hot section shop visit as described in Pratt & Whitney (PW) Service Bulletin (SB) JT9D–7R4–72–566. However, the commenter notes that the initial and repetitive inspection requirement of SB JT9D–7R4–72–567 remains unchanged. The commenter requests that the FAA delete the requirement to install the new airseals per SB JT9D–7R4–72–566. The FAA disagrees. The newer airseals offer a significant benefit in life over the older airseals. Though it is not stated explicitly in SB JT9D–7R4–72–567, there are no inspection limits for powder disks with the older sideplates, as it is assumed that they are all removed from service and replaced with the new sideplates per SB JT9D–7R4–72–566. Under this AD, there will be no requirement to inspect the older sideplates as they will be removed from service by paragraph (a) of this rule.

• Finally, this commenter and two others note that the compliance for airseal P/N 820121 installation is specified as ''at the next hot section shop visit,'' which is further defined as ''any time the HPT rotor is disassembled.'' However, SB JT9D–7R4–72–566 specifies installation at piece-part opportunity. The FAA agrees and paragraph (e) will be changed to ''at disk piece-part opportunity.''

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Analysis

There are approximately 324 engines of the affected design in the worldwide fleet. The FAA estimates that 47 engines installed on aircraft of U.S. registry would be affected by this proposed AD. Although forced engine removals are not anticipated the first year as a result of this proposed action, a maximum of two removals will be assumed. It would take approximately 86 work hours per engine to accomplish the proposed actions, and the average labor rate is $60 per work hour. Based on these figures, the total labor cost impact of the proposed AD on U.S. operators the first year is estimated to be $24,520. Hardware costs the first year for HPT 1st stage airseals replaced by SB JT9D–7R4–72–566 are estimated to be $128,000, based on replacement costs of $147,110 per disk and $45,143 for sideplates, discounted for average ⅓ life lost at removal. Total combined labor and hardware costs for the first year are therefore estimated to be $140,000.

The following year, it is estimated that inspections will result in a maximum of three engines requiring forced replacement of the HPT 1st stage disk and HPT 1st stage airseals due to cracking. Due to these forced removals, approximately ⅓ of the disk life will be lost. The total combined hardware and labor cost is estimated to be approximately $210,000. The total cost impact of this proposal on U.S. operators in the first two years is expected to be approximately $350,000.

Regulatory Impact

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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 the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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 adding a new airworthiness directive to read as follows:

2001–17–30 Pratt and Whitney: Amendment 39–12421. Docket 2000–NE–35–AD.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT9D–7R4 series turbofan engines. These engines are installed on, but not limited to, Boeing 747 and 767 series and Airbus A300 and A310 series airplanes.

Note 1: This AD applies to each engine 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 engines 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 (f) 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: Compliance with this AD is required as indicated, unless accomplished previously.

To prevent high pressure turbine (HPT) disk firtree fracture, which could result in an uncontained engine failure, and damage to the airplane, accomplish the following:

HPT 1st Stage Airseal Replacement

(a) For engines that incorporate HPT 1st stage disk assembly part number (P/N) 787521, replace HPT 1st stage airseals with P/N 820121 at the next disk piece-part opportunity. Information on replacement of the HPT 1st stage airseal is contained in PW service bulletin (SB) JT9D–7R4–72–566, dated May 26, 2000.

Fluorescent Penetrant Inspection (FPI)

(b) Perform fluorescent penetrant inspection of the HPT 1st stage disk aft lug fillet radius for cracks according to the following Table 1 of this AD:

TABLE 1

HPT 1st stage disk assembly	HPT 1st stage disk	Initial inspection	Repetitive inspection interval
(1) P/N 787521	P/N 825701 or P/N 827201	Before the latest of 4,000 CSN or 4,000 cycles since last HPT disk lug FPI (CSLI), or 500 CIS after the effective date of this AD.	Within 4,000 CSLI.
(2) P/N 797621	(i) P/N 829401 with air seals P/N's 797355, 796760, 803979, 797355–001 installed.	Before the latest of 5,000 CSN or CSLI, or 500 CIS after the effective date of this AD.	Within 4,000 CSLI.
	(ii) P/N 829401 with air seals P/N 820121 installed.	Before the latest of 5,000 CSN or 5,000 CSLI, or 500 CIS after the effective date of this AD.	Within 6,000 CSLI.

Additional inspection information can be found in Paragraph 4 of the Accomplishment Instructions of PW SB JT9D–7R4–72–567, dated May 26, 2000.

(c) Replace any disks that have crack indications. Information on replacement of the disk is contained in PW SB JT9D–7R4–72–568, dated May 26, 2000.

Terminating Action

(d) Installation of HPT disk P/N 820321 with redesigned HPT 1st stage airseal P/N 820121 is considered terminating action to the initial and repetitive inspection requirements of paragraph (b) this AD. Information on installation of the HPT disk is contained in PW SB JT9D–7R4–72–568, dated May 26, 2000.

Definition

(e) For the purpose of this AD, at disk piece-part opportunity is defined as any time the 1st stage HPT rotor is disassembled.

Alternative Methods of Compliance

(f) 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, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(g) 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 aircraft to a location where the requirements of this AD can be accomplished.

Effective Date of this AD

(h) This amendment becomes effective on October 4, 2001.

Issued in Burlington, Massachusetts, on August 21, 2001.

Donald Plouffe,

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

[FR Doc. 01–21893 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 206, 210, 216, and 218

RIN 1010–AC86

Solid Minerals Reporting Requirements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is updating its solid minerals reporting regulations to implement our reengineered royalty compliance strategy. The new reporting requirements will provide the necessary information to timely verify that mineral revenues due the government are correctly paid in compliance with applicable laws, regulations, and lease terms. The new reporting requirements replace several existing information collections and decrease the reporting burden for solid mineral reporters.

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

FOR FURTHER INFORMATION CONTACT: Carol P. Shelby, Regulatory Specialist, Regulations and FOIA Team, Minerals Revenue Management, MMS, telephone (303) 231–3151, fax (303) 231–3385, or email Carol.Shelby@mms.gov.

SUPPLEMENTARY INFORMATION: The principal authors of this rule are Glenn W. Kepler, Sr., Cynthia Stuckey, and Herb Wincentsen, of Solid Minerals and Geothermal Compliance and Asset Management, Minerals Revenue Management, MMS, and Geoffrey Heath of the Office of the Solicitor, Department of the Interior.

I. Background

Beginning in 1996, MMS embarked on an initiative to reengineer its royalty compliance operations and develop a process to assure that royalties and other mineral revenues are properly paid in accordance with applicable laws, lease terms, and regulations. As a result of this initiative, we set a performance goal of assuring royalty compliance in the shortest time possible, but not more than 3 years from the due date of the payment, in contrast to our current 6-year audit-based compliance cycle. This goal led us to adopt a contemporaneous compliance strategy. The contemporaneous compliance strategy is designed to detect and resolve compliance issues in the early stages of the compliance cycle and target audits accordingly, rather than waiting for future regularly scheduled or random audits. Early detection and resolution of compliance discrepancies not only benefits MMS by improving correct payment, but also helps industry by reducing its exposure to underpayments and associated interest.

To accomplish our compliance strategy for solid minerals, we determined—with industry participation—the minimum data necessary to support our contemporaneous compliance program. Accordingly, on June 5, 2001, we published a proposed rule in the **Federal Register** (66 FR 30121) describing revisions to our solid minerals reporting requirements. This final rule adopts the proposed revisions with modifications, where appropriate, suggested in the public comments we received.

The new reporting requirements replace eight existing production and royalty forms with a single form (Form MMS–4430, Solid Minerals Production and Royalty Report) and three supplementary data collections (sales contracts, sales summaries, and facility reports). This information collection methodology allows us to integrate production and royalty information into our contemporaneous compliance and asset management activities and validate the correctness of revenue receipts in the early stages of the compliance cycle. This data collection minimizes industry's reporting burden by (1) collecting the information at the beginning of the compliance cycle, thereby eliminating industry's requirement to retrieve records from storage at some future date in response to audit requests, and (2) collecting the information in the same manner and format as prepared by industry during routine business processes.

II. Responses to Public Comments

Eight respondents commented on the proposed regulations during the 30-day public comment period that closed July 5, 2001. Those comments and our responses follow.

Mailing Addresses

Comment: Two companies and one industry trade association suggested that references to specific mailing addresses be deleted, because addresses are subject to change and could require a rule revision. They recommended that the final rule provide a reference to an Internet web site or a telephone number for the current mailing address.

MMS Response: We disagree with this comment. Lessees must submit reports and documents by prescribed filing deadlines. For reports and documents submitted in paper, it is important that there be no ambiguity regarding where to send them. Failure to provide a mailing or delivery address greatly increases the chance of disputes between lessees and MMS regarding whether submissions were timely. There is no reason or benefit to increasing the risk of such disputes when they are easily preventable.

In response to the comment that MMS's addresses may change, we include language in the final rule to the effect that MMS may publish a change of address in the **Federal Register**. This

avoids the necessity of a later rulemaking procedure if the MMS office changes location.

Other Government Bureau Data Collection

Comment: A field office of a sister Interior bureau questioned whether our information collection rules would prevent it from also collecting lease and mine data.

MMS Response: Part of the intent of this rulemaking is to ease reporting burdens on industry by requesting the data once and consolidating the Government's information needs. MMS will provide access to data it collects to other government entities that also need the data to perform their verification and compliance duties so that other agencies may avoid seeking duplicate information.

Data Submission to Indian Tribes

Comment: One Indian tribe that participated in the Solid Minerals Operational Model expressed concern that under the new reporting requirements it will not timely receive mine data from MMS. The tribe recommends that the final rule require companies to send duplicate information directly to the tribe.

MMS Response: One purpose of the Operational Model was to test the effectiveness of new reporting forms and strategies. Companies participating in the model had to continue submitting Form MMS–4059 (SMOR–A) and Form MMS–2014 (Report of Sales and Royalty Remittance) for production information and royalty distribution purposes. During testing we became aware that the tribe had a longstanding agreement with the producer whereby the producer would also submit copies of the Forms MMS–4059 and MMS–2014 directly to the tribe. As part of the Operational Model, the participants agreed to test the concept of reducing the producer's reporting burden by having a single submission to MMS, which we would then copy and forward to the tribe. The tribe's delay in receiving timely reports from MMS was caused by our not having the necessary software installed on our computers to open the producer's reports. This prevented us from timely forwarding the submitted reports to the tribe. Our new web-based reporting system is designed so that the tribe and other authorized users will have immediate access to the reported information. Therefore, we believe the tribe will no longer need to receive reports directly from the producer.

Confidentiality

Comment: A field office of a sister Interior bureau commented that MMS may increase the risk of releasing confidential information by making reported information available to all that bureau's offices, rather than just the office of jurisdiction.

MMS Response: The MMS has extensive requirements for safeguarding the confidentiality of proprietary data. For example, effective September 6, 1991, MMS, the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA) executed a Tripartite Memorandum of Understanding (MOU). This MOU sets forth requirements for information sharing among the three bureaus. Under the MOU we provide the BLM and BIA access to our production and royalty data for their lease monitoring and compliance duties. The MOU has extensive requirements for safeguarding the confidentiality of proprietary data. These requirements are binding on the entire bureau, not just a single office within the bureau. Those other offices must operate under the same requirements as MMS when handling proprietary information. It is those offices' responsibility to maintain the confidentiality of proprietary mine information, regardless of the mine's location or a particular office's jurisdiction, in accordance with applicable law.

Comment: One industry association requested that the rule address how MMS will maintain the confidentiality of sensitive data submitted over the Internet.

MMS Response: Security controls for data reported on the Form MMS–4430, Solid Minerals Production and Royalty Report, as well as all data reported to MMS's new financial system, are being developed by our consulting firm. The consulting firm is creating a security plan following the protocols given in the National Institute of Standards and Technology (NIST) Special Publication 800–18, ''Guide for Developing Security Plans for Information Technology Systems.'' Security, authentication, and identification (ID) for the Form MMS–4430 will be provided by an application known as *Brio.* Users must first log into *Brio* with a specific user identification and password before gaining access to Form MMS–4430. Two firewalls will be in place to prevent unauthorized users. Because Form MMS–4430 is web-based, it will use two servers to run the application. Both servers will use 128-bit Secure Socket Layer (SSL) encryption. By using SSL, not only are the passwords that are sent to the servers encrypted for secure authentication but all data transmitted to and from the servers is encrypted for protection. At the data level, each user logged into *Brio* will be associated with an MMS-assigned user ID. The user ID will determine what data an individual user can or cannot see on the Form MMS–4430. Lessees will only be able to create or view reports for mines and leases associated with their user ID and *Brio* logon ID combination.

Most reporters will submit supplementary data (sales summaries, and facility reports, and possibly sales contracts) by email to our electronic mail box at rubymailbox@mms.gov. MMS applies state-of-the-art anti-virus applications to assure that incoming data do not contain harmful virus applications. Access to the mailbox is limited to certain MMS employees who will download the information to internal data base systems. Only MMS and its authorized agents will have access to these systems. Additional safeguards for email transmissions are available, such as an encrypted zip file. We will work with individual firms to establish additional electronic safeguards as necessary.

Part 206—Product Valuation

Section 206.263 Contract Submission

Comment: Four commenters—two industry trade associations and two company representatives—objected to the removal of the confidentiality paragraph found at § 206.263(d). They believe a confidentiality section is needed in the final regulation to protect proprietary information from potential public release.

MMS Response: The proposed rule removed both §§ 206.263 and 206.462 because they duplicated our proposed reporting requirements. We note that most Federal leases contain language prohibiting release of proprietary information. For example, coal lease Form 3400–12, approved for use beginning in April 1984, provides in Section 6, ''While this lease remains in effect, information obtained under this section [Documents, Evidence, and Inspection] shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).'' However, we agree that Part 210, Forms and Reports, should contain language reinforcing the confidentiality of reported information that is legally exempt from disclosure. Accordingly, in the final rule, we added a new § 210.206, titled ''How will information submissions be kept confidential?'' This new section encompasses the provisions of the former §§ 206.263 and 206.462.

Part 210—Forms and Reports

Section 210.201 How Do I Submit Form MMS–4430, Solid Minerals Production and Royalty Report?

Comment: One industry trade association and two companies observed that a literal reading of proposed § 210.201(a)(1) would require a lessee to submit its royalty payment on the same day the Form MMS–4430 is submitted, even if the report is submitted in advance of the due date. They noted that this was a departure from current practice and questioned the intent of the rule.

MMS Response: We agree with this observation and did not intend to require the simultaneous submission of both Form MMS–4430 and payment if the Form MMS–4430 is submitted in advance of the deadline for reporting and payment. The payment and the report do not need to be submitted on the same day, but both must be submitted by the due date. For example, a lessee may choose to submit the Form MMS–4430 one week before the due date (the due date typically being the end of the month following the month of production and sale), but delay the payment until the actual due date. To clarify our intent in this section in the final rule, we deleted the phrase from the proposed rule ''accompanied by all required royalty and rental payments (except for first year rentals).''

Comment: One company requested a definition of the phrase ''electronic reporting service'' appearing in § 210.201(c)(3).

MMS Response: An electronic reporting service is a company that provides electronic reporting services to other companies that may not have the resources to undertake electronic reporting themselves or that may wish to contract for that function.

Section 210.202 How Do I Submit Sales Summaries?

Comment: An industry trade association objected to the submission of purchaser names or identities required under § 210.202(a), arguing that such information is highly confidential and is not needed to monitor compliance or determine royalties due, except in the rare situation where the purchaser identity may be relevant to some issue during an audit.

MMS Response: Valuation of solid minerals production is predicated in part on whether the sales contract is arm's-length or non-arm's-length. MMS, not the lessee, is the final arbiter of whether any particular contract is an arm's-length contract. Moreover, MMS may need to obtain information directly from the purchaser and asking the lessee to identify the purchaser in every case would cause unnecessary delay in classifying the contract. Accordingly, purchaser identities are an integral component of the contract classification process. Identification of affiliate sales early in the compliance cycle enables expeditious resolution of valuation issues and improves the lessee's certainty that its royalties are properly paid under its lease terms, statutes, and regulations.

We believe the contemporaneous submission of purchaser names with the lessee's sales summary data, as opposed to collecting the same data years later during audit, is an improved process. The information is necessary for the reengineered contemporaneous compliance process to work. That process works to the lessee's benefit and may indicate that a later audit is not necessary.

Moreover, submission of purchaser names does not appear to give rise to confidentiality concerns separate from the submission of the sales summary data itself—which will be broken out by sales arrangement regardless of whether the purchasers' names are included in the document. MMS therefore respectfully disagrees with this comment.

Comment: One company and one industry trade association objected to the submission of separate sales summaries for each remote storage site when a lessee has five or fewer sites (§ 210.202(a)), arguing that such a requirement is needlessly burdensome.

MMS Response: Our new compliance and asset management process associates lease sales reported on the Form MMS–4430 with purchaser sales reported on the sales summary. For example, the Form MMS–4430 for a particular remote sales site will show total sales from that site allocated to the source leases, but will not show the prices and quantities sold to particular purchasers. The sales summary will show the individual sales to each purchaser, including price and quantity and other information. The contemporaneous compliance process, among other things, will compare and correlate the information shown on both reports.

For the contemporaneous compliance process to function efficiently, the sales summary must cover the same transactions as the Form MMS–4430. Thus, if an MMS–4430 is submitted for a remote sales site, the sales summary needs to be for that same site. If Forms MMS–4430 were separated by site but sales summaries were combined for all sites, the process of correlating the information becomes much more costly and time-consuming, undercutting the goal of the contemporaneous compliance approach.

MMS does not object if lessees submit their sales summaries for separate remote sites in one document rather than as separate documents. However, the single document must contain the same information, identified separately for each sales site, as the sales summaries submitted for separate sites; that is, purchaser name, quantity sold, quality data, price/proceeds received, allowances, etc. (see the table in § 210.202(a)(3)).

Comment: Two companies and one industry trade association found ambiguous the requirement to submit processing or washing costs and transportation costs on the monthly sales summary (§ 210.202(a)). They noted that the proposed rule provided no guidance regarding what cost information must be submitted and interpreted the rule to require calculation and submission of costs on a monthly basis pursuant to §§ 206.259 and 206.262. They believe this requirement would significantly increase industry's cost of compliance.

MMS Response: The purpose of capturing processing (including coal washing) and transportation allowances on the sales summary is to associate allowances with individual sales. The sales summary provides information about product sales at the purchaser level. As explained in the previous response, we associate certain data reported on Form MMS–4430 with data reported on the sales summary to run our compliance processes. Allowances on the Form MMS–4430 are reported at the lease level, while allowances reported on the sales summary are at the purchaser level. The sales summary is a company-generated record and not a standard form.

In our experience, companies express processing and transportation allowances as costs in their internal documents, either on a unit or gross basis. Therefore, we will accept allowance/cost information on the sales summary in whatever format the company uses. However, our acceptance of the allowance/cost information in the company's format on the sales summary does not constitute our approval of the allowance claimed on Form MMS–4430.

Lessees may report allowances on the sales summary using either actual costs, if known, or estimated costs. If the lessee reports estimated costs on the sales summary, then the lessee must true-up the claimed allowances on the Form MMS–4430 when actual costs

become available. Allowances (cost data) reported on the sales summary do not require true-up. In any event, coal allowances claimed on the Form MMS–4430 must be calculated in accordance with §§ 206.259 and 206.262. Allowances claimed for non-coal solid minerals must reflect actual, reasonable costs. All allowances claimed on the Form MMS–4430 are subject to review, audit, and adjustment.

Comment: Two companies and one industry trade association objected to the submission of coal size data on the sales summary (§ 210.202(a)). They found the requirement redundant because coal size is given in sales contracts.

MMS Response: We agree with this comment and removed the requirement to report coal size in the final rule.

Comment: Two companies and one industry trade association objected to the requirement to submit sales summaries during months when there is no Federal or Indian lease production. They contend this requirement is unduly burdensome and unnecessary.

MMS Response: The proposed rule requires sales summaries (1) for all months when Federal or Indian production is sold, whether directly from a mine or from a stockpile, and (2) when any Federal or Indian production is commingled with production from State or fee lands and sold. It does not require lessees to submit a sales summary when State or fee production is the *only* production sold. To clarify our intent, in the final rule we added language to § 210.202(a) and (b) stating that a sales summary is not required when sales do not involve Federal or Indian production.

Section 210.203 How Do I Submit Sales Contracts?

Comment: Two companies and one industry trade association disagreed with the requirement to submit sales contracts and amendments on a quarterly basis (§ 210.203(b)(1)), particularly for multi-period contracts. They also argued that the rule was unclear regarding what was to be submitted and when the submission is due. They recommended changing the quarterly requirement to semi-annual and defining specific due dates.

MMS Response: We agree with the comment and changed the submission requirement to a semi-annual basis in the final rule (at the end of March and end of September of each year). We also added due dates for the submissions.

Comment: A trade association for the potash industry objected to the submission of sales contracts, stating that such submission will require disclosure of confidential information and is being imposed without a demonstrated need for the data at any point prior to audit.

MMS Response: Sales contracts are one of our fundamental compliance tools. They play a critical role in compliance verification by providing the necessary information to gauge the value of production on which royalties are due. MMS's performance goal is to complete our compliance work in 3 years or less from the due date of the royalty payment. Our strategy to accomplish this goal rests on our ability to acquire meaningful information to show that reported royalty payments are in compliance with statutes, lease terms, and regulations.

If we are unable to obtain timely the critical information necessary to support our compliance verification process, then we must revert to audit under longer timeframes to verify the correctness of royalty payments. Long-term audits increase the lessee's risk of underpayments and associated late payment interest.

Our experience gained in the Operational Model showed that industry participants welcomed the shortened compliance cycle and understood and accepted the tradeoff between a compressed compliance cycle and up-front data submissions necessary to accomplish that goal. While our new compliance process will not totally supplant audits, the process will target audits on a more selective basis. When they do occur, audits will be less burdensome on the lessee because we will already have much of the fundamental information otherwise requested in an audit.

Comment: Four coal producers and a potash industry trade association objected to changing the submission of sales contracts from an ''as requested'' basis to a regular quarterly basis. One coal producer and the potash industry trade association would rather make the contracts available only at the lessee's mine site or offices and only on an as-requested basis. These commenters believe that an automatic submission of such materials will raise the risk of compromising confidential, proprietary information.

MMS Response: Submission of sales contracts on a regular basis in the coal and metals industries is integral to the contemporaneous compliance strategy. Review of sales contracts is necessary to identify a number of royalty valuation issues (such as proceeds issues, production conditioning issues, affiliation issues, allowance issues, etc.) before an audit would bring those issues to light. As noted above, the final rule changes the requirement to submit sales contracts from quarterly to semi-annually.

The proposed rule included a requirement for potash, sodium, phosphate and other non-coal and non-metal producers to submit sales contracts when MMS requests them rather than quarterly. The reason for the difference is that the producers have a larger number of smaller customers to whom they sell on an invoice or other less formal basis without lengthy contract instruments. It appears that the potash trade association misunderstood the proposed rule. The proposal for the non-coal and non-metal producers is continued in the final rule. The MMS will require contracts to be submitted on an as-needed basis. Submission of contracts in the early stages of the compliance cycle is not fundamentally different from MMS requesting copies of the contracts at the time of an audit.

The MMS will not limit examination of those contracts to the producer's mine or office locations. The contracts submitted to MMS will have the same confidentiality protections provided by applicable law regardless of whether they are submitted regularly or only when MMS asks for them.

Comment: Four companies and one industry trade association found the requirement to submit ''other documents that affect gross proceeds,'' contained in § 210.203(a), overly broad and ambiguous. They claim the requirement places an undue burden on the lessee to determine what documents must be submitted and increases their liability risk should they erroneously omit a document that MMS later identifies as necessary. They suggested MMS delete the phrase.

MMS Response: We agree the phrase ''other documents that affect gross proceeds'' is ambiguous. We therefore removed this phrase in the final rule. However, additional documentation relevant to gross proceeds likely will be needed in some instances. The provisions of § 210.205 provide MMS the necessary authority to request such information on an as-needed basis. Examples of additional data include, but are not limited to, requests for organization charts; contracts, letter agreements, or other communications that supplement or affect sales contracts or amendments; or any other document that affects gross proceeds.

Our experience from the Operational Model indicated that additional data requests were occasionally needed to resolve specific issues. Industry participants understood the need for additional information but asked that we specify the particular contract or

issue. Industry participants told us that by narrowing our requests to a specific issue or contract their likelihood of sending incorrect documents or being non-responsive is substantially reduced.

Comment: Respondents also believe MMS understated the average reporting burden associated with contract submission.

MMS Response: We believe much of the concern regarding contract reporting burdens stems from ambiguity in the proposed rule. To clarify our intent, we have added language to the final rule (1) explaining that a multi-period contract does not need to be submitted more than once; (2) requesting ''other documents affecting gross proceeds'' on an as-needed basis; and (3) changing the contract submission frequency from quarterly to semi-annually. These three changes mitigate the lessee's reporting burden. However, we recognize that contract submission, even on a semi-annual basis, may take longer than originally estimated to account for the lessee's need to index all its contracts, and agree with the commenters that we underestimated the time that will be necessary for contract submission. Therefore, the estimated annual contract submission burden has been increased from 90 hours to 180 hours.

We note that the overall reporting burden for contract submission would be roughly equivalent regardless of whether the contracts are submitted semi-annually or during audit. Because semi-annual submission is more contemporaneous, we believe it will require less effort over time than searching for and retrieving multiple contracts during audit.

Section 210.204 How Do I Submit Facility Data?

Comment: Two companies and one industry trade association objected to the submission of facility data during months when there is no Federal or Indian lease production. They contend this requirement is unduly burdensome and unnecessary.

MMS Response: Producers must submit facility data for any month Federal or Indian production is stockpiled awaiting processing or is processed. Such production may have occurred at any time before the current reporting period. Until all Federal or Indian mine production is processed and no longer in stockpile inventory, facility reports must continue to show the production quantities in inventory. This does not constitute a new reporting burden because the same information was required on the old Form MMS–4060, Solid Minerals Facility Report, Part B. The difference is that now industry may supply its own internal report rather than completing a government form. Lessees do not have to submit facility data when they process no Federal or Indian production and have no such production stockpiled awaiting processing. We added language to § 210.204(a) in the final rule to clarify our intent.

Section 210.205 Will I Need To Submit Additional Documents or Evidence To MMS?

Comment: Three companies and one industry trade association believe this provision exceeds the data submission requirements in Federal and Indian lease terms. They contend that leases only require the lessee to provide access to and copying of those documents reasonably necessary to verify the lessee's compliance with lease terms and conditions.

MMS Response: Almost all Federal leases contain substantially identical language generally found under a section entitled ''Documents, Evidence, and Inspection,'' which authorize MMS to require the lessee to produce all relevant information. For example, in lease Form 3400–12, this section states:

> At such times and in such form as lessor may prescribe, lessee shall furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amount used for production purposes or unavoidably lost.
>
> Lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of lessor, the leased premises and all surface and underground improvements, works, machinery, ore stockpiles, equipment, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or under the leased lands.
>
> Lessee shall allow lessor access to and copying of documents reasonably necessary to verify lessee compliance with lease terms and conditions of the lease.
>
> While this lease remains in effect, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Substantially similar language is contained in virtually all Federal and Indian solid mineral leases. We believe this language authorizes the submission of data that is necessary to show that the lease is in compliance with lease terms, statutes, and regulations.

Furthermore, our experience gained from the Operational Model shows that industry cooperation in providing records expedites the compliance process. We believe this is in the mutual best interests of the lessees and MMS.

Part 216—Production Accounting

There were no comments on the proposed changes to part 216.

Part 218—Collection of Royalties and Rentals, Bonuses and Other Monies Due the Federal Government

There were no comments on the proposed changes to part 218.

III. Other Changes Between Proposed Rule and Final Rule

In addition to the changes discussed in part II above in response to the comments, we have made other changes in the final rule. These changes are discussed below:

Section 210.201 How Do I Submit Form MMS–4430, Solid Minerals Production and Royalty Report?

In § 210.201 of the final rule, we have made certain clarifying changes to eliminate ambiguities in the proposed rule. The new Form MMS–4430 replaces the functions of several existing reports for both royalty and production accounting. In paragraph (a), we clarify that lessees must submit a completed Form MMS–4430 for any of the following events:

(1) Production of all coal and other solid minerals from any Federal or Indian lease;

(2) Sale of any such mineral;

(3) Any such mineral held in stockpile or inventory; and

(4) Payment of rents (other than those for which you receive an MMS Courtesy Notice as defined in § 218.51(a)), minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations.

Any of these events, standing alone, triggers the obligation to file a Form MMS–4430. The proposed rule (at paragraph (b)) referred to having to file a Form MMS–4430 upon the occurrence of a ''reportable action,'' with a few examples then given. A ''reportable action'' was not defined.

Thus, production without sale triggers the obligation to report, even though royalty may not be due until sale or disposition. Similarly, sale of minerals produced in an earlier period, without current production, triggers the reporting obligation. Likewise, simply holding stockpiled inventory without either production or sale triggers the reporting obligation; so does payment of rent, minimum royalty, and other financial obligations, even though there may be no production or sales.

The final rule does not refer to a ''reportable action,'' because the actions or events that trigger the reporting

obligation are itemized in the text of the rule.

We made corresponding changes in paragraph (b) regarding the timing of reports to cover the same actions and events itemized in paragraph (a). The final rule specifies that you must submit your Form MMS–4430 on or before the end of the month following the month in which you produce any solid mineral, sell any solid mineral, or hold any solid mineral production in stockpile or inventory, unless your lease terms specify a different frequency for royalty payment. (If your lease terms specify a different frequency, you must submit your Form MMS–4430 on or before the date on which you must pay royalty under the terms of the lease.)

The deadline for submitting reports of production, sales, or inventory contrasts with the deadline for reports accompanying payment of rents, minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations. For these payment events, you must submit the Form MMS–4430 on or before the date on which you must pay the obligation under the terms of the lease.

Section 210.201(c)(2) of the proposed rule provided an exception to the electronic reporting requirement in the event that you are reporting only ''rent, minimum royalty, or other annual obligations'' on the Form MMS–4430. The stated reason was that those obligations ''are submitted with a Courtesy Notice as instructed in § 218.201(c).'' However, § 218.201(c) of the proposed rule provided for a Courtesy Notice only for ''a rental payment that is not reported on Form MMS–4430.'' The provision did not define which rental payments were to be made with a Form MMS–4430 and which were to be made with a Courtesy Notice.

Under current practice, MMS issues a Courtesy Notice to lessees whose leases are in pure rental status, that is, leases that are in a non-producing status. That practice may expand to certain other leases in the future as systems are changed as part of reengineering. For leases for which MMS issues a Courtesy Notice, filing a Form MMS–4430—whether in paper or electronic form—is not necessary. Consequently, in the final rule we have deleted the proposed paragraph (c)(2) and added the parenthetical clause ''(other than those for which you receive from MMS a Courtesy Notice as defined in § 218.51(a) of this chapter)'' after the word ''rents'' in paragraphs (a)(1)(iv) and (b)(3).

The discussion in the preceding paragraph applies only to rental payments, and does not apply to minimum royalty or other financial obligations.

If you must file a Form MMS–4430 with your rental payment—in other words, if your lease is not one for which MMS issues a Courtesy Notice—then you must report electronically unless you meet the exception in paragraph (c)(2) (that is, that you are a small business and do not have a computer, have no plans to purchase a computer, and do not have a contract with an electronic reporting service).

Section 210.202 How Do I Submit Sales Summaries?

In the table in paragraph (a)(3) prescribing the time frames and data elements for submitting sales summaries, the proposed rule required sodium and potassium lessees to submit purchaser names ''as requested.'' This was an error, and should have read ''monthly.'' We have changed that entry in the table to monthly in the final rule. MMS needs the specific identity of purchasers for reasons discussed above.

Section 210.204 How Do I Submit Facility Data?

In paragraph (a) of the proposed rule, we stated that facility data had to include the following minimum information: identification of your facility, mines served, input quantity, output quantity, and output quality or product grade. For solid minerals other than coal, input quality (ore grade) is also an important data factor. This was inadvertently omitted in the proposed rule. In the final rule, we have added wording to this paragraph requiring input quality information if requested by MMS.

Part 216—Production Accounting

The proposed rule contained various amendments to part 216 that were intended to be conforming amendments consistent with the proposed changes to part 210. As noted above, MMS received no comments on these proposed provisions. However, further examination has revealed that the proposed amendments were incorrect. In view of the incorporation of all production reporting functions within the Form MMS–4430 and the consequent coverage of these matters in the new §§ 210.200 through 210.206, it was unnecessary and duplicative to include provisions regarding production reporting in part 216. The final rule therefore includes amendments to the existing part 216 to remove references to solid minerals and remove coverage of solid minerals from that part.

IV. Procedural Matters

1. Summary Cost and Benefit Data

We have summarized below the economic impacts of this rule on the groups affected by our regulations: Industry, State and local governments, Indian tribes and allottees, and the Federal Government. All costs summarized below are associated with reporting changes. As stated previously, this rule does not affect the valuation—for royalty purposes—of Federal or Indian coal or other solid minerals. The cost and benefit information in this Item 1 of Procedural Matters is used as the basis for the Departmental certifications in Items 2–12.

A. Industry

The effect of the information collection changes in this proposed rulemaking would be a net savings of $168,400 per year for all solid minerals reporters, calculated as follows:

Cost—New Information Collection. There are about 200 solid mineral lessees who are required to report production and royalty information to us. Using the annual reporting burden experienced by the participants in the operational model, we estimate the annual cost of the new information collection proposed in this rulemaking to be $72,600, calculated as follows:

Form MMS–4430. The average reporting burden for completing Form MMS–4430 is 20 minutes per month. We estimate that all 200 solid minerals lessees will submit Form MMS–4430, and that this annual reporting burden will be 800 hours (200 lessees × ⅓ hour per month × 12 months).

Sales summaries. The average reporting burden for sales summaries is 15 minutes per month. We estimate that 120 lessees will submit sales summary data and that this annual reporting burden will be 360 hours (120 lessees × ¼ hour per month × 12 months).

Facility data. The average reporting burden for facility data is 15 minutes per month. We estimate that 30 lessees will submit facility data and that this annual reporting burden will be 90 hours (30 lessees × ¼ hour per month × 12 months).

Contracts and contract amendments. Contracts and contract amendments will be copied and sent to MMS. The average annual reporting burden for providing contracts and contract amendments to us is 2 hours per lessee. We estimate that 90 lessees (predominantly coal companies) will submit contracts and contract amendments. Consequently,

the annual reporting burden is 180 hours (90 lessees × 2 hours per year).

Additional documents or evidence. Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence that supports our compliance and asset management responsibilities. We will request this additional information as we need it, not as a regular submission. We estimate that 10 percent of the 200 solid minerals lessees, or 20 lessees, will submit this additional information annually, and that each lessee will require 1 hour to submit this information for a total annual reporting burden of 20 hours.

Method of Payment. Each payment document associated with Form MMS–4430 (Electronic Funds Transfer or hard copy check) must be annotated with the lessee's customer identification and the customer document identification numbers. For each rental payment document not reported on Form MMS–4430, the lessee must include the MMS Courtesy Notice, when provided, or annotate the payment document with the customer identification number and Government-assigned lease number. This requirement will help MMS link payments with Form MMS–4430 submittals. We estimate all payors collectively will require 2 hours annually to report this identification information.

The annual reporting burden for all of these documents is summarized below:

Document name	Estimated hours to prepare and submit	Total cost = hrs. × $50/hr.
Form MMS–4430	800	$40,000
Sales Summaries	360	18,000
Facility Data	90	4,500
Contracts and Subsequent Amendments	180	9,000
Other Documents	20	1,000
Method of Payments	2	100
Total	1,452	72,600

Benefit—Eliminating Eight Existing Reports. MMS currently requires solid minerals reporters to submit eight separate forms:

1. Form MMS–4030, Payor Information Form (PIF), OMB Control Number 1010–0064. This form is used to establish and maintain the payor accounts required for processing Form MMS–2014. Estimated annual burden hours are 173.

2. Form MMS–2014, Report of Sales and Royalty Remittance, OMB Control Number 1010–0022. This form serves as the monthly report form on which payors report all royalty and lease-level transactions. Estimated annual burden hours for solid mineral payors are 1,884.

3. Form MMS–4050, Mine Information Form (MIF), OMB Control Number 1010–0063. This form is used to establish and maintain mine-level production reporting. Estimated annual burden hours for forms in paragraph 3 and paragraphs 4 through 8 below are 2,763.

4. Form MMS–4051, Facility and Measurement Information Form (FMIF), OMB Control Number 1010–0063. This form is used to establish and maintain facilities in the volume-tracking system including identifying key sales/transfer measurement points that are required to track production and identify all secondary processing and remote storage facilities.

5. Form MMS–4059–A, Solid Minerals Operations Report, Part A (SMOR–A), OMB Control Number 1010–0063. This form is used to identify, for a mine, the quantity and quality of all raw material produced from each Federal or Indian lease, specify the disposition of those raw materials including sales, transfers, and adjustments, and track raw material inventories.

6. Form MMS–4059–B, Solid Minerals Operations Report, Part B (SMOR–B), OMB Control Number 1010–0063. This form is used to allocate sales from a secondary processing or remote storage facility back to individual Federal or Indian leases within a mine.

7. Form MMS–4060–A, Solid Minerals Facility Report, Part A (SMFR–A), OMB Control Number 1010–0063. This form is used to provide detailed information on a secondary processing facility's inputs/outputs.

8. Form MMS–4060–B, Solid Minerals Facility Report, Part B (SMFR–B), OMB Control Number 1010–0063. This form is used to show a secondary processing or remote storage facility's raw material receipts, production, inventory, and disposition.

These eight forms would be replaced by Form MMS–4430 and other data submissions described in the cost section above. The combined annual burden that will be eliminated if these eight forms are no longer submitted by solid mineral reporters is 4,820 hours or a total cost of $241,000. The effect of replacing these eight forms with the new information collection (costing $72,600) would be an estimated savings of $168,400 per year.

Issues Affecting Small Businesses. Approximately 200 solid mineral reporters submit forms and other information to MMS, 91 percent of which are small businesses because they have 500 employees or less. As noted earlier, the effect of the information collection changes in this proposed rulemaking would be a net savings of $168,400 per year for all solid minerals reporters. We expect small businesses to benefit proportionately from the reduction in reporting burden.

Using the experience gained through the Operational Model, our reengineered initiative ensures that the information requested is the minimum necessary and places the least possible burden on industry. We have further provided two exceptions to the requirement to submit the Form MMS–4430 electronically to avoid placing undue burden on small businesses. You would not be required to report electronically if you report only annual obligations such as rent or minimum royalty. Further, you would not be required to report electronically if you are a small business, as defined by the U.S. Small Business Administration, and you have no computer and no plans to purchase a computer or contract with an electronic reporting service. For other data submissions, respondents including small businesses or other small entities would have the flexibility to submit information to us via hard copy or electronic submissions.

During late summer and fall of 2001, we plan to hold several seminars to explain the revised reporting requirements. We will encourage all solid mineral lessees to attend one of these seminars to familiarize themselves with the revised reporting requirements and to prepare to implement these requirements.

We will meet with each company's information technology staff to assist in setting up hardware and software configuration. We plan to provide the necessary electronic reporting software that will interface with our financial and production application systems. We will also cover the cost associated with the development and implementation of the reporting software. We will provide any initial software formatting or other assistance needed to get a company ready to comply with the new information collection proposed in this rule by October 1, 2001.

B. State and Local Governments

This rulemaking would not impose any additional costs on State or local governments.

C. Indian Tribes and Allottees

This rulemaking would not impose any additional costs on Indian tribes or allottees.

D. Federal Government

MMS is reengineering its financial and compliance processes to transform its function-based program to a process-centered organization. The new reengineered MMS will be highly integrated and positioned to provide royalty management services at less cost to the nation. Some of the more important goals for the reengineering initiative include cutting in half the time necessary to collect and verify mineral revenues, distributing revenue to States and Indian mineral owners within 1 business day, reducing industry reporting requirements, and modernizing our computer and software systems.

MMS expects significant reduction in annual operating costs of administration, accelerated cash flows through reductions in current business cycle times, and increased revenue through improved compliance coverage.

Although all benefits of this rulemaking cannot be quantified at this time, the Federal Government should see significant savings and far greater efficiencies.

The quantifiable costs and benefits of this proposed rulemaking to the Federal Government is a cost of $424,700 in the first two years after this rule is effective and a savings of $20,800 each year thereafter, as calculated below.

Benefit—Personnel. We estimate that Solid Minerals and Geothermal Compliance and Asset Management's 23 employees will allocate about 10 percent of their time to collect and analyze contracts, sales summaries, and facility data required by this rulemaking for a total cost of $239,200 (2.3 employees × 2,080 hours/year × $50/hour) annually. However, under current reporting processes, Solid Minerals and Geothermal Compliance and Asset Management allocates the equivalent of 2.5 employees annually to error correction. Under this rulemaking error correction is expected to be negligible. Therefore this rulemaking nets no additional personnel cost but rather a minimal savings of .2 employees or $20,800 (.2 employees × 2,080 hours/year × $50/hour) annually.

These employees will also resolve compliance issues using end-to-end processes that eliminate handoffs that would otherwise occur between functionally aligned units which also improves efficiencies.

This rule would allow substantial administrative dollar savings to MMS. Owing to the elimination of eight separate reporting forms under this proposed rule, MMS can utilize its solid minerals personnel more efficiently and effectively for verification of mineral revenues. Solid minerals personnel would review and process only one reporting form in place of eight existing reporting forms, which would result in associated reductions in error corrections, document handling issues, data entry problems, and time spent correcting those issues with industry personnel.

Cost—Computer software. MMS is also building a computer platform and associated database as the host for data collected. This computer platform, and associated cost to MMS, will involve data from the Onshore, Offshore, and Solid Minerals Operational Models and all exception processing and compliance activity. We estimate the cost for the solid minerals portion of the new computer system to be about $445,500 within the first and second years after implementation of this rule or $891,000 over 2 fiscal years ($891,000 divided by 2 = $445,500).

MMS has allocated the cost of its solid minerals portion of the new computer system in its reengineering budget requests. Accordingly, MMS will not need additional funds for computer systems as a result of the provisions proposed in this rulemaking.

2. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant adverse effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). For additional information on small business issues, see the cost and benefit data in item 1 of these Procedural Matters.

Your comments are important. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this rule, call 1–888–734–3247.

4. Small Business Regulatory Enforcement Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

5. Unfunded Mandates Reform Act

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. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

6. Takings (Executive Order 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

7. Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between the Federal and State governments or impose costs on States or localities.

8. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

9. Paperwork Reduction Act of 1995

The collections of information associated with this final rule were approved by OMB on August 8, 2001 (OMB Control Number 1010–0120, expiration date August 31, 2004). We published a proposed rule in the **Federal Register** on June 5, 2001 (66 FR 30121) in which we solicited comments on an information collection titled ''Solid Minerals Reporting Requirements'' (OMB Control Number 1010–0120). The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Two companies commented on this information collection. We responded to those comments in our information collection request to OMB on July 31, 2001, as follows:

Comment: Both companies support the proposed Form MMS–4430 and the proposed Internet submission. Both agreed that the replacement of eight reporting forms by Form MMS–4430 simplifies reporting.

Response: We appreciate the support for Form MS–4430. We reiterate here that this form is but one integral piece of information we propose to collect to perform our contemporaneous compliance and asset management process under our reengineered compliance strategy. This form alone does not provide the data necessary to achieve our compliance performance goal.

Comment: Both companies expressed concern that the proposed rule significantly changes the current rules and goes beyond lease term requirements. They note the proposed rule changes submission requirements from ''upon request'' to a ''required'' concept. They also note lease terms only require submission of information and documents that are ''reasonably necessary'' to verify lease compliance with terms and conditions of the lease.

Response: Current reporting requirements require the submission of up to eight forms. The proposed new reporting requirements include information currently collected on those eight forms. The major difference is that instead of submitting the information on a standard form, companies can submit the information in the format they prepare for their own internal use. Currently, we require contract submission during audit. Our reengineered compliance strategy requires collection of contracts earlier in our compliance process. The burden of contract submission is not a new requirement but merely a change in the timing of submissions.

Our reengineered compliance strategy requires the submission of all documents in this proposed information collection. We believe this is the minimum information reasonably necessary to support our contemporaneous compliance program and verify compliance with lease terms and conditions.

Comment: Both respondents believe the estimated burden for the collection of sales summaries is underestimated. One of the respondents believes the monthly inclusion of costs related to processing and transportation costs, which are currently calculated annually, will increase the burden significantly.

Response: Lessees may report allowances on the sales summary using either actual costs, if known, or estimated costs. If the lessee reports estimated costs on the sales summary, then he must true-up the claimed allowances on Form MMS–4430 when actual costs become available. Allowances (cost data) reported on the sales summary do not require true-up. In any event, coal allowances claimed on Form MMS 4430 must be calculated in accordance with 30 CFR §§ 206.259 and 206.262. Allowances claimed for non-coal solid minerals must reflect actual, reasonable costs. All allowances claimed on Form MMS–4430 are subject to review, audit, and adjustment.

We clarified this issue in the preamble to this final rule. We also reduced or deleted the requirement to submit coal size, clarified the need to submit summaries in months when no Federal or Indian production or sales occurs, and clarified when to submit summaries for facilities. In view of these changes, we believe our estimated burden is reasonable.

Comment: Both respondents believe the estimated burden for contract submissions is underestimated.

Response: We believe much of the concern regarding contract reporting burdens stems from ambiguity in the proposed rule. To clarify our intent, we have added language to this final rule (1) explaining that a multi-period contract does not need to be submitted more than once; (2) requesting ''other documents affecting gross proceeds'' on an as-needed basis; and (3) changing the contract submission frequency from quarterly to semi-annually. These three changes mitigate the lessee's reporting burden. However, we recognize that contract submission, even on a semi-annual basis, may take longer than originally estimated to account for the lessee's need to index all its contracts, and agree with the commenters that we underestimated the time that will be necessary for contract submission. Therefore, the estimated annual burden associated with contract submission has been increased from 90 hours to 180 hours.

We note that the overall reporting burden for contract submission would likely be the same regardless of whether the contracts are submitted semi-annually or during audit. Because semi-annual submission is more contemporaneous, we believe it will require less effort over time than searching for and retrieving multiple contracts during audit.

The MMS estimates that there are approximately 200 respondents. The frequency of response varies by section; however, we estimate the total annual burden is 1,452 hours. Based on $50 per hour, the hour burden cost to respondents is $72,600.

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

11. Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, this rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

12. Energy Effects

In accordance with Executive Order 13211, this rule is not a significant

regulatory action under Executive Order 12866 nor is it likely to have a significant adverse effect on the supply, distribution, or use of energy. As noted in Item 1 above, titled ''Summary Cost and Benefit Data,'' we estimate this rule will save the solid minerals industry approximately $168,500 annually in reporting costs.

List of Subjects

30 CFR Part 206

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 210

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 216

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: August 22, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

For reasons set out in the preamble, 30 CFR parts 206, 210, 216, and 218 are amended as follows:

PART 206—PRODUCT VALUATION

1. The authority citation for part 206 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

§ 206.251 [Amended]

2. In § 206.251, definition of ''Netting,'' remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

§ 206.254 [Amended]

3. Amend § 206.254 as follows:

a. Remove paragraph (a).

b. In paragraph (b), last sentence, remove the words ''Report of Sales and Royalty Remittance, Form MMS–2014'' and add in their place the words ''Solid Minerals Production and Royalty Report, Form MMS–4430.''

c. Remove the paragraph designation for paragraph (b).

§ 206.257 [Amended]

4. Amend § 206.257 as follows:

a. In paragraph (d)(3), second sentence, remove the title ''Associate Director for Royalty Management'' and add in its place ''Associate Director for Minerals Revenue Management.''

b. In paragraph (d)(3), last sentence, remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

§ 206.259 [Amended]

5. In § 206.259, paragraphs (a)(1), (b)(1), (c)(1)(i), (c)(2)(i), (d)(1), (e)(1) and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

§ 206.262 [Amended]

6. In § 206.262, paragraphs (a)(1), (b)(1), (c)(1)(i), (c)(2)(i), (d)(1), (e)(1) [occurs twice] and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS 4430.''

§ 206.263 [Removed]

7. Remove § 206.263.

§ 206.453 [Amended]

8. Amend § 206.453 as follows:

a. Remove paragraph (a).

b. In paragraph (b), second sentence, remove the words ''Report of Sales and Royalty Remittance, Form MMS–2014'' and add in their place the words ''Solid Minerals Production and Royalty Report, Form MMS–4430.''

c. Remove the paragraph designation from paragraph (b).

§ 206.456 [Amended]

9. Amend § 206.456 as follows:

a. In paragraph (d)(3), second sentence, remove the title ''Associate Director for Royalty Management'' and add in its place the title ''Associate Director for Minerals Revenue Management.''

b. In paragraph (d)(3), last sentence, remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

§ 206.458 [Amended]

10. Amend § 206.458 as follows:

a. In paragraphs (c)(1)(i) and (c)(2)(i), remove the words ''Form MMS–2014, Report of Sales and Royalty Remittance'' and add in their place the words ''Form MMS–4430, Solid Minerals Production and Royalty Report'' and remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

b. In paragraphs (c)(4), (d)(1), (e)(1), and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

§ 206.461 [Amended]

11. Amend § 206.461 as follows:

a. In paragraphs (c)(1)(i) and (c)(2)(i), remove the words ''Form MMS–2014, Report of Sales and Royalty Remittance,'' and add in their place the words ''Form MMS–4430, Solid Minerals Production and Royalty Report.''

b. In paragraphs (c)(4), (d)(1), (e)(1) and (e)(2), remove the word ''MMS–2014'' and add in its place the word ''MMS–4430.''

§ 206.462 [Removed]

12. Remove § 206.462.

PART 210—FORMS AND REPORTS

13. The authority citation for part 210 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

§ 210.10 [Amended]

14. Section 210.10 is amended as follows:

a. Wherever they appear in § 210.10, the words ''Royalty Management Program'' are removed and the words ''Minerals Revenue Management'' are added in their place.

b. The table in paragraph (a) is revised.

c. Paragraph (b)(2) is amended by removing the words ''or MMS–4030'' in the first sentence.

d. Paragraph (b)(3) is amended by removing the words ''MMS–4059, MMS–4060,'' in the first sentence.

e. Paragraph (b)(6) is removed.

f. Paragraphs (b)(6) through (b)(8) are added.

g. Paragraphs (c)(4), (c)(11), and (c)(12) are removed.

h. Paragraphs (c)(5) through (c)(10) are redesignated as paragraphs (c)(4) through (c)(9).

i. Paragraphs (c)(13) through (c)(20) are redesignated as paragraphs (c)(10) through (c)(17).

j. Paragraphs (c)(18) through (c)(21) are added.

k. Paragraph (d) is revised.

The additions and revisions read as follows:

§ 210.10 Information collection.

(a) * * *

Form No., name, and filing date	OMB No.
MMS–2014—Report of Sales and Royalty Remittance—Due by the end of first month following production month for royalty payment and for rentals no later than anniversary date of the lease	1010–0022
MMS–3160—Monthly Report of Operations—Due by the 15th day of the second month following the production month	1010–0040
MMS–4025—Oil and Gas Payor Information Form—Due 30 days after issuance of a new lease or change to an existing lease	1010–0033
MMS–4051—Facility and Measurement Information Form and Supplement—Due at the request of MMS during the initial conversion of the facility and measurement device operators	1010–0040
MMS–4053—First Purchaser Report—Due at the request of MMS	1010–0040
MMS–4054—Oil and Gas Operations Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4055—Gas Analysis Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4056—Gas Plant Operations Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4058—Production Allocation Schedule Report—Due by the 15th day of the second month following the production month	1010–0040
MMS–4070—Application of the Purchase of Royalty Oil—Due prior to the date of sale in accordance with the instructions in the Notice of Availability of Royalty Oil	1010–0042
MMS–4109—Gas Processing Allowance Summary Report—Initial report due within 3 months following the last day of the month for which an allowance is first claimed, unless a longer period is approved by MMS	1010–0075
MMS–4110—Oil Transportation Allowance Report—Initial report due within 3 months following the last day of the month for which an allowance is first claimed, unless a longer period is approved by MMS	1010–0061
MMS–4280—Application for Reward for Original Information—Due when a reward is claimed for information provided which may lead to the recovery of royalty or other payments owed to the United States	1010–0076
MMS–4292—Coal Washing Allowance Report—Due prior to or at the same time that the allowance is first reported on Form MMS–4430 and annually thereafter if the allowance does not change	1010–0074
MMS–4293—Coal Transportation Allowance Report—Due prior to or at the same time that the allowance is first reported on Form MMS–4430 and annually thereafter if the allowance does not change	1010–0074
MMS–4295—Gas Transportation Allowance Report—Initial report due within 3 months following the last day of month for which an allowance is first claimed unless a longer period is approved by MMS	1010–0075
MMS–4377—Stripper Royalty Rate Reduction Notification—Due for each 12-month qualifying period that a reduced royalty rate is granted by the Bureau of Land Management	1010–0090
MMS–4430—Solid Minerals Production and Royalty Report—Due by the end of the month following the month of production or sale and for other lease financial obligations no later than the payment date specified in your lease	1010–0120
Facility Data—Due monthly or as requested for specific solid mineral products and lease types; see § 210.204	1010–0120
Sales Contracts—Due semi-annually or as requested on certain solid mineral products and lease types; see § 210.203	1010–0120
Sales Summaries—Due monthly or as requested for specific solid mineral products and lease types; see § 210.202	1010–0120

* * * * *

(b) * * *

(6) If you are not reporting Form MMS–4430 electronically, you may request blank copies of the form by calling 1–888–201–6416. You must submit completed Forms MMS–4430 to the address given in § 210.201(c).

(7) If you are not reporting solid minerals sales contracts, sales summaries, and facility data electronically, you must submit paper copies to the address given in § 210.202(c).

(8) Reports for oil, gas, and geothermal leases sent by special courier or overnight mail (excluding U.S. Postal Service Express Mail) should be addressed to: Minerals Management Service, Minerals Revenue Management, Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225.

(c) * * *

(18) *MMS–4430*—Submitted monthly to report production from and royalty due on all Federal and Indian solid minerals leases (see § 210.201). MMS uses the data to distribute payments to appropriate recipients and to determine if lessees properly paid lease obligations. Public reporting burden is estimated to be 20 minutes per month per reporter. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(19) *Facility Data*—Submitted monthly by operators of wash plant, refining, ore concentration, or other processing facilities for specific solid minerals produced from specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.204). MMS uses the data to assure that Federal or Indian lease processed production (the output of process plants) is consistent with the input of raw production. Public reporting burden is estimated to be approximately 15 minutes per reporter per month to compile in-house formatted information and submit that information electronically. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(20) *Sales Contracts*—Submitted semi-annually by producers of specific solid mineral products on specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.203). MMS uses contracts, agreements and contract amendments for compliance purposes including, but not limited to, identifying valuation issues and establishing selling arrangement relationships. Public reporting burden is estimated to be 2 hours per reporter per year to compile and submit contracts and contract amendments. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(21) *Sales Summaries*—Submitted monthly by producers of specific solid minerals from specific Federal and Indian lease types or when otherwise requested by MMS (see § 210.202). The MMS uses these data for compliance purposes including, but not limited to, assuring that sales volumes and values are properly attributed or allocated to Federal or Indian leases. Public reporting burden is estimated to be 15 minutes per month for each reporter to compile in-house formatted sales information and submit that information electronically. Comments relating to this information collection should reference OMB Control Number 1010–0120.

(d) *Comments on burden estimates.* Send comments on the accuracy of this burden estimate or suggestions on reducing this burden to the Minerals Management Service, Attention: Information Collection Clearance Officer, (OMB Control Number 1010–0120 (insert appropriate OMB Control Number), Mail Stop 4230, 1849 C Street, NW, Washington, D.C. 20240. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

§§ 210.200–210.204 [Removed]

15. Remove §§ 210.200 through 210.204.

§§ 210.200–210.206 [Added]

16. Add §§ 210.200 through 210.206 to read as follows:

Subpart E—Solid Minerals, General

Sec.
210.200 What is the purpose of this subpart?
210.201 How do I submit Form MMS–4430, Solid Minerals Production and Royalty Report?
210.202 How do I submit sales summaries?
210.203 How do I submit sales contracts?
210.204 How do I submit facility data?
210.205 Will I need to submit additional documents or evidence to MMS?
210.206 How will information submissions be kept confidential?

§ 210.200 What is the purpose of this subpart?

This subpart explains your reporting requirements if you produce coal or other solid minerals from Federal or Indian leases. Included are your requirements for reporting production, sales, and royalties.

§ 210.201 How do I submit Form MMS–4430, Solid Minerals Production and Royalty Report?

(a) *What to submit.* (1) You must submit a completed Form MMS–4430 for—

(i) Production of all coal and other solid minerals from any Federal or Indian lease;

(ii) Sale of any such mineral;

(iii) Any such mineral held in stockpile or inventory; and

(iv) Payment of rents (other than those for which you receive from MMS a Courtesy Notice as defined in § 218.51(a) of this chapter), minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations.

(2) You must submit a completed Form MMS–4430 for any product you sell from a remote storage site. If you sell from five or fewer remote storage sites, you must report sales from each site on separate Forms MMS–4430. If you sell from more than five remote storage sites, you must total the data from all sites and report the summarized data on one Form MMS–4430.

(3) Instructions for completing and submitting Form MMS–4430 are available on our Internet reporting web site or you may contact us toll free at 1–888–201–6416.

(b) *When to submit.* (1) Unless your lease terms specify a different frequency for royalty payments, you must submit your Form MMS–4430 on or before the end of the month following the month in which you produce any solid mineral, sell any solid mineral, or hold any solid mineral production in stockpile or inventory. However, if the last day of the month falls on a weekend or holiday, your Form MMS–4430 is due on the next business day.

(2) If your lease terms specify a different frequency for royalty payment, then you must submit your Form MMS–4430 on or before the date on which you must pay royalty under the terms of the lease.

(3) You must submit your Form MMS–4430 for payment of rents (other than those for which you receive from MMS a Courtesy Notice as defined in § 218.51(a) of this chapter), minimum royalty, deferred bonus, advance royalty, minimum royalty payable in advance, settlements, recoupments, and other financial obligations on or before the date on which you must pay those obligations under the terms of the lease.

(4) If the information on a previously reported Form MMS–4430 is no longer correct, you must submit a revised Form MMS–4430 by the last day of the month in which you learn that the previously reported information is no longer correct, except when the last day of the month falls on a weekend or holiday. If the last day of the month falls on a weekend or holiday, your revised Form MMS–4430 is due on the first business day of the following month.

(c) *How to submit.* (1) You must submit Form MMS–4430 electronically using our Internet reporting web site unless you meet the conditions in paragraph (c)(2). We will provide written instructions and a valid login and password before you begin reporting.

(2) You are not required to report electronically if you are a small business as defined by the U.S. Small Business Administration (13 CFR 121.201) and you have no computer, no plans to purchase a computer, and no contract with an electronic reporting service.

(3) If you do not report electronically, you must submit the completed Form MMS–4430 to us at one of the following addresses, unless MMS publishes notice in the **Federal Register** giving a different address:

(i) *For U.S. Postal Service regular mail or Express Mail:* Minerals Management Service, Minerals Revenue Management, P.O. Box 5760, Denver, Colorado 80217–5760; or

(ii) *For courier service or overnight mail (excluding Express Mail):* Minerals Management Service, Minerals Revenue Management, Building 85, Denver Federal Center, Room A–614, Denver, Colorado 80225.

§ 210.202 How do I submit sales summaries?

(a) *What to submit.* (1) You must submit sales summaries for all coal and other solid minerals produced from Federal and Indian leases and for any remote storage site from which you sell Federal or Indian solid minerals. You do not have to submit a sales summary for those months in which you do not sell any Federal or Indian production.

(2) If you sell from five or fewer remote storage sites, you must submit a sales summary for each site. If you sell from more than five remote storage sites, you may total the data from all sites and submit the summarized data as one sales summary. The details you report on the sales summary are for the same sales reported on Form MMS–4430.

(3) Use the following table to determine the time frames for submitting sales summaries and the data elements you must include. Your submitted sales summaries must include the following data but may be internally generated documents from your own records. You do not need to re-format them before submitting them to us:

Data element	Coal	Sodium/potassium	Western phosphate	Metals	All other leases with ad valorem royalty terms	All other leases with no ad valorem royalty terms
(i) Purchaser Name or Unique Identification.	Monthly	Monthly	Monthly	Monthly	Monthly	As Requested.
(ii) Sales Units	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly.
(iii) Gross Proceeds	Monthly	Monthly	Not Required	Monthly	Monthly	Not Required.
(iv) Processing or washing costs.	Monthly	Monthly	Not Required	Monthly	Monthly	Not Required.

Data element	Coal	Sodium/potassium	Western phosphate	Metals	All other leases with ad valorem royalty terms	All other leases with no ad valorem royalty terms
(v) Transportation costs.	Monthly	Monthly	Not Required	Monthly	Monthly	Not Required.
(vi) Name of product type sold.	Not Required	Monthly	Not Required	Monthly	Monthly	As Requested.
(vii) Btu/lb	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(viii) Ash %	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(ix) Sulfur %	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(x) lbs SO2	Monthly	Not Required	Not Required	Not Required	Not Required	Not Required.
(xi) Moisture %	Monthly	Not Required	Monthly	Not Required	Not Required	Not Required.
(xii) By-product Units	Not Required	As Requested	Monthly	As Requested	As Requested	Not Required.
(xiii) P2O5 %	Not Required	Not Required	Monthly	Not Required	Not Required	Not Required.
(xiv) Size	Not Required	Not Required	Not Required	Not Required	As Requested	Not Required.
(xv) Net Smelter Return data.	Not Required	Not Required	Not Required	Monthly	Not Required	Not Required.
(xvi) Other Data e.g., Royalty Calculation Worksheet.	As Requested	Monthly	As Requested	As Requested	As Requested	As Requested.

(b) *When to submit.* (1) For leases with ad valorem royalty terms (that is, leases for which royalty is a percentage of the value of production), you must submit your sales summaries monthly at the same time you submit Form MMS–4430. You do not have to submit a sales summary for any month in which you did not sell Federal or Indian production.

(2) For leases with no ad valorem royalty terms (that is, leases in which the royalty due is not a function of the value of production, such as cents-per-ton or dollars-per-unit), you must submit monthly sales summaries only if we specifically request you to do so.

(c) *How to submit.* (1) You should provide the sales summary data via electronic mail where possible. We will provide instructions and the proper email address for these submissions.

(2) If you submit sales summaries by paper copy, mail them to one of the following addresses, unless MMS publishes notice in the **Federal Register** giving a different address:

(i) *For U.S. Postal Service regular mail or Express Mail:* Minerals Management Service, Minerals Revenue Management, Solid Minerals and Geothermal Compliance and Asset Management, P.O. Box 25165, MS 390G1, Denver, Colorado 80225–0165.

(ii) *For courier service or overnight mail (excluding Express Mail):* Minerals Management Service, Solid Minerals and Geothermal Compliance and Asset Management, 12600 West Colfax Avenue, Suite C–100, Lakewood, Colorado 80215.

§ 210.203 How do I submit sales contracts?

(a) *What to submit.* You must submit sales contracts, agreements, and contract amendments for the sale of all coal and other solid minerals produced from Federal and Indian leases with ad valorem royalty terms.

(b) *When to submit.* (1) For coal and metal production, you must submit the required documents semi-annually, no later than March 30 and September 30 of each year.

(2) For sodium, potassium, and phosphate production, and production from any other lease with ad valorem royalty terms, you must submit the required documents only if you are specifically requested to do so.

(c) *How to submit.* You must submit complete copies of the sales contracts and amendments to us at the applicable address given in § 210.202(c)(2), unless MMS publishes notice in the **Federal Register** giving a different address.

§ 210.204 How do I submit facility data?

(a) *What to submit.* (1) You must submit facility data if you operate a wash plant, refining, ore concentration, or other processing facility for any coal, sodium, potassium, metals, or other solid minerals produced from Federal or Indian leases with ad valorem royalty terms, regardless of whether the facility is located on or off the lease.

(2) You do not have to submit facility data for those months in which you do not process solid minerals produced from Federal or Indian leases and do not have any such minerals in stockpile inventory.

(3) You must include in your facility data all production processed in the facility from all properties, not just production from Federal and Indian leases.

(4) Facility data submissions must include the following minimum information:

(i) Identification of your facility;

(ii) Mines served;

(iii) Input quantity;

(iv) Input quality or ore grade (except for coal);

(v) Output quantity; and

(vi) Output quality or product grades.

(5) Your submitted facility data may be internally generated documents from your own records. You do not need to re-format them before submitting them to us.

(b) *When to submit.* You must submit your facility data monthly at the same time you submit your Form MMS–4430.

(c) *How to submit.* (1) You should provide the facility data via electronic mail where possible. We will provide instructions and the proper email address for these submissions before you begin reporting.

(2) If you submit facility data by paper copy, send it to the applicable address given in § 210.202(c)(2).

§ 210.205 Will I need to submit additional documents or evidence to MMS?

(a) Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence necessary to verify compliance with lease terms and conditions and applicable rules.

(b) We will request this additional information as we need it, not as a regular submission.

§ 210.206 How will information submissions be kept confidential?

Information submitted under this part that constitutes trade secrets or commercial and financial information that is identified as privileged or confidential, or that is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, shall not be available for public inspection or made public or disclosed without the consent of the lessee, except as

otherwise provided by law or regulation.

PART 216—PRODUCTION ACCOUNTING

17. The authority citation for part 216 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

§ 216.2 [Amended]

18. In 216.2, first sentence, remove the phrase ''oil, gas, or solid minerals'' and add in its place ''oil or gas.''

§ 216.6 [Amended]

19. Amend § 216.6 as follows:

a. Remove the definition of ''approved mining plan.''

b. In the definition of ''lease,'' remove the phrase ''oil, gas, or solid minerals'' and add in its place ''oil or gas.''

c. In the definition of ''measurement device,'' remove the phrase ''oil, gas, or solid minerals'' and add in its place ''oil or gas.''

d. Remove the definition of ''mine.''

e. In the definition of ''mineral leasing law,'' remove the phrase ''oil, gas, or solid minerals'' and add in its place ''oil or gas.''

f. In the definition of ''operator,'' first sentence, remove the phrase ''or solid minerals.'' In the second sentence, remove the phrase ''oil, gas, or solid minerals'' and add in its place ''oil or gas.''

g. In the definition of ''Production Accounting and Auditing System,'' second sentence, remove the phrase ''oil, gas, or solid minerals'' and add in its place ''oil and gas.''

h. Remove the definition of ''solid minerals.''

§ 216.20 [Amended]

20. In § 216.20, remove the phrase ''oil, gas, or solid minerals'' and add in its place ''oil and gas.''

§ 216.40 [Amended]

21. In § 216.40, remove paragraph (d), and redesignate paragraphs (e) through (g) as paragraphs (d) through (f).

Subpart E—Solid Minerals, General [Reserved]

§§ 216.200–216.204 [Removed]

22. Remove §§ 216.200 through 216.204.

PART 218—COLLECTION OF ROYALTIES, RENTALS, BONUSES AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

23. The authority citation for part 218 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 3335; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

§ 218.40 [Amended]

24. In § 218.40, revise paragraph (c) to read as follows:

§ 218.40 Assessments for incorrect or late reports and failure to report.

* * * * *

(c) For purposes of assessments discussed in this section, a report is defined as follows:

(1) For coal and other solid mineral leases, a report is each line on the Solid Minerals Production and Royalty Report, Form MMS–4430.

(2) For oil and gas and geothermal leases, a report is each line on the Report of Sales and Royalty Remittance, Form MMS–2014.

* * * * *

§ 218.51 [Amended]

25. Amend § 218.51 as follows:

a. In paragraphs (d)(2) and (d)(3), remove the name ''Royalty Management Program'' and add in its place the name ''Minerals Revenue Management.''

b. In paragraph (e), remove the name ''Royalty Management Program'' and add in its place the name ''Minerals Revenue Management'' and remove the room number ''A–212'' and add in its place ''A–614.''

§ 218.201 [Amended]

26. Revise § 218.201 to read as follows:

§ 218.201 Method of payment.

You must tender all payments in accordance with § 218.51, except as follows:

(a) For purposes of this section, *report* means the Solid Minerals Production and Royalty Report, Form MMS–4430, rather than the Form MMS–2014.

(b) For Form MMS–4430 payments, include both your customer identification and your customer document identification numbers on your payment document, rather than the information required under § 218.51(f)(1).

(c) For a rental payment that is not reported on Form MMS–4430, include the MMS Courtesy Notice when provided or write your customer identification number and Government-assigned lease number on the payment document, rather than the information required under § 218.51(f)(4)(iii).

§ 218.203 [Amended]

27. Amend § 218.203 as follows:

a. In paragraph (a), first sentence, remove the word ''MMS–2014'' and add in its place ''MMS–4430.''

b. In paragraph (b), second sentence, remove the words ''pursuant to instructions in the ''AFS Payor Handbook—Solid Minerals'.''

c. In paragraph (b), remove the third sentence, ''See 30 CFR 210.204.'' and add in its place the sentence ''Call 1–888–201–6416 for instructions.''

[FR Doc. 01–21638 Filed 8–29–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

CGD09–01–116

RIN 2115–AA97

Safety Zones; Port Huron Tall Ship Celebration, St. Clair River, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing individual temporary moving safety zones around the sailing vessels *Norfolk Rebel, Cape Rose, Larinda, Highlander Sea, Pride of Baltimore II,* for the ''Port Huron Parade of Tall Ships'' on August 30, 2001. These safety zones are necessary to promote the safe navigation of vessels and the safety of life and property during the periods of heavy vessel traffic expected during this event. These safety zones are intended to restrict vessel traffic from a portion of Lake Huron and the St. Clair River.

DATES: This temporary final rule is effective from 5 p.m. until 7 p.m. on August 30, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–116 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave. Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: ENS Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave. Detroit, MI 48207. The telephone number is (313) 568–9558.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary final rule is for the Port Huron tall ship visit to be held in Port Huron. There will be individual temporary moving safety zones around the sailing vessels, *Norfolk Rebel, Cape Rose, Larinda, Highlander Sea, Pride of Baltimore II*, which will be officially participating in the parade, to ensure the safety of passengers, crew, and spectators. The moving safety zones will encompass all waters 100 yards ahead, 100 yards behind, and 50 yards on either side of each of the tall ships.

These moving safety zones will be enforced from the north starting point at Lake Huron Cut Light #7, Light List number (LLN) 10065, in position 43°03′36″ N, 082°25′06″ W and continuing south to the Port Huron Terminal, in position 42°57′32″ N, 082°25′38″ W. These coordinates are based upon North American Datum 1983 (NAD 83).

These safety zones are necessary to control vessel movement and to ensure the safety of the public and vessels during the Tall Ships Parade of Sail occurring in a portion of Lake Huron and the St. Clair River. In order to minimize adverse impacts on commercial users of the affected waterway, we are enacting individual moving safety zones around each tall ship in lieu of a blanket safety zone for the entire U.S. portion of Lake Huron and the St. Clair River.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Detroit or his designated on-scene patrol representative. Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port Detroit or his designated on-scene representative may be contacted via VHF Channel 16.

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 this rule under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time, two hours, that vessels will be restricted from the zones, and therefore will cause only minor if any impacts to mariners.

Small Entities

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

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

This rule would affect the following entities, some of which might be small entities: the owners or operators of commercial vessels intending to transit or anchor in a portion of an activated safety zone.

These moving safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: the safety zones are only in effect from 5 p.m. until 7 p.m. and vessel traffic may safely pass outside the safety zones during the event. Before the effective period, we will issue maritime advisories widely available to users of Lake Huron and the St. Clair River by the Ninth Coast Guard District Local Notice to Mariners, and Marine Information Broadcasts. Facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the ''Small Business Regulatory Enforcement Fairness Act'', of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (see **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 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 does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

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.

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.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–993 is added to read as follows:

§ 165.T09–993 Safety Zones; Port Huron Tall Ship Celebration, St. Clair River, MI.

(a) *Location.* The Coast Guard will establish temporary moving safety zones that will encompass all waters 100 yards ahead, 100 yards behind, and 50 yards on either side of the sailing vessels, *Norfolk Rebel, Cape Rose, Larinda, Highlander Sea, Pride of Baltimore II,* which will be participating in the Port Huron Parade of Tall Ships. These individual temporary moving safety zones will ensure safe navigation of vessels officially participating in the parade. The moving safety zones will be enforced from the north starting point at Lake Huron Cut Light #7 (LLN 10065), in position 43°03′36″ N, 082°25′06″ W, and to the south, ending at Port Huron Terminal, in position 42°57′32″ N, 082°25′38″ W. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective time and date.* This section is effective 5 p.m. until 7 p.m. on August 30, 2001. The designated on-scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into the safety zones is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative.

Dated: August 24, 2001.

P.G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 01–21957 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: 010815207]

RIN 0651–AB41

Timing of National Stage Commencement in the United States for Patent Cooperation Treaty Applications

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Temporary rule.

SUMMARY: The United States Patent and Trademark Office (Office) is amending the regulations to include the current statutory provisions that define when national stage commencement occurs in an application filed under the Patent Cooperation Treaty (PCT). The Office is making this change due to a possible change in the patent statute to provide that the time period for commencement of the national stage that is currently set forth by statute will be set forth in the regulations.

DATES: *Effective Date:* August 30, 2001 through June 3, 2002.

Applicability Date: The change to 37 CFR 1.491 applies to any international application pending before, on, or after August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Charles A. Pearson, Director, Office of PCT Legal Administration, by telephone at (703) 306–4145, or Boris Milef, Legal Examiner, Office of PCT Legal Administration, by telephone at (703) 308–3659, or by mail addressed to: Box PCT—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 308–6459, marked to the attention of Boris Milef.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 371(b) currently sets forth the time period for commencement of the national stage in an application filed under the PCT. Due to a possible statutory revision of 35 U.S.C. 371(b) to provide that the time period for commencement of the national stage will be set forth in the regulations, the Office is amending 37 CFR 1.491 (§ 1.491) such that the regulations set forth the current language of 35 U.S.C. 371(b) (as amended by Pub. L. 99–616, section 7(b), 100 Stat. 3485, 3485 (1986)) that defines when national stage commencement occurs. Certain U.S. statutes and regulations provide for requirements that are tied to the date of national stage ''commencement'' (*e.g.,* the date of national stage

commencement is relevant to the due date for the national fee, an oath or declaration, and any required translation of the international application or amendments under PCT Article 19 (35 U.S.C. 371(d)), and in determining whether patentees are entitled to a patent term adjustment pursuant to 35 U.S.C. 154(b)(1)(B) (37 CFR 1.702(b)). Therefore, it is important that the regulations provide for a date of commencement of the national stage as to the United States in advance of any statutory revision to 35 U.S.C. 371(b).

The Office will publish in the near future a notice proposing changes to the time period for claiming the benefit of a prior-filed application in an application filed under the PCT, and making other technical corrections to the rules of practice related to eighteen-month publication. The Office is also including the change to § 1.491 in this temporary rule in the notice of proposed rulemaking to be published in the near future. Comments on this change to § 1.491 may be submitted in response to that notice of proposed rulemaking, and the Office will take such comments into consideration before publishing a final rule resulting from the notice of proposed rulemaking.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.491: Section 1.491 is amended to define both commencement of the national stage and entry into the national stage. Because these two events (commencement of the national stage and entry into the national stage) may not take place at the same time, the Office is amending § 1.491 to clarify when each of these two events takes place. Section 1.491(a) specifically indicates that, subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a). Thus, § 1.491(a) merely incorporates the statutory language contained in 35 U.S.C. 371(b) (as amended by Pub. L. 99–616, section 7(b), 100 Stat. 3485, 3485 (1986)). Section 1.491(b) contains the provisions of former § 1.491, and provides that an international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.494 or § 1.495.

Classification

Administrative Procedure Act

This temporary rule simply amends § 1.491 to include the current provisions in 35 U.S.C. 371(b) that define when national stage commencement occurs in an application filed under the PCT. This amendment to § 1.491 does not change the current time limits for entering the national phase in the United States and does not alter any applicant's substantive rights. In addition, this amendment to § 1.491 is of an exigent nature because there is an impending change to 35 U.S.C. 371(b) that if enacted before the Office amends § 1.491 would result in a period of time during which the timing of national stage commencement in an application filed under the PCT would be undefined. Therefore, prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A) (or any other law), and thirty-day advance publication is not required pursuant to 5 U.S.C. 553(d) (or any other law).

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), an initial regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. *See* 5 U.S.C. 603.

Executive Order 13132

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This temporary rule involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this temporary rule has been reviewed and previously approved by OMB under the control number 0651–0021. The Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this temporary rule do not affect the information collection requirements associated with the information collection under OMB control number 0651–0021.

The title, description and respondent description of the information collection is shown below with an estimate of the annual reporting burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Number: 0651–0021.

Title: Patent Cooperation Treaty.

Form Numbers: PCT/RO/101, ANNEX/134/144, PTO–1382, PCT/IPEA/401, PCT/IB/328.

Type of Review: Approved through December of 2003.

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations.

Estimated Number of Respondents: 331,288.

Estimated Time Per Response: Between 15 minutes and 4 hours.

Estimated Total Annual Burden Hours: 401,083.

Needs and Uses: The information collected is required by the Patent Cooperation Treaty (PCT). The general purpose of the PCT is to simplify the filing of patent applications on the same invention in different countries. It provides for a centralized filing procedure and a standardized application format.

Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (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 to respondents.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, D.C. 20231, or to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503, Attention: Desk Officer for the United States Patent and Trademark Office.

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

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.491 is revised to read as follows:

§ 1.491. National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.494 or § 1.495.

Dated: August 24, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–21879 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–7046–8]

Notice of Availability: Response Document Denying the Ethyl Corporation Petitions To Reconsider Three EPA Regulations: CAP 2000, Heavy Duty Gasoline, and OBD/IM

AGENCY: Environmental Protection Agency (EPA).

ACTION: Availability of EPA decision denying the Ethyl Corporation petitions to reconsider CAP 2000 regulation, heavy-duty gasoline regulation, and OBD/IM regulation.

SUMMARY: The Ethyl Corporation has submitted three petitions to the EPA Administrator to reconsider three separate Agency rulemakings. The first petition is regarding the compliance procedures for new motor vehicles known as ''CAP 2000''. 64 FR 23,906. The second petition pertains to emission standards and compliance procedures for new heavy-duty gasoline engines. 65 FR 59896. The third petition pertains to the use of on-board diagnostics for vehicle inspection and maintenance programs. 66 FR 18156.

The Petitioner's issues with the heavy-duty rule are identical to those of the CAP 2000 rule, and EPA agreed that its response would cover both regulations. Although the issue for the OBD/IM rule is different, EPA's response is included in accordance with a commitment to do so made in that rulemaking.

This Notice serves to announce the availability of EPA's decision to deny Ethyl's petition to reconsider all three petitions.

ADDRESSES: Copies of EPA's decision document are available from the EPA Air Docket under the following three Docket numbers: A–96–50 (CAP 2000), A–2000–16 (OBD/IM) and A–98–32 (Heavy-Duty Highway). The address for the EPA Air Docket is: U.S. Environmental Protection Agency (EPA), Air Docket (6102), Room M–1500, 401 M Street, S.W., Washington, D.C. 20460. EPA's Air Docket makes materials related to the three regulations involved in the Ethyl Corporation petitions available for review at the above address (on the ground floor in Waterside Mall) from 8:00 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 260–7548 and by facsimile at (202) 260–4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR part 2. You can also view or download a copy of the decision document via EPA's web site at the following address: *http://www.epa.gov/otaq/ld-hwy.htm#regs.*

FOR FURTHER INFORMATION CONTACT: Linda Hormes, Office of Mobile Sources, Vehicle Programs and Compliance Division, 2000 Traverwood, Ann Arbor, MI 48105. Phone: (734) 214–4502. Email: *lhormes@epa.gov.*

Dated: August 23, 2001.

Christine Todd Whitman,

Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–00–7052]

RIN 2127–AI37

Anthropomorphic Test Devices; 12-Month-Old Child Dummy; Final Rule; Response to Petitions for Reconsideration

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On March 31, 2000, NHTSA published a final rule adopting design and performance specifications for a new 12-month-old infant dummy. Four organizations filed petitions for reconsideration of this rule. In response to these petitions, this document makes several minor changes to the final rule, including: adding a channel frequency class specification if a rotary potentiometer is used for measuring head rotation; revising the impact probe specifications to include provisions for mounting suspension hardware if a cable system is used for impacts, adopt a lower minimum mass moment of inertia, and clarify the specification for free air resonant frequency; revising the material specifications in several drawings; and correcting several minor errors in these drawings, and in the Procedures for Assembly, Disassembly and Inspection (PADI) Document. This document also denies a request to add a provision for post-test calibration of the dummy.

DATES: The amendments made in this final rule are effective October 29, 2001. If you wish to submit a petition for reconsideration for this rule, your petition must be received by October 15, 2001.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Rm. 5220, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. The drawings and PADI will be available in the NHTSA Docket.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues, Stan Backaitis, Office of Crashworthiness Standards at 202–366–4912. For legal issues, Dion Casey, Office of the Chief Counsel, at 202–366–2992. Both can be reached by mail at the National Highway Traffic Safety

Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2000, NHTSA published a final rule adopting design and performance specifications for a new 12-month-old infant dummy. (65 FR 17180). The specifications were added to 49 CFR part 572 as Subpart R.

The 12-month-old dummy was developed as a child restraint/air bag interaction dummy (hereinafter referred to as the CRABI 12-month dummy). It is needed to evaluate the effects of air bag deployment on children who are in rear-facing child restraints installed in the front passenger seat of vehicles. It also will provide useful information in a variety of crash environments to evaluate child safety.

Adopting the dummy is a step toward using it in the tests the agency conducts to determine compliance with NHTSA safety standards. The use of the CRABI 12-month dummy in NHTSA compliance tests is being addressed in separate rulemaking proceedings.

The CRABI 12-month dummy's specifications adopted in the final rule consist of a drawing package that shows the component parts, the subassemblies, and the assembly of the complete dummy. They also specify materials and material treatment processes for all the dummy's component parts, and specify the dummy's instrumentation and instrument installation methods. In addition, the specifications contain a manual specifying disassembly, inspection, and assembly procedures, and a dummy drawings list. These drawings and specifications ensure that the dummies will vary little from each other in their construction and are capable of consistent and repeatable responses in the impact environment.

The final rule also established impact performance criteria for the CRABI 12-month dummy. These criteria address head, neck, and thorax impact responses. The criteria serve as calibration checks and further assure the kinematic uniformity of the dummy and the absence of structural damage and functional deficiency from previous use.

Petitions

The agency received petitions for reconsideration of the final rule from Toyota Motor Corporation; the Alliance of Automobile Manufacturers (whose members are BMW Group, DaimlerChrysler, Fiat, Ford Motor Company, General Motors, Isuzu, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota, Volkswagen, and Volvo); First Technology Safety Systems (FTSS—a manufacturer of crash test dummies); and Robert A. Denton, Inc. (a manufacturer of load cells used in crash test dummies).

Toyota and the Alliance requested that a post-test calibration of the dummy be included in the performance specifications. A post-test calibration is an assessment of whether the dummy conforms to NHTSA specifications after it has been used in a crash test. Toyota and the Alliance asserted that a post-test calibration is necessary to provide an objective check of the validity of the test dummy data acquired during the test, particularly if the crash test results in an apparent non-compliance. Toyota and the Alliance argued that without a post-test calibration, ''neither a vehicle manufacturer nor a NHTSA test contractor can determine whether an apparent vehicle non-compliance is due to a test dummy anomaly during a test.''

The remainder of the issues raised in the petitions are relatively minor. All of the issues are addressed in the Discussion and Analysis section below.

Discussion and Analysis

1. Post-Test Calibration

Toyota and the Alliance previously raised the issue of post-test calibration of dummies in their comments on NHTSA proposals to establish Hybrid III dummies for fifth percentile females (H–III5F), six-year-old children (H–III6C), and three-year-old children (H–III3C). Historically, NHTSA has required that the structural properties of a dummy satisfy the specifications set out in the applicable regulation in every respect both before and after its use in any test in a Federal motor vehicle safety standard. However, in the Notice of Proposed Rulemaking (NPRM) for the H–III5F dummy, the agency rejected a post-test dummy calibration provision for the following reasons:

> NHTSA is concerned that the post-test calibration requirement could handicap and delay its ability to resolve a potential vehicle or motor vehicle equipment test failure solely because the post-test dummy might have experienced a component failure and might no longer conform to all of the specifications. On several occasions during the past few years, a dummy has been damaged during a compliance test such that it could not satisfy all of the post-test calibration requirements. Yet the damage to the dummy did not affect its ability to accurately measure the performance requirements of the standard. The agency is also concerned that the interaction between the vehicle or equipment and the dummy could be directly responsible for the dummy's inability to meet calibration requirements. In such an instance, the failure of the test dummy should not preclude the agency from seeking compliance action. Thus, NHTSA has tentatively concluded that removal of the post-calibration requirement would be in the public interest, since it would permit the agency to proceed with a compliance investigation in those cases where the test data indicate that the dummy measurements were not markedly affected by the dummy damage or that some aspect of vehicle or equipment design was responsible for the dummy failure.

(63 FR 46981, 46983, September 3, 1998).

The agency believes this reasoning remains valid. Further, in their comments on this rulemaking, the Alliance and Toyota have not produced any new information that would support the reversal of the decision not to include a post-test calibration provision. Thus, the agency is denying this part of the Alliance and Toyota petitions.

2. Instrumentation; Filter Classes; Neck Flexion/Extension Test Instrumentation

In the Part 572 language describing the CRABI 12-month dummy, NHTSA did not specify use of mechanical test fixtures, including potentiometers, to measure head rotation in the specified head-neck tests. The agency believes there are several methods of measuring this, and there is no reason why a specific method should limit the user's choice. The Alliance and FTSS recommended that the agency revise section 572.155(i)(2) to specify a channel class to provide guidance for those instances in which a rotary potentiometer is used to measure the amount of head rotation: (iv) Rotation potentiometer—Class 60.

In its petitions concerning the H–III5F and H–III6C final rules, the Alliance noted that industry users appear to have reached a consensus that the Society of Automotive Engineers (SAE) recommended practice J211 Channel Frequency Class (CFC) 60 specification is appropriate if a potentiometer is used to measure head rotation. In addition, the NHTSA Vehicle Research and Test Center (VRTC) used the CFC 60 to filter head rotation data measured by rotary potentiometers to establish the certification requirements for the dummies. VRTC review of raw data showed absence of high frequency signals which would obviate the need for a specification greater than CFC 60.

Consequently, the agency has no objections to specifying Channel Frequency Class 60 for this application if a rotary potentiometer is used for measuring head rotation. The agency is revising § 572.155(i)(2) to add the following: (iv) Rotary potentiometer response (if used)—CFC 60.

3. Impact Pendulum Characteristics

3.1 Probe Specification

The test probe specification in § 572.155(a) reads:

The test probe for thoracic impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis. It shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 622 kg-cm² (0.55 lbs-in-sec²) in yaw and pitch about the CG [center of gravity]. Up to ⅓ of the weight of the suspension cables and their attachments to the impact probe may be included in the calculation of mass, but such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis, must be at least 12.7 mm (0.5 in) thick, and have a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ± 0.01 in) diameter face with an edge radius of 12.7 ± 0.25 mm (0.5 in ± 0.01 in). The probe's end opposite to the impact face must have provisions for mounting of an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. No concentric portions of the impact probe may exceed the diameter of the impact face. The impact probe shall have a free air resonant frequency of not less than 1000 Hz.

The Alliance asserted that the provisions for concentricity and symmetry about the longitudinal axis are unrealistic since the pendulum is often fitted with velocity vanes or other hardware, causing asymmetry. As a result, the Alliance recommended revision of the probe specification to read, ''The primary test probe, less any additional hardware, for [body region] impacts shall be of rigid metallic construction.''

FTSS argued that the test probe specification is vague and overly restrictive. FTSS claimed that the test probe can be adequately specified by (1) the geometry of the contact area with the dummy, (2) the probe's mass, (3) the location of the center of gravity, and (4) the mass moment of inertia (MMI). FTSS also said that the addition of velocity vanes, cable attachment points, or other hardware will result in asymmetry and cause the center of gravity (CG) to be slightly offset from the geometrical center of the probe. FTSS concluded the maximum offset will not exceed 3.5 mm.

Accordingly, FTSS recommended that the first sentence of the test probe specification be replaced with: ''The test probe should be of rigid metallic construction with the geometrical and inertial properties specified below. The probe center of gravity shall lie within 3.5 mm of the longitudinal axis passing through the center of the impacting face.'' FTSS also recommended that the sentence beginning ''No concentric portions of the impact probe * * *'' should be deleted.

NHTSA agrees with the Alliance that the test probe specification should include provisions for mounting suspension hardware if a cable system is used for impacts. However, the agency does not agree with FTSS that the possible CG offset from the longitudinal axis is either needed or should be specified. NHTSA believes the specifications in the final rule for MMI in pitch and yaw provide sufficient controls to assure stable kinematics during the probe's free flight and impact with the dummy.

Accordingly, the agency is revising § 572.155(a) and § 572.154(c) as specified in section 3.4 below.

3.2 Thoracic Impactor—Mass Moment of Inertia

Section 572.155(a) specifies that the thoracic impactor shall have ''a minimum mass moment of inertia [MMI]of 622 kg-cm² (0.55 lbs-in-sec²) in yaw and pitch about the CG.''

The Alliance stated that the MMI values for thorax impact probes used at a number of test laboratories fall below the minimum final rule requirement of 622 kg-cm². The Alliance claimed that its member companies have used different impactors with MMIs ranging from 164 to 1160 kg-cm² (measured) and 58.85 to 1017 kg-cm² (calculated). The Alliance also quoted NHTSA from the final rule establishing the Hybrid III fifth percentile female (H–III5F) dummy: ''* * * the agency believes that, for the sake of consistency and simplicity, it would be best if all impact probes for dummy testing were of cylindrical design * * *'' (65 FR 10965, March 1, 2000). According to the Alliance, this ideal cylindrical probe produces a MMI of 58.85 kg-cm², far below the minimum MMI specified in the final rule. The Alliance recommended that if this cylindrical probe represents the ideal impactor to NHTSA, and the agency insists on retaining the MMI specification, the agency should use the 58.85 kg-cm² value as the minimum MMI.

FTSS stated that in setting the minimum MMI, ''it appears that NHTSA has used the measured values of the physical probes at it's [sic] own test laboratories without a tolerance and without an analysis of a minimum MMI that will ensure satisfactory performance.'' FTSS stated that ''these numbers are arbitrary and have not been justified.'' The FTSS thorax probe has a yaw MMI of 199 kg-cm² and a pitch MMI of 201 kg-cm², both of which fall well below the minimum MMI specified in the final rule. FTSS stated that NHTSA has not presented any data to suggest that these probes do not provide satisfactory performance. FTSS claimed that the minimum MMI specification, as currently written, will force a re-design of the probe and obsolescence of existing probes without evidence that the design is inadequate. FTSS recommended that the MMI specification be held in abeyance for six months to allow time to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

NHTSA specified the impactor in generic terms in response to industry comments on the NPRMs for both the H–III6C and H–III5F dummies stating that the impactor needs to be generic in specification and that the users desire to make them from building blocks, essentially, an assembly of multiple pieces. The commentors also requested that NHTSA not specify the impactor by design. Any impactor that cannot be specified by design must be specified by engineering parameters, which are mass, stiffness, CG location, and MMI. As a result, the agency accepted the commentors' desire for a generic impactor and specified the impactor in engineering terms.

However, assembling impactors from multiple pieces may result in compositions with many forms and wide variations in the location of the CG, and the yaw and pitch MMI. These wide variations are evident in the Alliance's petition, in which it noted that its member companies have used different impactors with MMIs ranging from 164 to 1160 kg-cm² (measured) and 58.85 to 1017 kg-cm² (calculated).

To determine the effects on kinematics of low and high inertia impactors, the agency studied the kinematics of the impactor cited by the Alliance as having the lowest MMI and compared that with the kinematics of the NHTSA impactor having a much higher MMI. The evaluation revealed that the low inertia impactor experienced considerable motion instability. In contrast, the agency impactor with the MMI specified in the final rule exhibited very stable free flight kinematics. This experiment shows that the use of impactors with low MMIs could lead to unstable kinematics. Inasmuch as the response of the dummy in calibration tests is used as a measure of the dummy's repeatability and objectivity, it is important that the impact probe kinematics at and during the impact with the dummy not be a source of variability.

The Alliance petition contains a table with measured and calculated MMI

values of impactors used by Alliance members. As noted above, the measured values range from 164 to 1160 kg-cm^2 while calculated values range from 58.85 to 1017 kg-cm^2. The agency believes that the measured MMI values reflect current industry practice, and, therefore, these are reasonably good grounds for their acceptance, particularly since the provisions in § 572.154(c) (5) and (6) deal with alignment and stability of the probe at the time of impact. In contrast, the agency believes that the calculated MMI values, which are considerably below the values currently used by the industry, have never been evaluated for stability.

Accordingly, the agency is accepting as the minimum MMI the low measured MMI of 164 kg-cm^2 cited by the Alliance, but not the low calculated MMI of 58.85 kg-cm^2. The agency is revising the MMI specification in § 572.155(a) to 164 kg-cm^2 (0.145 lb-in-sec^2) in yaw and pitch about the CG of the probe. Since the FTSS thorax probe, with a yaw MMI value of 199 kg-cm^2 and a pitch MMI value of 201 kg-cm^2, would meet this specification, the agency is denying its request to hold the minimum MMI specification in abeyance for six months.

3.3 Free Air Resonant Frequency

Section 572.155(a) specifies that the thorax impact probe have a free air resonant frequency of not less than 1000 Hz.

The Alliance said that there are insufficient data to support the need for such a specification. Thus, the Alliance recommended that this specification be deleted until substantial data is available to justify the need for it.

FTSS disagreed with the free air resonant frequency specification. FTSS claimed that NHTSA established it without specifying the methods to measure the frequency or providing a rationale for the need of it. FTSS stated that it has analyzed the probe used in its calibration laboratories, and the results showed the first resonant modes of the probe are bending modes, which causes a lateral translation at the accelerometer location. FTSS noted that typical accelerometers have less than three percent cross-axis sensitivity, so if the probe's natural resonance were excited during a dummy test, the effect on the acceleration signal would be minimal. FTSS asserted that it may be more appropriate to specify a 1000 Hz resonant frequency limit in the sensitive axis of the accelerometer. FTSS recommended that the free air resonant frequency specification be held in abeyance for six months to allow time to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

Commentors on the H–III6C and H–III5F dummies expressed a desire for generic impactor specifications to allow users the freedom to design impactors in a variety of ways, including constructing them from building blocks. As a result, the agency developed a generic engineering specification and inserted it in the final rules for the H–III6C, H–III5F, and H–III3C dummies. The agency carried over this specification into the final rule for the CRABI 12-month dummy.

The resonant frequency specification is necessary for three reasons: (1) Because the intent of users is to build a non-defined shape and multiple piece impactor of unknown material, the natural resonance of the impactor is the only reliable indicator to assure that the impactor will be of sufficient structural rigidity and capable of repeatable response; (2) the specification will assure that a multiple piece impactor will not produce separate interactions between its constituent parts; and (3) the specification will assure that the mounting structure for the accelerometer is sufficiently rigid and will not affect the accelerometer readings.

Nevertheless, NHTSA agrees with the FTSS comment in principle that it would be more appropriate to clarify the current specification by adding a note indicating that the 1000 Hz minimum resonant frequency is limited to the direction of the sensitive axis of the accelerometer, rather than in any direction. The agency also agrees that the first mode of resonance is the bending mode of the probe about its longitudinal axis, and, therefore, the signal of an accelerometer with a low cross-axis sensitivity that is oriented in the longitudinal axis will be minimally affected.

NHTSA does not agree with the Alliance comment that the resonance specification is unnecessary. A multiple piece impact probe, if improperly constructed, may contain a series of resonances along its longitudinal axis. The 1000 Hz minimum specification would preclude a user from using such a probe.

Accordingly, the agency is denying the Alliance request to delete the free air resonant frequency specification, but is revising the last sentence in § 572.155(a) to read: ''The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151.'' The agency is also adding to the Appendix of the PADI document a new section E that provides details on the procedure the agency uses for determining the free air resonant frequency of impact probes used for dummy calibration tests.

3.4 Conclusion

In view of the discussion above, the agency is revising § 572.155(a) to read as follows:

The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.154(c)(7). The impactor shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 164 kg-cm^2 (0.145 lb-in-sec^2) in yaw and pitch about the CG of the probe. One-third of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ±0.01 in) diameter face with an edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 101–103 mm (4–4.1 in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151.

The agency also is adding a paragraph (7) to § 572.154(c), to read as follows:

No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

4. Load Cells—Materials

Load cell drawings SA572-S23, SA572-S24, and SA572-S25 specify that the load cells be made of ''STEEL OR SIMILAR MATERIAL.'' Denton, seconded by the Alliance, noted that most of the existing load cells used for CRABI 12-month dummy applications are made primarily from aluminum. Denton recommended that this specification be removed from all load cell drawings.

FTSS stated that load cells are predominantly made of an aluminum alloy, and recommended that the

material specification be changed to ''ALUMINUM OR SIMILAR.''

NHTSA does not agree with Denton's recommendation to remove the material specifications. The agency believes that it is necessary to consider and address the structural functions that the load cell must be capable of performing, such as sound interconnection between major body elements. Thus, the agency is denying Denton's request to remove the material specifications from the load cell drawings.

However, NHTSA does believe that specifying a particular load cell material may be too restrictive. The agency is aware that existing load cell constructions are based on metals with a high modulus of elasticity, such as aluminum and steel. As a result, instead of specifying one type of metal for a load cell, we are revising the load cell drawings to specify that the body of the load cell structure and provisions for its mounting, except for wires and their attachments, be made of metal or metal alloys. A general specification of ''METAL CONSTRUCTION'' will allow users to continue using existing load cells and permit load cell manufacturers to continue building load cells for the CRABI 12-month and other dummies. The agency believes that this general specification will provide for maximum latitude in load cell manufacturing.

Accordingly, the agency is revising the material specifications in load cell drawings SA572–S23, SA572–S24, and SA572–S25 to read:

The load bearing structure of the load cell, including provisions for the load cell mounting, are of metal or metal alloys. Non-load bearing parts of the load cell, internally and/or externally, including wires and their attachments, may be made of any material providing they do not interfere with the performance of the load cell or the transmission of the load cell signals.

5. Drawings

Denton found several errors in load cell drawings SA572–S23, SA572–S24, and SA572–S25. FTSS found an additional error in load cell drawing SA572–S25.

5.1 Drawing SA572–S23

This drawing specifies 0.34 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be lowered to 0.34 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its NPRM comments that two notes were needed, one reading ''weight includes portion of cable exiting load cell which is covered with shrink wrap,'' and another reading ''specified weight does not include any cable or mounting hardware, except as noted.'' NHTSA did not include such notes in the drawing. Denton asserted that the additional eight inches of cable specified in the final rule weigh approximately 0.04 lb. Thus, Denton recommended that NHTSA either: (1) Change the drawing notes to indicate that cable is not included in the weight, or (2) change the weight specification to a maximum of 0.38 lb to account for the weight of the cable.

Denton also noted that the drawing has a dimension of 2.500/63.5 DIA for the main body of the load cell, and that this three decimal place dimension has a standard tolerance of ±0.005 inch. Denton claimed that existing load cells have not been made to comply with such a tight tolerance. Denton uses a two decimal place dimension with a standard tolerance of ±0.01 inch. Denton asserted that there are no clearance issues that require such a tight tolerance and requested that this dimension be changed to 2.50 with a standard tolerance of ± 0.01 inch so that existing load cells are not rendered obsolete.

Finally, Denton stated that the dimension from the center of the body of the load cell to the front of the flange is listed as 1.625/41.148 R. Denton noted that the 41.148 figure is incorrect because the metric equivalent of 1.625 inches is 41.275 millimeters.

NHTSA agrees with all three of Denton's recommendations. Accordingly, the agency is revising Drawing SA572–S23 to: (1) Change the weight specification from a maximum of 0.34 lb to 0.38 lb; (2) change the dimension for the main body of the load cell from 2.500 ± 0.005 inches to 2.50 ± 0.01 inches; and (3) correct the metric equivalent for 1.63 inches to 41.40 millimeters.[1]

5.2 Drawing SA572–S24

This drawing specifies 0.58 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. As with Drawing SA572–S23, NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be raised to a maximum of 0.58 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its comments on the NPRM that a note was needed stating ''specified weight does not include any cable or mounting hardware, except as noted.'' NHTSA did not include such a note in the drawing. Denton asserted that the additional eight inches of cable specified by the drawing weigh approximately 0.02 lb. Thus, Denton recommended that NHTSA either: (1) Include a note with the drawing indicating that the cable is not included in the weight specification, or (2) change the weight specification to a maximum of 0.60 lb to account for the weight of the cable.

Denton also stated that the Fx capacity is listed as 1000 lbs/448 N. Denton noted that the 448 N figure is incorrect because 1000 lbs converts to 4448 N.

NHTSA agrees with both of Denton's recommendations. Accordingly, the agency is revising Drawing SA572–S24 to: (1) change the weight specification from a maximum of 0.58 lb to 0.60 lb, and (2) correct the conversion of 1000 lbs from 448 N to 4448 N.

5.3 Drawing SA572–S25

This drawing specifies 0.14 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. As with Drawings SA572–S23 and SA572–S24, NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be lowered to a maximum of 0.14 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its comments that a note was needed stating ''specified weight does not include any cable or mounting hardware, except as noted.'' NHTSA did not include such a note in the drawing. Denton asserted that the additional eight inches of cable required by the drawing weigh approximately 0.02 lb. Thus, Denton recommended that NHTSA either: (1) include a note with the drawing indicating that the cable is not included in the weight specification, or (2) change the weight specification to a maximum of 0.16 lb to account for the weight of the cable.

Denton and FTSS also stated that the top dimension of the load cell is listed as D0.90/45.72. The commentors note that this is an error: the dimension

[1] Since the agency is changing the dimensions to two decimal places instead of three, the dimension from the center of the body of the load cell to the front of the flange is changing from 1.625 inches to 1.63 inches. The metric equivalent for 1.63 inches is 41.40 millimeters.

should be listed as either R0.90/22.86 or D1.80/45.72.

Finally, FTSS noted that the drawing has an incorrect drawing number. It is listed as Drawing S572–S25. It should be Drawing SA572–S25.

NHTSA agrees with all of these recommendations. Accordingly, the agency is revising Drawing SA572–S25 to: (1) Change the weight specification from a maximum of 0.14 lb to 0.16 lb, (2) change the top dimension of the load cell from D0.90/45.72 to R0.90/22.86, and (3) correct the drawing number to SA572–S25.

6. Procedures for Assembly, Disassembly, and Inspection (PADI) Document

FTSS found several minor errors in the PADI document related to external dimensions and flesh repair procedures on Page 53, Table 4, External Dimensions: (1) the Dimension A Metric Specification should read 463.6 millimeters; (2) the Dimension S English Tolerance should read 0.20 inches; and (3) the Dimension S Metric Tolerance should read 5.1 millimeters.

FTSS also noted that the instructions in Appendix A, Flesh Repair, reference repair for vinyl materials. FTSS asserted that since the CRABI 12-month dummy is made primarily of urethane, the agency should insert the following paragraph after Paragraph 1:

> This dummy is made from urethane which is not easily repairable. Small cuts may be glued with contact cement and covered by smoothing with a soldering iron. Major cuts will require replacement or remolding.

NHTSA agrees with all of the FTSS recommendations. Accordingly, the agency is revising the text on Page 53, Table 4, External Dimensions, as follows: (1) Change the metric specification in Dimension A to read 463.6 millimeters; (2) change the English tolerance in Dimension S to read 0.20 inches; and (3) change the metric tolerance in Dimension S to read 5.1 millimeters. The agency also is inserting the following paragraph to Appendix A, Flesh Repair, after Paragraph 1:

> This dummy's urethane skin is not easily repairable. Small, superficial cuts may be glued with contact cement and covered by smoothing with a soldering iron. Major cuts require replacement of the part.

7. Drawing 921022–008, Head Accelerometer Mount

The agency is revising Drawing 921022–008 to specify the need for a notch 0.25 inches (6.35 mm) wide by 0.50 inches (12.7 mm) long at the rear of the accelerometer mount. No petitioners requested that NHTSA make this change. However, the agency discovered the need for a notch in the rear of the accelerometer mount during testing at the Vehicle Research and Test Center (VRTC). The notch is needed to provide clearance for the accelerometer leads coming out of the dummy's head. Without a notch, it is easy to cut the wires from the accelerometers when assembling the head. Several wires were damaged during testing at the VRTC, even with careful placement and knowledge that such damage can take place. The agency has discussed this change with the dummy manufacturers. They did not object to it.

Accordingly, the agency is revising Drawing 921022–008, Head Accelerometer Mount, to provide for a clearance notch 0.50×0.250 inch at the left rear corner of the base of the mount.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. This rule also is not considered to be significant under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

This document amends 49 CFR Part 572 by adding design and performance specifications for a new 12-month-old child dummy that the agency may later incorporate into Federal motor vehicle safety standards. This rule does not impose requirements on anyone. It simply establishes criteria for the 12-month-old CRABI dummy. The agency will use for compliance testing only those dummies that meet all of the criteria specified in this final rule. Vehicle and air bag manufacturers may be affected if the dummy is incorporated by reference into the advanced air bag rulemaking. Similarly, child restraint manufacturers may be affected if the dummy is incorporated into the child restraint system standard.

The cost of an uninstrumented 12-month-old dummy is approximately $19,000. Instrumentation would add from $15,000 to $43,000 to the cost, depending on the amount of instrumentation the user chooses to employ. Because the economic impacts of this rule are minimal, no further regulatory evaluation is necessary.

NHTSA also has determined that this rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. This rule has no such effects. In addition, the agency has concluded that this rule will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rule under the Regulatory Flexibility Act and certify that this rule will not have a significant economic impact on

a substantial number of small entities. The rule does not impose or rescind any requirements. Further, its cost impacts on test devices (i.e., dummies) is minimal. The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

C. National Environmental Policy Act

We have analyzed this rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA 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, the agency may not issue a regulation with 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, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with 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.

We have analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have determined that this rule does not have sufficient federalism implications to warrant consultation and the preparation of a Federalism Assessment.

E. Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid control number from the Office of Management and Budget (OMB). This rule does not have any requirements that are considered to be information collection requirements as defined by the OMB in 5 CFR part 1320.

G. National Technology Transfer and Advancement Act

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) directs us to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The CRABI 12-month test dummy that is the subject of this document was developed under the auspices of the SAE. All relevant SAE standards were reviewed as part of the development process. The following voluntary consensus standards have been used in developing the dummy: SAE Recommended Practice J211, Rev. Mar 95 ''Instrumentation for Impact Tests'; and SAE J1733 of 1994–12 ''Sign Convention for Vehicle Crash Testing.''

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, Federal requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule does not impose any unfunded mandates under the UMRA. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. Further, it will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

I. Children

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined by E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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 us.

This rule is not subject to E.O. 13045 because it is not economically significant as defined by E.O. 12866.

J. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings,

paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this final rule.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 572

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, 49 CFR Part 572 is amended as follows:

PART 572—ANTHROPOMORPHIC TEST DUMMIES

1. The authority citation for part 572 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

2. In § 572.150, paragraphs (a)(1) introductory text and (a)(2) are revised to read as follows:

§ 572.150 Incorporation by reference.

(a) * * *

(1) A drawings and specifications package entitled ''Parts List and Drawings, Subpart R, CRABI 12-Month-Old Infant Crash Test Dummy (CRABI–12, Alpha version) August 2001'' and consisting of:

* * * * *

(2) A procedures manual entitled ''Procedures for Assembly, Disassembly and Inspection (PADI) Subpart R, CRABI 12-Month-Old Infant Crash Test Dummy (CRABI–12, Alpha version) August 2001'' incorporated by reference in § 572.155;

* * * * *

3. In § 572.154, paragraph (c)(7) is added to read as follows:

§ 572.154 Thorax assembly and test procedure.

* * * * *

(c) * * *

(7) No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

4. In § 572.155, paragraph (a) is revised and paragraph (i)(2)(iv) is added to read as follows:

§ 572.155 Test conditions and instrumentation.

(a) The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.154(c)(7). The impactor shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 164 kg-cm^2 (0.145 lb-in-sec^2) in yaw and pitch about the CG of the probe. One-third of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ± 0.01 in) diameter face with an edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 101–103 mm (4–4.1 in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151.

* * * * *

(i) * * *

(2) * * *

(iv) Rotation potentiometer response (if used)—CFC 60.

* * * * *

Issued: August 7, 2001.

L. Robert Shelton,

Executive Director.

[FR Doc. 01–21545 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

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

RIN 0648–AO07

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

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

ACTION: Final rule; correction.

SUMMARY: On May 11, 2001, NMFS published final regulations implementing Framework 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP). One of the measures implemented in the final rule was the continuation of the Hudson Canyon South and Virginia Beach Area closures originally implemented in 1998 and extended through August 8, 2001, through an interim final rule published on February 9, 2001. In the final rule implementing Framework 14, NMFS intended to extend the Mid-Atlantic closures through February 28, 2003, to scallop fishing with the exception of those vessels participating in the Sea Scallop Area Access Program. However, NMFS inadvertently only amended the regulatory text, which then expired on August 8, 2001. This document corrects those errors.

DATES: Effective May 1, 2001.

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

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1998, NMFS published an interim final rule (63 FR 15324) closing two Mid-Atlantic areas, the Hudson Canyon South and Virginia Beach Sea Scallop Closed Area, to scallop fishing to protect concentrations of juvenile scallops, to reduce fishing mortality, and to increase yield per recruit. The interim rule became effective from April 3, 1998, and was extended through March 26, 1999 (63 FR 51862, September 29, 1998). On March 29, 1999, NMFS published a final rule implementing Amendment 7 to the Atlantic Sea Scallop FMP. Under Amendment 7 and its implementing regulations, the two Mid-Atlantic area

closures were extended through March 1, 2001. On February 9, 2001, NMFS issued an interim final rule extending the closures of the Mid-Atlantic closed areas on an interim basis for 180 days (i.e., August 8, 2001) or until such time that a controlled area access program for these two areas could be implemented through Framework 14 to the Atlantic Sea Scallop FMP, whichever came sooner. On May 1, 2001, NMFS published a final rule (66 FR 21639) implementing Framework 14. However, because this rule contained numerous errors, the document was reprinted in its entirety on May 11, 2001 (66 FR 24052). The final rule implementing Framework 14 became effective on May 1, 2001. That final rule amended portions of § 648.57, Closed and regulated areas. However, § 648.57 was scheduled to expire on August 8, 2001, and, therefore, the ''amendments'' to § 648.57 implemented under Framework 14 also inadvertently expired on August 8, 2001. NMFS is correcting amendatory instruction 6 of the final rule implementing Framework 14 by ''adding'' § 648.57 to 50 CFR part 648 and is publishing the regulatory text for this section in its entirety.

Need for Correction

As published, the final regulations published on May 11, 2001 (66 FR 24052) contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 23, 2001.

John Oliver

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is corrected as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. Section 648.57 is added to read as follows:

§ 648.57 Closed and regulated areas.

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

Point	Latitude	Longitude
H1	39 30′ N.	73 10′ W.
H2	39 30′ N.	72 30′ W.
H3	38 30′ N.	73 30′ W.
H4	38 40′ N.	73 50′ W.

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

Point	Latitude	Longitude
V1	37 00′ N.	74 55′ W.
V2	37 00′ N.	74 35′ W.
V3	36 25′ N.	74 45′ W.
V4	36 25′ N.	74 55′ W.

[FR Doc. 01–21952 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1066–03; I.D. 082401D]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Massachusetts

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

ACTION: Closure; commercial quota harvested for Massachusetts.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the Commonwealth of Massachusetts has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Massachusetts for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the Commonwealth of Massachusetts that the quota has been harvested, and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Massachusetts.

DATES: Effective 0001 hours, August 31, 2001, through 2400 hours, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2001 calendar year was set equal to 10,747,535 lb (4,875,000 kg) (66 FR 16151, March 23, 2001). The percent allocated to vessels landing summer flounder in Massachusetts is 6.82046 percent, or 733,031 lb (332,497 kg). This allocation was adjusted due to an overage in 2000, as provided in § 648.100(e)(4), for a final allocation of 645,663 lb (292,868 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. NMFS then publishes notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional

Administrator has determined, based upon dealer reports and other available information, that the Commonwealth of Massachusetts has attained its quota for 2001.

The regulations at § 648.4 (b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, August 31, 2001, further landings of summer flounder in Massachusetts by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, August 31, 2001, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in Massachusetts for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

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

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

Dated: August 24, 2001.

Dean Swanson,

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

[FR Doc. 01–21951 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010108006–1198–03; I.D. 050101D]

RIN 0648–A097

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 14; Corrections

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

ACTION: Corrections to final rule for Amendment 14.

SUMMARY: This document corrects a section heading and a phrase in amendatory instruction 6 to the Amendment 14 final rule which was published on August 7, 2001. Amendment 14 creates a permit stacking program for limited entry permits with sablefish endorsements. This permit stacking program will lengthen the duration of the limited entry, fixed gear primary sablefish fishery. It is intended to increase safety in that fishery, to provide flexibility to participants, and to reduce capacity in the limited entry fixed gear fleet.

DATES: Effective August 2, 2001.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, NMFS,(206) 526–6140.

SUPPLEMENTARY INFORMATION:

Background

The final rule implementing Amendment 14 was published in the **Federal Register** on August 7, 2001, contained an incorrect heading for § 660.333 and an incorrect amendatory instruction section to § 660.334(d)(1). Paragraph (d)(1) was revised instead of (d)(1)introductory text. As a result of this action, the subordinate paragraphs were removed. This document corrects the instruction, and the subordinate paragraphs to § 660.334(d)(1) will be restored to the CFR.

Corrections

As published, the final rule FR Doc. 01–19769, August 7, 2001, (66 FR 41152), contains errors and needs to be corrected.

§ 660.333 Limited entry fishery—eligibility and registration.

1. On page 41158, in the first column, under § 660.333, the section heading is corrected to read as set forth above.

§ 660.334 [Corrected]

2. On page 41158, in the first column, in amendatory instruction 6, in the second line, the phrase ''(d)(1)'' is corrected to read ''(d)(1) introductory text.''

All other information previously published remains the same.

Dated: August 23, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–21859 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–06; I.D. 082301C]

Fisheries of the Exclusive Economic Zone Off Alaska; Chiniak Gully Research Area for Vessels Using Trawl Gear

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

ACTION: Modification of a closure.

SUMMARY: NMFS is rescinding the trawl closure in the Chiniak Gully Research Area. This action is necessary to allow vessels using trawl gear to participate in directed fishing for groundfish in the Chiniak Gully Research Area after the completion of NMFS research on August 31, 2001.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2001 through December 31, 2001.

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

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

The Chiniak Gully Research Area was closed to vessels using trawl gear from August 1 to a date no later than September 20, 2001, under the Steller Sea Lion Protection Measures and 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 37167, July 17, 2001).

This closure was in support of a research project to evaluate the effect of commercial fishing activity on the prey availability of pollock to Steller sea lions.

NMFS has determined that as of August 31, 2001, the pollock research will be completed in the Chiniak Gully Research Area. Therefore, NMFS is rescinding the previous closure and is opening directed fishing for groundfish by vessels using trawl gear in the Chiniak Gully Research Area pursuant to 50 CFR 679.22(b)(6)(ii)(B).

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action in order to allow the participation of vessels using trawl gear in the Chiniak Gully Research Area constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion in order to allow the participation of vessels using trawl gear in the Chiniak Gully Research Area constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: August 24, 2001.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National marine Fisheries Service.

[FR Doc. 01–21949 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 169
Thursday, August 30, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG83

List of Approved Spent Fuel Storage Casks: NAC-MPC Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the NAC International, Inc., NAC-MPC cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 1 to the Certificate of Compliance. Amendment No. 1 would modify the present cask system design to permit a licensee to use an alternate fuel basket design with enlarged fuel tubes in corner locations; increase the operational time limits provided in the Technical Specifications (TS) for canister loading, closure, and transfer when canister heat loads are lower than design basis heat loads; revise the canister surface contamination limits in TS to maintain worker dose as low as is reasonably achievable (ALARA); and revise some drawings to reflect changes identified during cask and component fabrication under a general license.

DATES: Comments on the proposed rule must be received on or before October 1, 2001.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at *http://ruleforum.llnl.gov.* You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary safety evaluation report (SER) can be found under ADAMS Accession No. ML 011380038. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415–6219, e-mail, jmm2@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

Procedural Background

This rule is limited to the changes contained in Amendment 1 to Certificate of Compliance Number (CoC No.) 1025 and does not include other aspects of the NAC-MPC cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Because NRC considers this action noncontroversial and routine, the proposed rule is being published concurrently with a direct final rule. The direct final rule will become effective on November 15, 2001. However, if the NRC receives significant adverse comments on the direct final rule by October 1, 2001, then the NRC will publish a document to withdraw the direct final rule. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change to the CoC or TS.

If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1025 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1025

Initial Certificate Effective Date: April 10, 2000

Amendment Number 1 Effective Date: November 13, 2001.

SAR Submitted by: NAC International

SAR Title: Final Safety Analysis Report for the NAC Multi-Purpose Canister System (NAC-MPC System)

Docket Number: 72–1025

Certificate Expiration Date: April 10, 2020

Model Number: NAC-MPC

* * * * *

Dated at Rockville, Maryland, this 20th day of August, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–21935 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D–7R4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) JT9D–7R4 series turbofan engines. This proposal would require a one-time inspection of low pressure turbine (LPT) 5th stage disks for evidence of blend repairs and mechanical damage, and replacement based on the extent of those repairs and damage. This proposal is prompted by a report of a PW JT9D–7R4G2 turbofan engine that experienced an uncontained failure of the LPT 5th stage disk. The actions specified by the proposed AD are intended to prevent uncontained failure of the LPT 5th stage disk, due to incomplete blend repairs, resulting in in-flight shutdown and damage to the airplane.

DATES: Comments must be received by October 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No.2001–NE–16–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Office Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–16–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–16–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The FAA has received a report of an uncontained LPT 5th stage disk failure on a PW JT9D–7R4G2 turbofan engine that resulted in damage to the airplane and in-flight shutdown. The

investigation into the cause of that failure revealed that the disk failure resulted from an incomplete blending of damage, previously caused by an LPT stage 4–5 tiebolt fracture. High-energy damage to the disk caused by a tiebolt fracture, if not completely removed by blending, may lead to disk cracking and fracture. Also, a review of the Engine Manual and the Standard Practices Operating Procedures for blending repairs indicates that these blending procedures may not ensure complete removal of all damaged material from the disks. This condition, if not corrected, could result in uncontained failure of the LPT 5th stage disk, due to incomplete blend repairs, resulting in in-flight shutdown and damage to the airplane.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of PW service bulletin (SB) JT9D–7R4–72–574, Revision 1, dated June 26, 2001. That SB describes procedures for a one-time visual inspection of all PW JT9D–7R4 series LPT 5th stage disks for evidence of blend repairs and damage from fractured tiebolts in the forward and aft web and bore area, and disk removal from service based on the extent of damage.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Pratt & Whitney JT9D–7R4 series turbofan engines of the same type design, the proposed AD would require a one-time visual inspection of PW JT9D–7R4 series LPT 5th stage disks for evidence of blend repairs in the forward and aft web and bore area. If a disk has any amount of blended or unblended damage in the web and bore area that was caused by a fractured tiebolt, or if a disk has five or more blended or unblended areas of damage by any cause, the disk must be removed from service. The actions would be required to be accomplished at the next separation of the LPT module from the engine after the effective date of this AD, in accordance with the service bulletin described previously.

Economic Impact

There are approximately 647 Pratt & Whitney (PW) JT9D–7R4 series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 151 engines installed on airplanes of U.S. registry would be affected by this proposed AD. The FAA also estimates that it would take approximately one work hour per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. A replacement disk would cost approximately $145,260 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $21,943,320.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney: Docket No. 2001–NE–16–AD.

Applicability

This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT9D–7R4D, –7R4D1, –7R4E, –7R4E1, –7R4E4, –7R4G2, and 7R4H1 series turbofan engines with LPT 5th stage disks, part numbers (P/N's) 787905, 787905–001, and 798305 installed. These engines are installed on, but not limited to Airbus Industrie A300 and A310 series, and Boeing 747 and 767 series airplanes.

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

Compliance

Compliance with this AD is required as indicated at the next separation of the LPT module from the engine, unless already done.

To prevent uncontained failure of the low pressure turbine (LPT) 5th stage disk due to incomplete blend repairs, resulting in in-flight shutdown and damage to the airplane, do the following:

(a) Perform a one-time visual inspection for evidence of blend repairs of LPT 5th stage disks, P/N's 787905, 787905–001, and 798305 in accordance with the Accomplishment Instructions section of PW service bulletin (SB) JT9D–7R4–72–574, Revision 1, dated June 26, 2001.

(1) Remove from service those LPT 5th stage disks that were installed in engines that experienced a tiebolt fracture and are found with blended or unblended damage in the web and bore area, and replace with a serviceable part.

(2) Remove from service disks that have five or more blended or unblended damage areas by any cause, and replace with a serviceable part.

(b) After the effective date of this AD, do not install any LPT module that contains an LPT 5th stage disk, P/N 787905, 787905–001, or 798305 unless that disk has been inspected as specified in paragraph (a) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Issued in Burlington, Massachusetts, on August 22, 2001.

Donald Plouffe,

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

[FR Doc. 01–21895 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[USCG–2001–10479]

Review of Boating Safety Regulations

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is conducting a comprehensive review of current boating safety regulations in three stages. These stages correspond with sequential meetings of the National Boating Safety Advisory Council (NBSAC). This document requests comments for the first stage, involving administrative requirements and fire and explosion prevention requirements for manufacturers and importers of recreational vessels. We will provide NBSAC members with a summary of the comments before the April 2002 meeting and will consider all relevant public comments and NBSAC recommendations in determining which regulations, if any, should be changed.

DATES: Comments and related material for the first stage of the review must reach the Docket Management Facility on or before October 29, 2001.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2001–10479), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov. You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet, at the Web Site for the Office of Boating Safety, at *http://www.uscgboating.org* or at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact Carlton Perry, Project Manager, Office of Boating Safety, U.S. Coast Guard, by telephone at 202–267–0979 or by e-mail at *cperry@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Background and Purpose

NBSAC is an advisory committee created under 46 U.S.C. 13110(a). It advises the Coast Guard on substantive matters of boating safety. Its 21 members come from 3 segments of the boating community: The boating industry; State officials on boating safety; and representatives of national recreational boating organizations and the general public. NBSAC meets twice a year, in the spring and fall. The meetings are open to the public. Under 46 U.S.C. 4302(c)(4), the Coast Guard must consult NBSAC in the formulation of boating safety regulations.

Past Comprehensive Reviews

In 1981, 1986, 1992, and 1997, we conducted comprehensive reviews of our boating safety regulations in conjunction with a single NBSAC meeting. We asked NBSAC to determine whether the regulations were still necessary, beneficial, cost-effective, and consistent with current technology. These periodic reviews led NBSAC to make numerous recommendations to improve and update specific provisions in the regulations.

Current Comprehensive Review

We plan to conduct this review in three stages at sequential NBSAC meetings, starting in April 2002. We will publish notices in the future, requesting comments for the two remaining stages and announcing the specific date of each NBSAC meeting. Each stage will evaluate current boating safety regulations, but will not include any rules under development.

The *first review stage* will include administrative requirements for manufacturers and importers of recreational vessels (33 CFR part 179 and part 181, subparts B and C) and fire and explosion prevention requirements for manufacturers and importers of recreational vessels (33 CFR part 183, subparts I, J, and K). NBSAC will review these regulations and comments at its April 2002 meeting.

The *second review stage* will include requirements for manufacturers and importers of recreational vessels to prevent drownings (33 CFR part 183, subparts B, C, D, F, G, H, and L). NBSAC will review these regulations and comments at its October 2002 meeting.

The *third review stage* will include requirements for operators (33 CFR parts 95, 100, 173, 174, 175, 177 and 46 CFR part 25, subparts 25.30, 25.35 and 25.40, and part 58, subparts 58.03 and 58.10). NBSAC will review these regulations and comments at its April 2003.

You may find copies of the boating safety regulations at any public library that carries the United States Code of Federal Regulations. You may buy them from the Superintendent, Government Printing Office, telephone: 202–512–2250; facsimile: 202–512–1800. You may also access them on the Internet at URL address *http://www.gpo.gov/nara/cfr.*

Request for Comments

We encourage interested persons from all sectors of the boating community to participate in this first regulatory review stage by submitting comments and related material regarding any changes to the current boating safety regulations, including elimination or revocation of any requirements. If you submit comments, please include your name and address, identify the docket number for this notice (USCG–2001–10479) and give the reasons for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

We are especially interested in responses to the following questions:

- Need—Is there still a need for the regulation? Is the problem that the regulation was originally intended to solve still a problem?
- Technical Accuracy—Has the regulation kept pace with the technological, economic, environmental, or other relevant conditions? Would any particular changes make it more effective in achieving its intended goal?
- Cost/Benefit—What are the costs, or other burdens or adverse effects, including impacts on use of energy, of the regulation? What are the benefits of the regulation in terms of personal safety or other values? Do the benefits outweigh the costs?
- Problems—Are there any problems or complaints in understanding or complying with the regulation?
- Alternative—Are there any nonregulatory ways to achieve the goal of the regulation at a lower cost, lower burden, or adverse effect?

We will summarize all comments received in response to this request during the comment period and will provide a copy of the summary to the NBSAC members for their consideration before the April 2002 meeting. We will consider all relevant comments in the formulation of any changes to the boating safety regulations that may result from this review stage.

Dated: August 22, 2001.

Terry M. Cross,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 01–21718 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 010126026]

RIN 0651–AB31

Electronic Submission of Applications for Registration and Other Documents

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking; Notice of hearing.

SUMMARY: The United States Patent and Trademark Office (Office) proposes to amend its rules to make electronic filing of trademark documents mandatory. Subject to certain exceptions for individuals either without access to the Trademark Electronic Application System (TEAS) or without the technical capability to use TEAS, and persons described in 15 U.S.C. 1126(b), all documents for which an electronic form is available in TEAS, will have to be filed through TEAS rather than through the mail or by hand delivery. In addition, the Office proposes to amend its rule concerning the use of U.S. Postal Service ''Express Mail Post Office to Addressee'' service, (Express Mail), to eliminate the filing of any document by Express Mail for which an electronic form is currently available in TEAS.

DATES: Comments must be received by October 29, 2001 to ensure consideration. A public hearing will be held at 10 a.m., October 12, 2001, in Room 911, Crystal Park 2, 2121 Crystal Drive, Arlington, VA. Submit requests to present oral testimony on or before October 5, 2001.

ADDRESSES: Mail comments to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3513, attention Craig Morris; fax comments to (703) 872–9279, attention Craig Morris; or e-mail comments to tmefiling@uspto.gov. Copies of all comments will be available for public inspection in Suite 10B10, South Tower Building, 10th floor, 2900 Crystal Drive, Arlington, Virginia 22202–3513, from 8:30 a.m. until 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Craig Morris, Office of the Commissioner for Trademarks, (703) 308–8910, extension 136; or e-mail to tmefiling@uspto.gov.

SUPPLEMENTARY INFORMATION: The Office proposes to amend §§ 1.4, 1.10, 2.21, 2.56, 2.76, 2.88, 2.89, 2.161, 2.166, 2.167 and 2.168 to make electronic filing through the Trademark Electronic Application System (TEAS) mandatory. TEAS is a collection of electronic forms for commonly filed trademark documents. Each document can be easily completed by the trademark applicant or attorney and filed with the Office at the click of a button. The system is available at www.uspto.gov 24 hours a day, seven days a week, and can be used by anyone with NETSCAPE NAVIGATOR® (version 3.0 or higher) or MICROSOFT INTERNET EXPLORER® (Version 4.0 or higher). During the hours between 11:00 p.m. EST, Saturday and 6:00 a.m. EST, Sunday TEAS is available but credit card payments cannot be processed; therefore, no documents requiring fees can be filed during that time period. In addition, to file an initial application for a stylized or design mark, or if a specimen is being filed, the filer must be able to attach a black-and-white GIF or JPG image file.

The Office proposes to require electronic filing of all documents for which forms are currently available in TEAS: applications for registration of marks; amendments to allege use; statements of use; requests for extensions of time to file a statement of use; affidavits of continued use or excusable nonuse under 15 U.S.C. 1058 (§ 8 affidavits); affidavits of incontestability under 15 U.S.C. 1065 (§ 15 affidavits); combined affidavits under 15 U.S.C. 1058 and 1065 (§§ 8 and 15 affidavits) and combined filings under 15 U.S.C. 1058 and 1059 (combined §§ 8 and 9 filings). In the future, after appropriate notice, the Office may require the filing of other trademark-related documents when the appropriate electronic form is available in TEAS. There will be two exceptions to the requirement that trademark documents be filed electronically: first, if the *pro se* applicant or registrant, or an attorney for applicant or registrant, verifies in an affidavit or declaration under § 2.20 that he or she does not have access to TEAS or does not have the technical capability to use TEAS, the *pro se* applicant or registrant, or an attorney for applicant or registrant, will not be required to file its trademark documents using TEAS; and second, if the applicant or registrant is a person described in 15 U.S.C. 1126(b), then the applicant or registrant will not be required to file its trademark documents using TEAS.

A person described in 15 U.S.C. 1126(b) is a person who has citizenship, domicile or a real and effective industrial or commercial establishment in a country other than the United States and whose country of origin is a party to any convention or treaty relating to trademarks, trade or commercial names, or the repression of unfair competition, to which the United States is also a party, or extends reciprocal rights to nationals of the United States by law.

The number of trademark applications and other trademark documents filed in the Office has increased substantially in the last few years, and filings are expected to continue to increase dramatically in the next few years. The Office received over 295,000 trademark applications in fiscal year 1999 and over 375,000 applications in 2000—an increase each year of 27% over the prior year. In fiscal year 2001, filings are currently forecast to be 25% higher than 2000, which means the Office is likely to receive over 300,000 new applications and over 150,000 application and registration-related

filings this year. Although the Office has made substantial changes in an attempt to keep up with the increased filings, the Office believes that it must make further changes in its business practices to ensure that every applicant and registrant receives a high level of customer service.

Currently, parties may file paper documents via mail or hand delivery, or file electronically using TEAS. It is now possible to file essentially all trademark-related documents electronically over the Internet, at *http://www.uspto.gov.*

The Office now maintains both paper files and electronic databases of critical application and registration data. Processing paper is extremely labor-intensive and subject to error and misfiling. A new application must undergo multiple steps before it is ready for examination, including fee processing, minimum filing requirement review, capture of data into automated databases, and paper file jacket assembly. In addition to processing new applications, the Office must sort through several thousand documents that are received on a daily basis. These documents must be delivered to the appropriate work unit, matched with the paper file, and entered into the file jacket and the automated systems.

To expedite processing of trademark documents and to improve the quality of data capture, the Office proposes to require that all trademark documents available in TEAS be filed electronically. Mandatory electronic filing will increase efficiency, improve the accuracy of the information in the Office's automated systems, and eliminate delays caused by mailing, manual data capture and paper processing. It will also result in fewer lost and misdirected papers. Electronic forms contain standardized data that is tagged to permit transfer into the Office's databases.

Better Service for Customers

Electronic filing benefits the public as well as the Office. TEAS is available for the filing of trademark documents 24 hours a day, seven days a week at *http://www.uspto.gov.* During the hours between 11:00 p.m. EST, Saturday and 6:00 a.m. EST, Sunday TEAS is available but credit card payments cannot be processed. Therefore, during that time period, documents that must be accompanied by a fee cannot be filed. When a document is filed electronically, the Office receives it within seconds after filing, and immediately issues a confirmation of filing via e-mail. This confirmation is evidence of filing should any question arise as to the filing date of the document. Under § 1.6(a)(4), trademark-related correspondence filed via TEAS is considered to have been filed on the date the Office receives the transmission, regardless of whether that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. Thus by using TEAS applicants, registrants and their attorneys can ensure a ''date certain'' for any filing made using TEAS. This benefit eliminates the need for the filing of applications by Express Mail.

Electronically filed applications are processed much faster than their paper counterparts. Filing receipts for TEAS applications are sent via e-mail the same day of filing, while filing receipts for paper applications are mailed about 14 days after filing; critical data concerning TEAS applications (*e.g.,* mark, goods and services, owner, etc.) are entered into the automated systems (and therefore made available to anyone searching Office records for conflicting marks) within 10 days, while data concerning paper applications are entered and made available to the public approximately 14–15 days after filing; and TEAS applications are received in the e-Commerce law offices and available for review in 20 days, while paper application files are assembled and delivered to law offices approximately 70 days after filing.

Continued increases in trademark application filings dictate that the Office change its business approach for serving the Office's customers. Electronic filing and communication allows us to provide more customers with better quality, using fewer resources. Electronic filing improves the quality and accuracy of the information that is submitted to and processed by the Office. Customers have greater assurance that the content of the electronic application is complete, because the information provided by the customer is loaded directly into the Office's automated systems. By requiring that everyone, with few exceptions, file electronically, all of the Office's customers will receive better service, because electronic filing provides a level of consistency, accuracy, and predictability that a paper-based process cannot.

The results of customer surveys clearly indicate that customers who file electronically are far more satisfied than customers who file paper applications. All of the Office's electronic customers stated that they were satisfied with the ease of access and use of the filing system and the time it took to receive a filing receipt, and 94 percent of the Office's electronic customers were satisfied with the accuracy of the filing receipt. Customers who filed paper applications were less satisfied: only 44 percent were satisfied with the accuracy of the filing receipt, and only 27 percent were satisfied with the time it took to receive it.

In their first annual report to the President, the Secretary of Commerce, and the Judiciary Committees of the United States Senate and House of Representatives, the Trademark Public Advisory Committee (TPAC) endorsed mandatory electronic filing for trademark applications. The TPAC concluded that the Office should take immediate steps to maximize the use of technology in fulfilling its mission by mandating electronic filing, to the extent allowed by law, and by replacing paper-based processes and information with electronic processes.

On December 17, 1999, the President issued a Memorandum, ''Electronic Government,'' which called on Federal agencies to use information technology to ensure that the American people can easily access governmental services and information. The Government Paperwork Elimination Act (GPEA), Title XVII, §§ 1701—1710, Pub. L. 105–277, 112 Stat. 2681–749 (44 U.S.C. 3504), was signed into law on October 21, 1998. GPEA requires Federal agencies, by October 21, 2003, to provide individuals or entities that deal with agencies the option to submit information or transact with the agency electronically, and to maintain records electronically, when practicable. GPEA is an important tool to improve customer service and governmental efficiency through the use of information technology. This improvement involves transacting business electronically with Federal agencies and widespread use of the Internet and the World Wide Web and thus furthers the goals of the GPEA.

Discussion of Specific Rules Changed or Added

The Office proposes to add a new § 1.4(h), providing that if any form required to be filed under any provision of this section is available for filing using TEAS, the form must be filed electronically, unless § 2.22 applies.

The Office proposes to amend § 1.10(a) to prohibit the use of Express Mail for any correspondence for which an electronic form exists.

The Office proposes to amend § 2.21 to add a new subsection (a)(1), requiring that an application for registration of a mark be filed using TEAS to receive a filing date, unless § 2.22 applies. Applications filed on paper will be returned and not given a filing date, unless filed with an affidavit or declaration under § 2.20 that meets the

requirement of § 2.22. The Office further proposes to redesignate §§ 2.21(a)(1) through (a)(5) as §§ 2.21(a)(2)(i) through (a)(2)(v).

The Office proposes to add new § 2.22 to provide two exceptions to the requirement that trademark documents be filed electronically: first, if the *pro se* applicant or registrant, or an attorney for applicant or registrant, verifies in an affidavit or declaration under § 2.20 that it does not have access to TEAS or does not have the technical capability to use TEAS, the *pro se* applicant or registrant, or an attorney for applicant or registrant, will not be required to file his or her trademark documents using TEAS; and second, if the applicant or registrant is a person described in 15 U.S.C. 1126(b), then the applicant or registrant will not be required to file its trademark documents using TEAS.

The Office proposes to revise § 2.76(b) to require that an amendment to allege use be filed using TEAS, unless § 2.22 applies.

The Office proposes to remove § 2.76(d), which now provides that the title ''Amendment to allege use under § 2.76'' should appear at the top of the first page of an amendment to allege use. This requirement is no longer necessary.

The Office proposes to redesignate § 2.76(e) as § 2.76(d), and to add a new § 2.76 (d)(1) to state that filing electronically is a minimum requirement that must be met before an amendment to allege use can be referred to an examining attorney for examination, unless § 2.22 applies.

The Office proposes to redesignate §§ 2.76(f) and (g) as §§ 2.76(e) and (f), and to revise them to update cross-references. The Office proposes to redesignate §§ 2.76(h) through (j) as §§ 2.76(g) through (i).

The Office proposes to revise § 2.88(b) to require that a statement of use be filed using TEAS, unless § 2.22 applies.

The Office proposes to remove § 2.88(d), which now provides that the title ''Statement of use under § 2.88'' should appear at the top of the first page of a statement of use. This requirement is no longer necessary.

The Office proposes to redesignate § 2.88(e) as § 2.88(d), and to add a new § 2.88(d)(1) to state that filing electronically is a minimum requirement that must be met before a statement of use can be referred to an examining attorney for examination, unless § 2.22 applies.

The Office proposes to redesignate §§ 2.88(f) and (g) as §§ 2.88(e) and (f), and to revise them to update cross-references. The Office proposes to redesignate §§ 2.88(h) through (l) as §§ 2.88(g) through (k).

The Office proposes to amend §§ 2.89(a) and (b) to require that a request for an extension of time to file a statement of use be filed using TEAS, unless § 2.22 applies.

The Office proposes to amend § 2.161 by redesignating paragraphs (a) through (h) as (b) through (i), adding a new paragraph (a) to require § 8 affidavits be filed using TEAS, unless § 2.22 applies, and to revise the redesignated § 2.161(f)(1) to update a cross-reference.

The Office proposes to amend § 2.166 to require that combined §§ 8 and 9 filings be filed using TEAS unless § 2.22 applies.

The Office proposes to redesignate §§ 2.167(a) through (g) as §§ 2.167(b) through (h), and to add a new § 2.167(a) to require that § 15 affidavits be filed using TEAS, unless § 2.22 applies.

The Office proposes to amend § 2.168(a) to require that §§ 8 and 15 affidavits be filed using TEAS, unless § 2.22 applies.

Rulemaking Requirements

The Office has determined that the proposed rule changes have no federalism implications affecting the relationship between the National Government and the State as outlined in Executive Order 12612.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration, that the proposed rule changes will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The rule will not significantly impact any businesses. As a result, an initial regulatory flexibility analysis was not prepared.

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). The proposed changes have been determined to be significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person is required to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. This rule contains collections of information requirements that have been approved by OMB under OMB Control Number 0651–0009. The public reporting burden for this collection of information is estimated to average as follows: seventeen minutes for applications to obtain registrations based on an intent to use the mark under 15 U.S.C. 1051(b), if completed using paper forms; fifteen minutes for applications based on 15 U.S.C. 1051(b), if completed using electronic forms; twenty-three minutes for applications to obtain registrations based on use of the mark in commerce under 15 U.S.C. 1051(a), if completed using paper forms; twenty-one minutes for applications to obtain registrations based on 15 U.S.C. 1051(a), if completed using electronic forms; twenty minutes for applications to obtain registrations based on an earlier-filed foreign application under 15 U.S.C. 1126(d), if completed using paper forms; nineteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(d), if completed using electronic forms; twenty minutes for applications to obtain registrations based on registration of a mark in a foreign applicant's country of origin under 15 U.S.C. 1126(e), if completed using paper forms; eighteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(e), if completed using electronic forms; thirteen minutes for allegations of use of the mark under §§ 2.76 and 2.88 if completed using paper forms; twelve minutes for allegations of use under §§ 2.76 and 2.88 if completed using electronic forms; ten minutes for requests for extensions of time to file statements of use under § 2.89 if completed using paper forms; nine minutes for requests for extensions of time to file statements of use if completed using electronic forms; eleven minutes for § 8 affidavits if completed using paper forms; ten minutes for § 8 affidavits if completed using electronic forms; fourteen minutes for combined §§ 8 and 9 filings if completed using paper forms; thirteen minutes for combined §§ 8 and 9 filings if completed using electronic forms; fourteen minutes for combined §§ 8 and 15 affidavits if completed using paper forms; thirteen minutes for combined §§ 8 and 15 affidavits if completed using electronic forms; eleven minutes for § 15 affidavits if completed using paper forms; and ten minutes for § 15 affidavits if completed using electronic forms. These time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the

agency's estimate of the burden; (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 to respondents. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202–3513 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: PTO Desk Officer).

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Trademarks.

37 CFR Part 2

Administrative practice and procedure, Trademarks.

For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 41, as amended, the Office proposes to amend parts 1 and 2 of title 37 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

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

Authority: 35 U.S.C. 2, unless otherwise noted.

2. Amend § 1.4 to add a new paragraph (h), to read as follows:

§ 1.4 Nature of correspondence and signature requirements.

* * * * *

(h) If any form required to be filed under any provision of this section is available for filing using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), the form must be filed using TEAS, unless § 2.22 of this chapter applies.

3. Revise § 1.10(a) to read as follows:

§ 1.10 Filing of correspondence by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office), except for correspondence available for filing using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS.

* * * * *

PART 2—RULES APPLICABLE TO TRADEMARK CASES

4. The authority citation for part 2 continues to read as follow:

Authority: 15 U.S.C. 1123; 35 U.S.C. 2, unless otherwise noted.

5. Revise § 2.21(a) to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) The Office will grant a filing date to an application if:

(1) The application is filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies; and

(2) The application contains all of the following:

(i) The name of the applicant;

(ii) A name and address for correspondence;

(iii) A clear drawing of the mark;

(iv) A listing of the goods or services; and

(v) The filing fee for at least one class of goods or services, required by § 2.6.

* * * * *

6. Add § 2.22 to read as follows:

§ 2.22 Exceptions to mandatory electronic filing.

Notwithstanding any other provision of this section, filing through the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*) is not required in the following two cases:

(a) The pro se applicant or registrant, or an attorney for applicant or registrant, who verifies in an affidavit or declaration under § 2.20 that he or she does not have access to TEAS or does not have the technical capability to use TEAS, will not be required to file its trademark documents using TEAS. Such affidavit or declaration must accompany the relevant document.

(b) The applicant or registrant who is a person described in 15 U.S.C. 1126(b) will not be required to file its trademark documents using TEAS.

7. Amend § 2.76 by removing paragraph (d), revising paragraph (b) introductory text, redesignating paragraphs (e) through (j) as (d) through (i) and revising them to read as follows:

§ 2.76 Amendment to allege use.

(a) * * *

(b) The amendment to allege use must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies. A complete amendment to allege use must include:

* * * * *

(d) The Office will review a timely filed amendment to allege use to determine whether it meets the following minimum requirements:

(1) Is filed using TEAS, unless § 2.22 applies;

(2) Includes the fee for at least a single class, required by § 2.6;

(3) Includes one specimen of the mark as used in commerce; and

(4) Includes a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant that the mark is in use in commerce.

(e) A timely filed amendment to allege use that meets the minimum requirements specified in paragraph (d) of this section will be examined in accordance with §§ 2.61 through 2.69. If, as a result of the examination of the amendment to allege use, applicant is found not entitled to registration for any reason not previously stated, applicant will be so notified and advised of the reasons and of any formal requirements or refusals. The notification shall restate or incorporate by reference all unresolved refusals or requirements previously stated. The amendment to allege use may be amended in accordance with §§ 2.59 and 2.71 through 2.75. If the amendment to allege use is acceptable in all respects, the applicant will be notified of its acceptance. The filing of such an amendment shall not constitute a response to any outstanding action by the Trademark Examining Attorney.

(f) If the amendment to allege use is filed within the permitted time period but does not meet the minimum requirements specified in paragraph (d) of this section, applicant will be notified of the deficiency. The deficiency may be corrected if the mark has not been approved for publication. If an acceptable amendment to correct the deficiency is not filed prior to approval of the mark for publication, the amendment to allege use will not be examined on the merits.

(g) An amendment to allege use may be withdrawn for any reason prior to approval of a mark for publication.

(h) If the applicant does not file the amendment to allege use within a reasonable time after it is signed, the Office may require a substitute verification or declaration under § 2.20 stating that the mark is still in use in commerce.

(i) For the requirements for a multiple class application, see § 2.86.

8. Amend § 2.88 by removing paragraph (d), revising paragraph (b) introductory text, redesignating paragraphs (e) through (l) as (d) through (k) and revising them to read as follows.

§ 2.88 Filing statement of use after notice of allowance.

(a) * * *

(b) The statement of use must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies. A complete statement of use must include:

* * * * *

(d) The Office will review a timely filed statement of use to determine whether it meets the following minimum requirements:

(1) Is filed using TEAS, unless § 2.22 applies;

(2) Includes the fee for at least a single class, required by § 2.6;

(3) Includes one specimen of the mark as used in commerce;

(4) Includes a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant that the mark is in use in commerce. If the verification or declaration is unsigned or signed by the wrong party, the applicant must submit a substitute verification on or before the statutory deadline for filing the statement of use.

(e) A timely filed statement of use that meets the minimum requirements specified in paragraph (d) of this section will be examined in accordance with §§ 2.61 through 2.69. If, as a result of the examination of the statement of use, applicant is found not entitled to registration, applicant will be notified and advised of the reasons and of any formal requirements or refusals. The statement of use may be amended in accordance with §§ 2.59 and 2.71 through 2.75. If the statement of use is acceptable in all respects, the applicant will be notified of its acceptance.

(f) If the statement of use does not meet the minimum requirements specified in paragraph (d) of this section, applicant will be notified of the deficiency. If the time permitted for applicant to file a statement of use has not expired, applicant may correct the deficiency. After the filing of a statement of use during a permitted time period for such filing, the applicant may not withdraw the statement to return to the previous status of awaiting submission of a statement of use, regardless of whether it complies with paragraph (d) of this section.

(g) The failure to timely file a statement of use that meets the minimum requirements specified in paragraph (d) of this section shall result in the abandonment of the application.

(h)(1) The goods or services specified in a statement of use must conform to those goods or services identified in the notice of allowance. An applicant may specify the goods or services by choosing the statement that ''The applicant is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance;'' or, if appropriate, choosing the statement that ''The applicant is using the mark in commerce on or in connection with all goods and/or services listed in the application or Notice of Allowance, except the goods and/or services listed below,'' and listing in the space provided the goods or services to be deleted.

(2) If any goods or services specified in the notice of allowance are omitted from the identification of goods or services in the statement of use, the Trademark Examining Attorney shall inquire about the discrepancy and permit the applicant to amend the statement of use to include any omitted goods or services, provided that the amendment is supported by a verification that the mark was in use in commerce, on or in connection with each of the goods or services sought to be included, prior to the expiration of the time allowed to applicant for filing a statement of use.

(3) The statement of use may be accompanied by a separate request to amend the identification of goods or services in the application, as stated in the notice of allowance, in accordance with § 2.71(b).

(i) The statement of use may be accompanied by a separate request to amend the drawing in the application, in accordance with §§ 2.51 and 2.72.

(j) If the statement of use is not filed within a reasonable time after the date it is signed, the Office may require a substitute verification or declaration under § 2.20 stating that the mark is still in use in commerce.

(k) For the requirements for a multiple class application, see § 2.86.

9. Amend § 2.89 by revising paragraphs (a) introductory text, (a)(1), (b) introductory text, and (b)(1) to read as follows:

§ 2.89 Extensions of time for filing a statement of use.

(a) The applicant may request a six-month extension of time to file the statement of use required by § 2.88. The extension request must be filed within six months of the mailing date of the notice of allowance under section 13(b)(2) of the Act, and must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies. The extension request must include the following:

(1) A request for an extension of time to file the statement of use;

* * * * *

(b) Before the expiration of the previously granted extension of time, the applicant may request further six-month extensions of time to file the statement of use. The extension request must be filed using TEAS unless § 2.22 applies, and must include the following:

(1) A request for an extension of time to file the statement of use;

* * * * *

10. Revise § 2.161 to read as follows:

§ 2.161 Requirements for a complete affidavit or declaration of continued use or excusable nonuse.

A complete affidavit or declaration under section 8 of the Act must:

(a) Be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies;

(b) Be filed by the owner within the period set forth in § 2.160(a);

(c) Include a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the owner, attesting to the continued use or excusable nonuse of the mark within the period set forth in section 8 of the Act. The verified statement must be executed on or after the beginning of the filing period specified in § 2.160(a). A person who is properly authorized to sign on behalf of the owner is:

(1) A person with legal authority to bind the owner; or

(2) A person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the owner; or

(3) An attorney as defined in § 10.1(c) of this chapter who has an actual or implied written or verbal power of attorney from the owner.

(d) Include the registration number;

(e)(1) Include the fee required by § 2.6 for each class of goods or services that the affidavit or declaration covers;

(2) If the affidavit or declaration is filed during the grace period under section 8(c)(1) of the Act, include the late fee per class required by § 2.6;

(3) If at least one fee is submitted for a multi-class registration, but the class(es) to which the fee(s) should be applied are not specified, the Office will issue a notice requiring either the submission of additional fee(s) or an indication of the class(es) to which the original fee(s) should be applied. Additional fee(s) may be submitted if the requirements of § 2.164 are met. If the required fee(s) are not submitted and

the class(es) to which the original fee(s) should be applied are not specified, the Office will presume that the fee(s) cover the classes in ascending order, beginning with the lowest numbered class;

(f)(1) Specify the goods or services for which the mark is in use in commerce, and/or the goods or services for which excusable nonuse is claimed under paragraph (g)(2) of this section;

(2) If the affidavit or declaration covers less than all the goods or services, or less than all the classes in the registration, specify the goods or services being deleted from the registration;

(g)(1) State that the registered mark is in use in commerce on or in connection with the goods or services in the registration; or

(2) If the registered mark is not in use in commerce on or in connection with all the goods or services in the registration, set forth the date when use of the mark in commerce stopped and the approximate date when use is expected to resume; and recite facts to show that nonuse as to those goods or services is due to special circumstances that excuse the nonuse and is not due to an intention to abandon the mark;

(h) Include a specimen showing current use of the mark for each class of goods or services, unless excusable nonuse is claimed under paragraph (g)(2) of this section. The specimen must:

(1) Show the mark as actually used on or in connection with the goods or in the sale or advertising of these services. A photocopy or other reproduction of the specimen showing the mark as actually used is acceptable. However, a photocopy that merely reproduces the registration certificate is not a proper specimen.

(2) Be flat and no larger than 8½ inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long, if not submitted electronically. If a specimen exceeds these size requirements (a ''bulky specimen''), the Office will create a facsimile of the specimen that meets the requirements of the rule (i.e., is flat and no larger than 8½ inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long) and put it in the file wrapper;

(i) If the registrant is not domiciled in the United States, the registrant must list the name and address of a United States resident upon whom notices or process in proceedings affecting the registration may be served.

11. Revise § 2.166 to read as follows:

§ 2.166 Affidavit of continued use or excusable nonuse combined with renewal application.

An affidavit of declaration under section 8 of the Act and a renewal application under section 9 of the Act may be combined into a single document, provided that the document meets the requirements of both sections 8 and 9 of the Act. The combined document must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies.

12. Revise § 2.167 to read as follows:

§ 2.167 Affidavit or declaration under section 15.

The affidavit or declaration in accordance with § 2.20 provided by section 15 of the Act for acquiring incontestability for a mark registered on the Principal Register or a mark registered under the Act of 1881 or 1905 and published under section 12(c) of the Act (§ 2.153) must:

(a) Be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies;

(b) Be signed by the registrant;

(c) Identify the certificate of registration by the certificate number and date of registration;

(d) Recite the goods or services stated in the registration on or in connection with which the mark has been in continuous use in commerce for a period of five years after the date of registration or date of publication under section 12(c) of the Act, and is still in use in commerce;

(e) Specify that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register;

(f) Specify that there is no proceeding involving said rights pending in the Patent and Trademark Office or in a court and not finally disposed of;

(g) Be filed within one year after the expiration of any five-year period of continuous use following registration or publication under section 12(c). The registrant will be notified of the receipt of the affidavit or declaration.

(h) Include the required fee for each class to which the affidavit or declaration pertains in the registration. If no fee, or a fee insufficient to cover at least one class, is filed at an appropriate time, the affidavit or declaration will not be refused if the required fee(s) (See § 2.6) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office. If insufficient fees are included to cover all classes in the registration, the particular class or classes to which the affidavit or declaration pertains should be specified.

13. Amend § 2.168 by revising paragraph (a) to read as follows:

§ 2.168 Affidavit or declaration under section 15 combined with affidavit or declaration under section 8, or with renewal application.

(a) The affidavit or declaration filed under section 15 of the Act may also be used as the affidavit or declaration required by section 8, if the affidavit or declaration meets the requirements of both sections 8 and 15. The document must be filed using the Trademark Electronic Application System (TEAS, available at *http://www.uspto.gov*), unless § 2.22 applies.

* * * * *

Dated: August 24, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–21878 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA117–4132; FRL–7047–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; One-Hour Ozone Attainment Demonstration Plan for the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision submits an analysis and determination that there are no additional reasonably available control measures (RACM) available to advance the area's attainment date after adoption of all Clean Air Act (Act) required measures. On December 16, 1999, EPA proposed to approve, and to disapprove in the alternative, the attainment demonstration State implementation plan (SIP) for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area). The intended effect of this action is to propose approval of a reasonably

available control measure (RACM) analysis submitted by the Commonwealth of Pennsylvania. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 1, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179. Or by e-mail at cripps.christopher@*epa.gov*. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

A. When did Pennsylvania submit the RACM analysis? On July 19, 2001, the Commonwealth of Pennsylvania (Pennsylvania) submitted the RACM analysis for the Philadelphia area as a SIP revision.

B. Did Pennsylvania submit any other revisions to or other material relevant to the attainment demonstration on July 19, 2001? On July 19, 2001, Pennsylvania also submitted revised motor vehicle emissions budgets for the Pennsylvania portion of the Philadelphia area that include the benefits of the Federal Tier 2/Sulfur rule, and a revised enforceable commitment to conduct a mid-course review. The revised budgets and revised enforceable commitment submitted on July 19, 2001 are the subject of a separate supplemental notice of proposed rulemaking published recently in the **Federal Register**.

II. Analysis of the Pennsylvania Submittal

A. What are the requirements for reasonably available control measures (RACM)? Section 172(c)(1) of the Act requires SIPs to contain reasonably available control measures (RACM) as necessary to provide for attainment. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). (See 57 FR 13498, 13560, April 16, 1992.) In that guidance, EPA indicates that potentially available control measures, which would not advance the attainment date for an area, would not be considered RACM under the Act. EPA concludes that a measure would not be reasonably available if it would not advance attainment. EPA's guidance also indicates that states should consider all potentially available measures to determine whether they are reasonably available for implementation in the area, including whether or not they would advance the attainment date. Further, the guidance calls for states to indicate in their SIP submittals whether measures considered are reasonably available or not, and if so the measures must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation concerns. The EPA also issued a recent memorandum on this topic, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

B. How does this submission address the RACM requirement? The analysis submitted by the Commonwealth on July 19, 2001, as a supplement to its attainment demonstration SIP for the Philadelphia area, addresses the RACM requirement. The Commonwealth convened a stakeholders group (the Southeastern Pennsylvania Ozone Stakeholders Group) to examine a wide variety of potential stationary source and mobile source controls. The stationary/area source controls that were considered included the adoption of South Coast Air Quality Management District/California Air Resources Board's (SCAQMD/CARB) limits for certain volatile organic compound (VOC) source categories that are more stringent than the already adopted control technique guideline (CTG) limits (e.g., fabric/paper, magnet wire, vinyl, miscellaneous metal parts, coil and metal furniture coating); limits on area source categories not covered by a CTG (e.g., adhesives, motor vehicle refinishing, surface/cleaning degreasing, underground storage tank vents); rule effectiveness improvements; wood furniture coating (Pennsylvania has a SIP-approved rule encompassing the reasonably available control technology limits recommended under the CTG; under consideration for the RACM analysis was expanding the applicability of those limits to sources smaller than those covered by the CTG); ''beyond RACT'' controls on major stationary sources of nitrogen oxides (NO_X); and other potential measures. The mobile source control measures considered included the national low emission vehicle program, accelerated replacement of older buses with cleaner buses, compressed natural gas (CNG) fueled buses, and emissions-based vehicle registration fees. Mobile source controls also included control measures aimed at reducing vehicle trips, travel or congestion via land use planning, traffic flow improvements (signalization, ramp metering, speed limit restriction enforcement), improved mass transit, expanded parking at rail stations, telecommuting, bicycle lanes or access improvements at rail stations, parking taxes/surcharge, and increased gasoline taxes or miles travel based fees. The Commonwealth considered an extensive list of potential control measures and chose measures for implementation which went beyond the Federally mandated controls, which were found to be cost effective and technologically feasible. From the list of measures considered, the rules and measures adopted and submitted by Pennsylvania, as analyzed and examined by the stakeholders group, are as follows:

(1) Pennsylvania has adopted, and EPA has SIP-approved, the Commonwealth's rule for vehicle refinishing. The rule includes VOC content limits for motor vehicle refinishing coatings, application standards and storage and housekeeping work practices. This rule goes beyond the Federal rule in content limits and application and work practices standards. Compliance with this rule was required in 2000.

(2) Pennsylvania has adopted, and EPA has SIP-approved, the Commonwealth's rule requiring the sale of vehicles under the national low-emission vehicle program.

(3) Pennsylvania has adopted, and EPA has SIP-approved, the Commonwealth's rule to implement Phase II NO_X controls under the Ozone Transport Commission's (OTC) Memorandum of Understanding (MOU). This rule established a fixed cap on ozone-season NO_X emissions from major point sources of NO_X. The rule grants

each source a fixed number of NO_X allowances, applies state-wide, and requires compliance during the ozone season. The implementation of this rule commenced May 1, 1999 in the Commonwealth and reduces NO_X emissions both inside and outside the Philadelphia area.

(4) Pennsylvania has adopted and EPA has proposed approval of the Commonwealth's rule to implement the NO_X SIP call. We received no adverse comments on our proposed approval and expect to publish our final approval in the near future. The Pennsylvania rule requires compliance commencing with the start of the 2003 ozone season. (This measure was identified as Phase III control under the OTC MOU on NO_X control in the submittal because the evaluation occurred in 1996 well before the SIP call proposal.)

(5) Pennsylvania has also adopted rule effectiveness improvements for the implementation of regulations through the attainment year of 2005 for its portion of the Philadelphia area as part of its post 1996 Rate of Progress Plan which EPA has proposed or will shortly propose to approve in a separate rulemaking action in the **Federal Register**.

A large number of the considered measures have the potential to achieve benefits but are not considered to be cost effective, others have the potential for substantial widespread and long-term adverse impacts and one measure, a mandatory ban on residential lawn care activities on high ozone days, was considered infeasible due to the impracticability of effective enforcement. These are explained in further detail in the docket for this rulemaking.

The attainment demonstration for the Philadelphia area contains modeling using the urban airshed model (UAM) which demonstrates that the Philadelphia area cannot attain solely through reductions in the Philadelphia nonattainment area. The Philadelphia area relies on background reductions of transported ozone to attain the 1-hour ozone standard. EPA established in the NO_X SIP Call, promulgated on October 27, 1998 (63 FR 57356), the appropriate division of control responsibilities between the upwind and downwind States under the Act. In *Michigan* v. *EPA*, 213 F.3d 663 (D.C. Cir. 2000), the court upheld the NO_X SIP Call on most issues, although a subsequent order of the court delays the implementation date to no later than May 31, 2004. EPA is moving forward to implement those portions of the rule that have been upheld, ensuring that most—if not all—of the emission reductions from the NO_X SIP Call assumed in the 1-hour ozone NAAQS attainment demonstration for the Philadelphia area will occur. EPA's modeling to determine the region-wide impacts of the NO_X SIP Call clearly shows that regional transport of ozone and its precursors is impacting nonattainment areas several states away, and this analysis was upheld by the court. Also, on January 18, 2000 (65 FR 2674), EPA promulgated a final rule on petitions filed pursuant to section 126 of the Act by eight Northeastern States including Pennsylvania, that sought to mitigate interstate transport of NO_X emissions from a number of large electric generating units (EGUs) and large industrial boilers and turbines. Because the allocation of responsibility for transport was not made until late 1998 and early 2000, the prohibitions on upwind contributions under section 110(a)(2)(D) and section 126 could not be enforced prior to 2003 or 2004. The implementation of the control measures in states upwind of the Philadelphia area that are needed to eliminate the significant contribution of sources in those states—will not ripen until 2003 under the section 126 petitions or 2004 under the NO_X SIP call.

To demonstrate attainment of the one hour ozone standard, the UAM modeling required the Pennsylvania portion of the Philadelphia area to achieve emissions levels on the order of 428 tons per day of VOC emissions and 317 tons per day of NO_X. The ROP plan for 2005 is projected to get emissions levels down to 428 tons per day of VOC emissions and 310 tons per day of NO_X. The ROP plan does not consider the effects of the Federal Tier 2/Sulfur rule nor Pennsylvania's NO_X SIP call rule. These two programs will further reduce emissions in the area staring with the 2004 model year vehicles in the case of the Tier 2/Sulfur program and May 2003 for Pennsylvania's SIP call rule. Any potential reductions from the remaining potential RACM measures in aggregate are relatively small as documented in the docket compared to the ROP reductions (plus the additional benefits of Pennsylvania's SIP call rule and the Tier 2/Sulfur benefits) that will be reached by the 2005 attainment date.

Thus, EPA concludes that no additional measures could advance the attainment date for the Philadelphia area prior to full implementation of all upwind and local controls scheduled for implementation by 2005.

III. Opening of the Public Comment Period

The EPA is opening a comment period for 30 days to take comment on the Commonwealth's July 19, 2001 RACM submittal discussed above. EPA is proposing to approve Pennsylvania's SIP revision for RACM, which was submitted on July 19, 2001, as a supplement to its 1-hour attainment demonstration for the Philadelphia area. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

IV. Proposed Action

EPA is proposing to approve the RACM analysis submitted by the Commonwealth of Pennsylvania on July 19, 2001 as a supplement to its 1-hour attainment demonstration for the Philadelphia area.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule regarding Pennsylvania's RACM analysis for the Philadelphia area does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

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

Dated: August 24, 2001.

Judith M. Katz,

Acting Regional Administrator, Region III.

[FR Doc. 01–21926 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE034/045/055–1016; FRL–7047–4]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Post 1996 Rate-of-Progress Plan for the Delaware Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area and Revisions Related to the Area's Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Delaware. These revisions establish the three (3) percent per year emission reduction rate-of-progress (ROP) requirement for the period from 1996 through 2005 for the Delaware portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area), namely Kent and New Castle Counties. In conjunction with the ROP plans, themselves, EPA is also proposing to approve Delaware's contingency measures for ROP. EPA is also proposing to approve two revised enforceable commitments submitted by Delaware in response to EPA's December 16, 1999 proposed rulemaking action to approve the Philadelphia area's attainment demonstration. This proposal serves to open a comment period on these proposed revisions to the attainment demonstration plan.

DATES: Written comments must be received on or before October 1, 2001.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182 or by e-mail at quinto.rose@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Clean Air Act Requirements

For severe ozone nonattainment areas, the Clean Air Act (the Act) requires states to submit a plan to the United States Environmental Protection Agency (EPA) to achieve a fifteen (15) percent net reduction by November 15, 1996 of actual anthropogenic (human-caused) volatile organic compound (VOC) emissions. In addition to the 15 percent reduction, the Act also requires states to submit SIP revisions that achieve actual VOC emission reductions of at least 3 percent per year averaged over each consecutive 3-year period beginning November 1996, until the severe area's applicable attainment date of 2005. These ROP emission reductions are based on the states' 1990 emission levels. The Act also provides for crediting of VOC emission reductions achieved in the 1990–1996 period to the Post-1996 ROP plan if they are in excess of 15 percent VOC reductions requirements, and substitution of any anthropogenic nitrogen oxides (NO_X) emission reductions, net of growth, occurring in the post-1990 period for the post-1996 VOC emission reduction requirements.

The SIP revision for the 1990–1996 reductions is termed the ''15 Percent ROP plan,'' and the plans for an average 3 percent per year reduction over each 3-year period after 1996 are collectively termed the ''Post-1996 ROP plan.'' The Post-1996 ROP plan for a severe area with an attainment date of 2005, has 3 milestone years, 1999, 2002 and 2005. To satisfy the Post-1996 Plan requirement, States generally developed separate plans for each 3 year period and refer to those plans as the1999 ROP plan, the 2002 ROP plan and the 2005 ROP plan.

For states within the Ozone Transport Region (OTR) with serious and above ozone nonattainment areas, a memorandum dated March 2, 1995, from Mary D. Nichols, EPA's then Assistant Administrator for Air and Radiation, provides for a two-phased approach to the Post-1996 ROPs. Briefly, in Phase I, the states are required to develop a plan for the milestone year of 1999 which includes necessary control measures to achieve a 9 percent reduction of VOC and/or NO_X emissions between November 1996 and November 1999. In Phase II, the states are required to assess the regional and local control measures necessary to meet the rate-of-progress requirements through the

attainment year and to achieve attainment. Thus severe ozone nonattainment areas such as the Philadelphia area, the Phase II plan needed to identify the measures needed to demonstrate ROP through the 2005 attainment year. States were to phase-in adoption of rules and implement measures to meet ROP beginning no later than 1999.

The Philadelphia nonattainment area is comprised of seven counties in New Jersey, five counties in Pennsylvania, two counties in Delaware and one county in Maryland. These jurisdictions made a collective decision that each would be responsible for producing ROP plans for its portion of the Philadelphia area using its 1990 baseline of emissions.

Section 172(c)(9) of the Act requires moderate and above ozone nonattainment areas to adopt contingency measures to be implemented should the area fail to achieve ROP or to attain by its attainment date. In addition, section 182(c)(9) of the Act requires serious and above areas to adopt contingency measures which would be implemented if the area fails to meet any applicable milestone.

Under EPA's transportation conformity rule, like an attainment plan, an ROP plan is referred to as a control strategy SIP (62 FR 43779). A control strategy SIP identifies and establishes the motor vehicle emissions budgets (MVEBs) to which an area's transportation improvement program and long range transportation plan must conform. Conformity to a control strategy SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standard.

On December 16, 1999, we published a notice of proposed rulemaking (NPR) proposing approval of the attainment demonstration SIP revision submitted by Delaware for the Philadelphia area (64 FR 70444). Our approval was contingent upon certain actions by Delaware for the Philadelphia area. These actions were: (1) Delaware had to adopt and submit an adequate motor vehicle emissions budgets including the benefits of the Federal Tier 2/Sulfur-in-Fuel rule (required because the Philadelphia area's attainment SIP includes the benefits of EPA's Tier 2/Sulfur-in-Fuel rule); and (2) Delaware had to adopt and submit enforceable commitments to do the following:

(a) Submit measures by October 31, 2001 for additional emission reductions as required in the attainment demonstration test as discussed in section I.C.5. of the December 16, 1999 proposed approval. For additional emission reduction measures developed through the regional process, the state must also submit an enforceable commitment for the additional measures and a backstop commitment to adopt and submit intrastate measures for the emission reductions in the event the regional process does not recommend measures that produce emission reductions.

(b) Submit a revised SIP and motor vehicle emissions budgets by October 31, 2001 if additional measures affect the motor vehicle emissions inventory.

(c) Submit a revised SIP and motor vehicle emissions budgets one year after MOBILE6 issued.

(d) Perform a mid-course review.

On December 16, 1999, EPA proposed approval of the attainment demonstrations for ten ozone nonattainment areas in the eastern United States (64 FR 70317). On July 28, 2000, we published a supplemental notice of proposed rulemaking (SNPR) on the attainment demonstration (65 FR 46383). In that SNPR, we clarified and expanded on two issues relating to the motor vehicle emissions budgets for the SIP revisions subject to all of these December 16, 1999 proposed actions. In the July 28, 2000 SNPR, we reopened the comment period to take comment on these two issues and to allow comment on any additional materials that were placed in the dockets for the proposed actions close to or after the initial comment period closed on February 14, 2000. For many of the areas, including the Philadelphia area, covered by the July 28, 2000 SNPR, additional information had been placed in the docket during or after the initial comment period concluded. In general, the SNPR identified these materials as consisting of motor vehicle emissions budgets, and revised or additional commitments or reaffirmations submitted by the States (65 FR at 46387, July 28, 2000).

On January 24, 2000 (prior to July 28, 2000 but during the original comment period), DNREC submitted revised motor vehicle emissions budgets that reflect the benefits from EPA's Tier 2/Sulfur rule and the enforceable commitments to: (1) Adopt control measures consistent with the reductions assumed in the attainment plan, and assume reductions in transported NO_X consistent with EPA's NO_X SIP Call; (2) adopt additional measures that can be adopted regionally such as in the OTR, or locally; and (3) conduct a mid-course review. The comment period established by the July 28, 2000 SNPR concluded on August 28, 2000.

As stated above, on January 24, 2000, Delaware submitted an addendum to its May 22, 1998 submittal of the Phase II attainment plan for the Philadelphia area that provided revised emission budgets for the on-road mobile source portion of the plan which reflect the benefits of the National Low Emission Vehicle program (NLEV), Heavy-Duty Diesel Engine (HDDE) rule, Reformulated Gasoline (RFG II) and the Tier 2/Low Sulfur rule. On May 31, 2000, EPA determined the attainment budgets to be adequate for transportation conformity purposes. That determination became effective on June 23, 2000 (65 FR 36440, June 8, 2000). As stated earlier, the submittal of January 24, 2000 also included the enforceable commitments.

As stated earlier, the attainment date for the Philadelphia area severe ozone nonattainment area is 2005. This rulemaking addresses the SIP revisions submitted by DNREC to satisfy the Post-1996 ROP requirements of the Act for the Delaware portion of the Philadelphia area, namely Kent and New Castle Counties. In this rulemaking, EPA is proposing to approve Delaware's plans demonstrating ROP through the 2005 attainment year. Also as part of this rulemaking, EPA is proposing to approve the contingency measures that were submitted with the Delaware ROP plans. EPA is also proposing to approve the two revised enforceable commitments that Delaware submitted in response to our December 16, 1999 proposed rulemaking.

II. Delaware State Implementation Plan Submittals

A. Rate-of-Progress Plans

All the aforementioned rate-of-progress emission reductions are to be from the state's 1990 emission levels. Delaware's 1990 Base Year Ozone Emission Inventory, which is an inventory of the 1990 actual VOC, NO_X, and CO emissions from all sources in Delaware (stationary, on-road mobile, off-road mobile, area and biogenic), was submitted to EPA as a SIP revision on May 27, 1994, and was approved on January 24, 1996 (61 FR 1838). Delaware's actual 1990 VOC and NO_X emissions are 196.52 tons per day (tpd) and 162.82 tpd, respectively. Since the ozone NAAQS attainment date for the Philadelphia area is 2005, Delaware is required to submit a 15 Percent ROP plan, and ROP plans for the three post-1996 milestone years, i.e., 1999, 2002, and 2005 for Kent and New Castle Counties. Delaware's 15 Percent ROP

was submitted to EPA as a SIP revision in February 17, 1995. In this plan, Delaware showed that, by implementing necessary control measures, the required 15 percent VOC emission reduction could be successfully met by 1996. EPA fully approved Delaware's 15 Percent ROP on October 12, 1999 (64 FR 55139).

Delaware's 1999 ROP plan, the first post-1996 SIP revision developed according to the Phase I requirements set forth in the Nichols' memorandum, was submitted to EPA on December 29, 1997. On June 17, 1999, Delaware submitted amendments to the 1999 ROP plan. The Phase I plan contained the first 9 percent ROP demonstration for the 1999 milestone year, and enforceable commitments to address the first phase of the attainment plan. On May 22, 1998, Delaware submitted the Phase II attainment demonstration document for the Philadelphia area. EPA asked Delaware to submit additional technical information for the Phase II plan. Delaware submitted the Phase II supplement on October 8, 1998. In the May 22, 1998 submittal, Delaware made a commitment to submit a SIP revision to EPA before the end of 2000 to address the emission reductions for the post-1999 rate of progress milestone years up to the 2005 attainment date for the one hour ozone standard (*i.e.,* 2002, 2005). Delaware submitted its 2002 ROP plan on February 3, 2000 and amendments to that plan on December 20, 2000. Delaware submitted its 2005 ROP plan on December 20, 2000.

B. Amendments to the Attainment Demonstration

On December 20, 2000, Delaware submitted amendments to the enforceable commitments it previously had submitted as required by our December 16, 1999 proposed action. These amendments involve commitments made by Delaware to: (1) Submit by October 31, 2001, additional measures for additional emission reductions, and (2) revise the SIP and the motor vehicle emission budgets within a year of the release of MOBILE6. The commitments submitted on December 20, 2000 have been placed in docket for the attainment demonstration SIP. We are proposing to approve these revised enforceable commitments, which were submitted on December 20, 2000, as part of Delaware's attainment demonstration SIP for the Philadelphia area. We are soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. EPA Evaluation of Delaware's Post 1996 ROP Submittals

A. Demonstrating Rate of Progress

Target Levels of VOC and NO_X Emissions

The first step in demonstrating ROP is to determine the target level of allowable emissions for each ROP milestone year. The target level of emissions represents the maximum amount of emissions that can be emitted in a nonattainment area in the given ROP milestone year, which in this case is 1999, 2002 or 2005. The Act allows states to substitute NO_X emission reductions for VOC emission reductions in Post-1996 ROP plans. The required ROP is demonstrated when the sum of all creditable VOC and NO_X emission reductions equal at least 3 percent per year grouped in three year periods (i.e., 1996–1999), or for a total of 9 percent. If a state wishes to substitute NO_X for VOC emission reductions, then a target level of emissions demonstrating a representative combined 9 percent emission reduction in VOC and NO_X emissions must be developed for that milestone year. The six steps involved in calculating the target level of emissions for the milestone years are described below.

(1) Develop the 1990 base year inventory for VOC and NO_X.

(2) Develop the 1990 baseline inventory. The baseline inventory is calculated by removing from the 1990 base year inventory: biogenic emissions, any emissions from the sources located outside of the nonattainment area, and the non-reactive perchloroethylene (PERC) emissions (for VOC inventory only). In addition, the 1990 baseline inventory for Delaware's portion the Philadelphia area has been amended due to switching from the MOBILE5a model to the MOBILE5b model.

(3) Develop the 1990 adjusted base year inventory. The 1990 adjusted baseline inventory excludes VOC and NO_X emissions reductions achieved by the Federal Motor Vehicle Program (FMVCP) and Reid Vapor Pressure (RVP) regulations promulgated prior to the enactment of the Act (Section 182 (b)(1)(D)).

(4) Calculate the fleet turnover correction term for the three year period. The fleet turnover correction is the difference between the FMVCP/RVP emission reductions calculated in step 3 and the previous milestone year's FMVCP/RVP emission reductions.

(5) Calculate the required VOC and NO_X emission reduction to demonstrate ROP for each consecutive three year milestone interval (multiply the adjusted base year inventory by 0.09).

(6) Calculate the target levels of VOC and NO_X emissions in each milestone years. The target levels in each milestone years are calculated by subtracting the required emission reductions (see step 5) and the fleet turnover corrections (see step 4) from the previous milestone year. One exception is the calculation of NO_X emission target for the 1999 milestone year. Because 1999 is the first milestone year with respect to NO_X emission reduction, the target calculation does not subtract the fleet turnover correction (EPA Guidance on the Post-1996 Rate of Progress Plan and Attainment Demonstration, February 1994).

Because Delaware used MOBILE5b in estimating the on-road mobile source emissions, the VOC and/or NO_X target levels for 1996, 1999 and 2002 have also been recalculated to account for the use of MOBILE5b. The calculations and results are summarized in Table 1. The VOC and NO_X emissions are in tons per day (tpd) in the peak ozone season (June 1 through August 31).

TABLE 1.—TARGET LEVELS OF VOC AND NO_X EMISSIONS (IN TPD) IN EACH MILESTONE YEAR

Description	Emissions	
	VOC	NO_X
1996 Target Level—VOC	115.79	
1990 Baseline Adjusted for 1999—NO_X		158.97
For the 1999 Milestone Year:		
Emission Reduction for Rate of Progress	2.08	11.84
Fleet Turnover Correction for 1996–1999	1.90	0.00
Target Level for 1999	111.81	147.13

TABLE 1.—TARGET LEVELS OF VOC AND NO_X EMISSIONS (IN TPD) IN EACH MILESTONE YEAR—Continued

Description	Emissions	
	VOC	NO_X
For the 2002 Milestone Year:		
Emission Reduction for Rate of Progress	11.16	0.98
Fleet Turnover Correction for 1999–2002	1.2	0.43
Target Level for 2002	99.45	145.72
For the 2005 Milestone Year:		
Emission Reduction for Rate of Progress	3.04	10.63
Fleet Turnover Correction for 2003–2005	0.63	0.16
Target Level for 2005	95.78	134.93

Growth Projections (1990–2005)

Section 182(c)(2) of the Act requires Delaware's two severe ozone nonattainment counties (Kent and New Castle Counties) to achieve a 3 percent per year emissions reduction averaged over each consecutive 3-year period after 1996, plus offsetting emission growth, until 2005, the year of attainment for the Philadelphia area. To determine the total amount of VOC and NO_X emissions reductions for 1999, 2002 and 2005 ROP, the emissions levels for the milestone years must be estimated. For this purpose, the growth factors are developed for various source categories of emissions based on economic indicators. The 1990 baseline emissions multiplied by these growth factors, and the resulting inventory is called the Current Control Projection Inventory. The current control projections are estimates of VOC and NO_X emissions that will occur in each milestone year, if no new emission control measures are implemented between 1990 and 2005. The differences between the milestone year current control projections and the milestone year target level of emissions are the total VOC and/or NO_X emissions that Delaware must plan to reduce in order to meet the VOC and/or NO_X reduction requirements for that milestone year. The required reductions are summarized in Table 2.

TABLE 2.—REQUIRED VOC AND NO_X EMISSION REDUCTION FOR EACH MILESTONE YEAR IN TPD

Description	1999		2002		2005	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Projected Uncontrolled Emissions	153.73	184.04	159.00	186.87	164.08	195.47
Target Level	111.81	147.13	99.45	145.71	95.78	134.93
Emissions Reductions Required	41.92	36.91	59.55	41.15	68.30	60.54

The methodologies used by Delaware to project emissions growth and EPA's evaluation are discussed in more detail in a Technical Support Document (TSD) prepared in support of this proposed rulemaking. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. We believe that the methodology employed in Delaware's ROP plans for selecting growth factors and applying them to the 1990 base year emissions inventory to estimate emissions growth in point, area, on-road mobile and off-road mobile sources is approvable.

Evaluation of Emission Control Measures

The ROP plan is to demonstrate how the state will reduce emissions 3 percent per year, grouped in three year intervals, through the area's attainment year. In general, reductions toward ROP requirements are creditable provided the control measures occurred after 1990 and are real, permanent, quantifiable, federally enforceable and they occurred by the applicable ROP milestone year. A detailed evaluation of each of the control measures implemented by Delaware can be found in the TSD prepared for this rulemaking. Table 3 below provides a summary of the control measures used by Delaware to achieve ROP in Kent and New Castle Counties. All control measures in the ROP demonstration have been adopted and fully implemented by the State of Delaware or are Federal measures being implemented nationally. All state control measures have been fully approved by EPA into the Delaware SIP and are permanent and enforceable. The mobile source control programs include the total amount of reductions associated with vehicle inspection and maintenance, Tier 1 motor vehicle emission standards, reformulated gasoline, the National Low Emissions Vehicle (NLEV) program, highway heavy duty diesel engine standards, and Tier 2 emission standards and low sulfur fuel standards. EPA's MOBILE5b emissions model was used to generate mobile source emission reductions.

TABLE 3.—SUMMARY OF VOC AND NO_X EMISSION CONTROL MEASURES AND EMISSION REDUCTIONS FOR EACH MILESTONE YEAR IN TONS PER DAY

Control Measures	1999 Reductions		2002 Reductions		2005 Reductions	
	VOC	NO_X	VOC	NO_X	VOC	NO_X
Point and Area Source Controls						
VOC RACT	7.63	.....	7.74	.....	8.52	.....
Non-CTG RACT	0.37	.....	0.38	.....	0.38	.....
NO_X RACT	.....	2.24	.....	2.32	.....	2.39
OTR Regional NO_X MOU	.....	28.91	.....	27.22	.....	.....
Federal NO_X SIP Call Regional Control	.....	.....	.....	.....	.....	32.93
Federal Benzene Waste Rule	1.72	.....	1.32	.....	1.32	.....
Sanitary Landfills	0.25	.....	0.35	.....	0.44	.....
Irreversible Process Changes	1.93	.....	1.96	.....	2.01	.....
Open Burning	7.67	1.53	7.83	1.56	7.81	1.59
Consumer Products	.....	.....	0.59	.....	0.59	.....
Architectural Coatings	.....	.....	1.34	.....	1.38	.....
Off-Road Mobile Source Controls						
Reformulated Fuel	0.52	.....	0.03	.....	0.03	.....
Small Spark Ignition Engines	1.78	–0.08	4.07	0.05	4.99	0.06
Compression Ignition Engines	0.00	1.12	0.73	2.82	1.07	4.38
Marine Engines	0.01	.....	1.02	−0.06	2.04	−0.11
Locomotives	.....	.....	.....	0.52	0.00	0.77
On-Road Mobile Source Controls						
FMVCP and RVP	18.12	2.14	19.93	2.53	.....	.....
Tier 1 Vehicle Emission Standards	1.42	3.41	4.28	5.95	.....	.....
Enhanced I/M	5.64	0.99	1.21	1.23	.....	.....
Reformulated Fuel	2.48	−0.17	5.88	−0.19	.....	.....
LEV Program	.....	.....	0.41	0.85	.....	.....
Heavy Duty Diesel Engines NLEV Program Tier 2 Emission Standards/Low Sulfur Fuel	.....	.....	.....	.....	0.70	3.61
Total On-Road Mobile source reductions	27.66	6.37	36.01	10.37	37.71	19.21
Total Reductions from All Controls	49.54	40.08	63.37	44.80	68.30	61.22

Milestone Year 1999: The control measures that Delaware plans to implement in order to meet the average 3 percent per year rate of progress for the milestone year 1999 are listed in Table 3 above. The VOC and NO_X emissions reductions for the nonattainment area are 49.54 and 40.08 tons per peak ozone season day (tpd), respectively. The VOC and NO_X reductions that are required by Delaware in order to meet the average 3 percent rate-of-progress requirement are 41.92 and 36.91 tons per peak ozone season day, respectively (refer to Table 2 above). Therefore, the control measures listed in Table 3 are adequate to meet the 3 percent per rate of progress requirement for the milestone year 1999.

Milestone Year 2002: The control measures that Delaware plans to implement to meet the average 3percent per year rate of progress requirement, plus offsetting the emission growth for the 1999–2002 period are listed in Table 3 above. The VOC and NO_X emissions reductions for the attainment area are 63.37 and 44.80 tpd, respectively. The VOC and NO_X reductions that are required by Delaware in order to meet the average 3 percent rate of progress requirement are 59.55 and 41.15 tpd, respectively (refer to Table 2 above). Therefore, the control measures in Table 3 are adequate to meet the average 3 percent per year rate of progress requirement, plus offsetting the emission growth for the 2000–2002 period.

Milestone Year 2005: The control measures that Delaware plans to implement to meet the average 3 percent per year rate of progress requirement, plus offsetting the emission growth for the 2003–2005 period are listed in Table 3 above. The VOC and NO_X emissions reductions for the attainment area are 68.30 and 61.22 tpd, respectively. The VOC and NO_X reductions that are required by Delaware in order to meet the average 3 percent rate-of-progress requirement are 68.30 and 60.54 tpd, respectively (refer to Table 2 above). Therefore, the control measures in Table 3 are adequate to meet the average 3 percent per year rate of progress requirement, plus offsetting the emission growth for the 2003–2005 period.

Summary of Delaware's Post-1996 ROP Demonstration

Delaware's ROP demonstration is summarized in Table 4 below. The table shows that the projected control strategy inventories are less than or equal to the target level established for each milestone year. Therefore the ROP plans demonstrate that emissions have been reduced by a minimum of 9 percent, net of growth, for each milestone year.

TABLE 4.—DELAWARE POST 1996 ROP DEMONSTRATION IN TPD

	1999 VOC	1999 NO_X	2002 VOC	2002 NO_X	2005 VOC	2005 NO_X
Projected Uncontrolled Emissions (Table 2)	153.73	184.04	159.00	186.87	164.08	195.47
Reductions From Creditable Emission Control Measures (Table 3)	49.54	40.08	63.37	44.80	68.30	61.22
Emissions Level Obtained (Uncontrolled Emissions minus Emission reductions)	104.19	143.96	95.63	142.07	95.78	134.25
Projected Target Levels (Table 1)	111.81	147.13	99.45	145.72	95.78	134.93
Surplus Emission Reductions (Target Levels Minus Emissions Obtained)	7.62	3.17	3.82	3.65	0.00	0.68

B. Motor Vehicle Emissions Budgets (MVEBs)

Under EPA's transportation conformity rule, a ROP plan is referred to as a control strategy SIP (62 FR 43779). A control strategy SIP identifies and establishes the MVEBs to which an area's transportation improvement program and long range transportation plan must conform. Conformity to a control strategy SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standard. The budgets for the Delaware ozone nonattainment area are shown in Table 5 below.

TABLE 5.—MOTOR VEHICLE EMISSION BUDGETS FOR DELAWARE ROP PLANS IN TPD

Milestone Year	VOC		NO_X	
	Kent County	New Castle County	Kent County	New Castle County
1999	7.55	22.49	11.17	29.41
2002	6.30	18.44	9.81	27.29
2005	4.84	14.76	7.90	22.92

The 1999 on-road motor vehicle emission budgets were determined adequate for transportation conformity determinations in a April 29, 1999 letter from EPA Region III to DNREC (64 FR 31217, June 10, 1999). Both the 2002 and 2005 budgets were determined adequate for transportation conformity determinations on April 5, 2001. That determination became effective May 2, 2001 (66 FR 19769, April 7, 2001). By proposing approval of Delaware's Post-1996 ROP plans, EPA is also proposing to approve these motor vehicle emission budgets established in the Post-1996 ROP plan SIPs.

C. Contingency Measures

Section 172(c)(9) of the Act requires moderate and above ozone nonattainment areas to adopt contingency measures that would be implemented should the area fail to achieve ROP or to attain by its attainment date. In addition, section 182(c)(9) of the Act requires serious and above areas to adopt contingency measures which would be implemented if the area fails to meet any applicable milestone. EPA issued a guidance, ''Early Implementation of Contingency Measures for Ozone and Carbon Monoxide Nonattainment Areas, August 13, 1993,'' that allows states to implement their contingency measures early. However, contingency measures that are implemented early cannot also be used to meet ROP. EPA does not believe it is logical to penalize areas that are taking extra steps to implement contingency measures early, nor should states be required to backfill for the early activation of contingency measures.

In its ROP plans, Delaware outlines its approach for using already implemented control measures for contingency purposes. The EPA encourages the early implementation of required control measures and of contingency measures as a means of guarding against failure to meet a milestone or to attain. Delaware's plans show an adequate amount of emission reductions have occurred beyond those required for ROP, and therefore, any surplus emission reductions can be considered as early implementation of contingency measures. Surplus emission reductions associated with control measures that are not required in the nonattainment area by the Act can be used for contingency purposes. Delaware has adopted several measures which are available for consideration as the early implementation of contingency measures, including implementing an annual inspection schedule for the Stage II Vapor Recovery Systems, open burning control in New Castle County, a combination of controls on various sources in the peak ozone season, as well as through improvement of rule effectiveness for the regional NO_X emission control rule. Therefore, EPA believes the requirements of the Act with regard to providing contingency measures should the area fail to achieve ROP, have been satisfied for the Delaware ozone nonattainment area.

IV. Proposed Action

EPA is proposing to approve the Post-1996 ROP plans for milestone years 1999, 2002 and 2005 for the Delaware portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area submitted on December 29, 1997, June 17, 1999, February 3, 2000, and December 20, 2000. EPA is also proposing to approve the contingency plans for failure to meet ROP in the Delaware portion of the Philadelphia severe ozone nonattainment area (Kent and New Castle Counties), submitted in conjunction with the ROP demonstrations. EPA is also proposing to approve the revised enforceable commitments made to the attainment plan for the Philadelphia area submitted by DNREC on December 20, 2000 to adopt additional measures to strengthen the attainment demonstration, and to revise the plan and its motor vehicle emissions budgets using MOBILE6

within one year after that model is issued. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

V. Administrative Requirements

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

This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order.

This proposed rule to approve the Delaware Post-1996 ROP plans does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, and Ozone.

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

Dated: August 24, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–21925 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NY51–225; FRL–7047–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 23, 1999, the New York State Department of Environmental Conservation (NYSDEC) submitted a request to EPA to redesignate the New York portion of the New York-Northern New Jersey-Long Island Carbon Monoxide (CO) nonattainment area from nonattainment to attainment of the National Ambient Quality Standard (NAAQS) for CO. In today's action, EPA is proposing to approve this request from the State of New York because it meets the redesignation requirements set forth in the Clean Air Act. In addition, EPA is proposing to approve the New York CO maintenance plan because it provides for continued maintenance of the CO NAAQS.

EPA is also proposing to approve the New York CO attainment demonstration that was submitted by NYSDEC on November 15, 1992. This would provide for full approval of the New York State Implementation Plan (SIP) for CO.

Finally, EPA is proposing approval of New York's revision of the Downtown Brooklyn Master Plan component of the CO attainment demonstration. This removes several transportation control measures from the SIP that have been demonstrated as no longer necessary to attain and maintain the NAAQS for CO. The intended effect of this action is to approve a plan that demonstrates that the CO standard has been attained and will continue to be attained.

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Written comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the State submittal and EPA's Technical support document are available for public inspection during normal business hours, by appointment, at the following addresses:

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

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: Henry Feingersh, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

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1. What is required by the Clean Air Act and how does it apply to New York?
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1. What Is Required by the Clean Air Act and How Does It Apply to New York?

Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions.

Section 107(d)(3)(E) of the CAA identifies five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

a. The area must have attained the applicable NAAQS.

b. The area must have a fully approved SIP under section 110(k) of the CAA.

c. The air quality improvement must be permanent and enforceable.

d. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA.

e. The area must meet all applicable requirements under section 110 and Part D of the CAA.

The New York portion of the New York-Northern New Jersey-Long Island CO nonattainment area is classified as a moderate 2 area (i.e., the CO design value of 12.8–16.4 parts per million, or ppm). The entire non-attainment area is part of the New York-Northern New Jersey-Long Island Consolidated Metropolitan Statistical Area (CMSA). The New York portion of the non-attainment area consists of the Counties of Bronx, Kings, New York, Queens, Richmond, Nassau, and Westchester (referred to in this document as the New York City metropolitan area, or NYCMA). The remainder of New York State is in attainment for CO.

This area was designated nonattainment for CO under the provisions of sections 186 and 187 of the CAA. Because the area had a design value of 13.5 ppm based on 1988 and 1989 data, the area was classified moderate 2. (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.333.) This design value was based on ambient CO data recorded in Kings County, New York. For moderate 2 CO nonattainment areas, the CAA required that air quality attain the National Ambient Air Quality Standard (NAAQS) by December 31, 1995. On April 24, 1996, the State of New Jersey submitted a request for a one year extension of the attainment date to December 31, 1996 as allowed for in the CAA. On July 31, 1996 and June 27, 1996, the States of New York and Connecticut respectively submitted letters to EPA concurring with New Jersey's request. EPA granted the request for a one year extension to December 31, 1996 in a November 5, 1996 **Federal Register** document. The three States had applied for this extension since there was an exceedance of the CO NAAQS in the CMSA in 1994. This extension was granted pursuant to section 186(a)(4).

2. What Was Included in New York's Submittal and Does It Meet the Clean Air Act Requirements?

In an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on August 30, 1999, the State of New York submitted a CO redesignation request and maintenance plan for the New York portion of the CO nonattainment area.

On March 22, 2000, New York submitted a related SIP revision which requested removal of a number of transportation control Measures (TCMs) from the SIP because these measures have been demonstrated to no longer be necessary to provide for attainment and maintenance of the CO standard. This proposed revision is contained in a document entitled ''Update to the Downtown Brooklyn Master Plan Component of the Carbon Monoxide Attainment Demonstration.''

Public hearings were held on September 7, 1999 for the CO redesignation request and on September 9, 1999 for the Downtown Brooklyn Master Plan SIP revision.

New York is requesting the removal of two sets of transportation control measures (TCMs). Three of these TCMs were identified in the November 15, 1992 CO attainment demonstration and 11 from the Downtown Brooklyn Master Plan (DBMP). NYSDEC has provided demonstration sufficient to warrant their removal from the SIP.

While EPA's approval of the November 15, 1992 CO attainment demonstration did not include removal of these TCMs, NYSDEC's modeling analysis demonstrates attainment of the NAAQS without relying on the emissions reductions associated with these TCMs. The proposed CO redesignation request demonstrates attainment and maintenance of the CO NAAQS without these TCMs, so their removal from the NYCMA CO SIP is approvable.

NYSDEC presents intersection analyses to determine if there is a continued need for the 11 unimplemented TCMs from the DBMP. The analyses followed the general procedures and methodologies consistent with the 1992 NYCMA CO SIP, with the exception of using EPA receptor guidance rather than New York City Environmental Quality Review (CEQR) and using the CAL3QHCR dispersion model. The Updated DBMP demonstrated attainment and maintenance of the CO NAAQS without these TCMs, so their removal from the NYCMA CO SIP is approvable.

The following is a brief description of how the State has fulfilled each of the CAA redesignation requirements.

a. The Area Must Have Attained the Applicable NAAOS

New York's CO monitoring data shows that from calendar year 1992 through calendar year 1999, no violations of the CO NAAQS have occurred. A violation occurs when more than one exceedance of the standard occurs at the same CO monitor during a calendar year.

In addition, in order to demonstrate attainment of the CO NAAQS, the data must be quality-assured and not show a violation of the standard for the last two consecutive years. New York's CO data has been quality assured and shows no more than one exceedance of the NAAQS per year over the most recent two complete years of data (1999 and 2000).

Therefore, EPA finds that the New York portion of the CMSA has met the first statutory criterion for attainment of the CO NAAQS (40 CFR 50.9 and appendix C).

Furthermore, air quality data for the remainder of the CMSA shows that the entire nonattainment area has met the CO NAAQS from 1995 to the present.

b. The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

New York's August 30, 1999 CO SIP revision is fully approved by EPA as meeting all the requirements of section 110(a)(2)(I) of the CAA, including the requirements of Part D (relating to nonattainment), which were due prior to the date of New York's redesignation request. The 1990 CAA required that nonattainment areas meet specific new requirements depending on the severity of the nonattainment classification. Requirements for New York include an attainment demonstration, forecast of vehicle miles traveled, the preparation of a 1990 emission inventory with periodic updates, the development of contingency measures, implementation of an enhanced inspection and

maintenance (I/M) program, and adherence to the conformity rules.

Previously Approved Requirements

New York's vehicle miles traveled forecast, emissions inventory, and contingency measures were approved on July 25, 1996 (61 FR 38594) as part of the New York CO SIP.

New York's attainment demonstration would have been approved in an earlier notice except that it relied on credit from the New York enhanced motor vehicle inspection and maintenance (I/M) program. New York's analysis demonstrated that all of the modeled intersections attained the 8-hour carbon monoxide standard of 9 ppm. Since air quality values at the most congested intersections was determined to not exceed the standard, New York has demonstrated that the entire area will be in attainment for CO. New York used appropriate modeling techniques and modeling inputs in its demonstration.

New York's enhanced I/M program was implemented in November 1997. After the State successfully demonstrated how much emissions reduction credit the program deserves, EPA published a final approval of the enhanced I/M program on May 7, 2001 (66 FR 22922).

EPA is proposing to approve the attainment demonstration at this time.

Conformity

Section 176 of the CAA contains requirements related to conformity. Although EPA's regulations (see 40 CFR 51.390) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment, or that are subject to an EPA approved maintenance plan, EPA has decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA.

EPA's decision 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. Therefore, the State remains obligated to adopt the transportation conformity rules even after redesignation and would risk sanctions for failure to do so. Unlike most requirements of section 110 and part D, which are linked to the nonattainment status of the area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require performance of conformity analyses in the absence of approved state rules. Therefore, a delay in approving State rules does not relieve an area from the obligation to implement conformity requirements. Specifically, New York submitted adopted transportation conformity regulations on August 12, 1998. However, on March 2, 1999 the U.S. Court of Appeals for the D.C. Circuit struck down five provisions of the federal transportation conformity regulation (EDF v. EPA, 167 F.3d 641—D.C. Cir. 1999). Having preceded the court's decision, New York State includes all five of these provisions in its adopted State regulation as presented in Table 1.

TABLE 1

Description of the provision	Relevant section of the Federal Transportation Conformity Regulation (40 CFR Part 93)	Relevant section of the New York State Transportation Conformity Regulation (6NYCRR Part 240)
Allowed emission budgets in submitted SIPs to become adequate for conformity purposes either by a letter from EPA making such a finding or automatically 45 days after the SIP was submitted.	93.118(e)(1)	240.19(e)(1).
Allowed areas 120 days after disapproval of a submitted control strategy SIP before the start of a conformity freeze.	93.120(a)(2)	240.21(a)(2).
Allowed states to quantify a safety margin based on excess emission reduction from stationary or area sources and to incorporate this safety margin into the transportation conformity budget.	93.124(b)	240.25(b).
Allowed projects that had completed the NEPA process and had been subject to a conformity determination to continue during a lapse.	93.102(c)(1)	240.3(c)(1).
Allowed non-federally funded projects to continue during a conformity lapse.	93.121(a)(1)	240.22(a)(1).

Because New York State's transportation conformity regulation contains these five provisions, EPA cannot proceed with an approval of the State's regulation at this time.

Nevertheless, 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. Accordingly, EPA believes it is appropriate to evaluate New York's redesignation request independent of the status of the State's conformity regulation.

Part D New Source Review Requirements

Consistent with the October 14, 1994 EPA guidance from Mary D. Nichols, entitled ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' EPA is not requiring full approval of a Part D NSR program by New York as a prerequisite to redesignation to attainment. Under this guidance, nonattainment areas may be redesignated to attainment notwithstanding the lack of a fully approved Part D NSR program so long as the program is not relied upon for maintenance. New York has not relied on a NSR program to maintain air quality within the CO standard. Moreover, because the New York portion of the CO nonattainment area is being redesignated to attainment by this action, New York's Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources of CO.

c. The Air Quality Improvement Must Be Permanent and Enforceable

New York has implemented a number of measures to control motor vehicle CO emissions. Emission reductions achieved through the implementation of these control measures are enforceable. These measures include the Federal

Motor Vehicle Control Program, Federal reformulated gasoline regulation, and New York's pre-1990 modifications to its inspection and maintenance (I/M) program.

The State of New York has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed New York to attain the NAAQS since 1992.

d. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. In this notice, EPA is approving the State of New York's maintenance plan because EPA finds that New York's submittal meets the requirements of section 175A.

1996 Attainment Year Inventory

Section 172(c)(3) and 187(a)(1) of the CAA requires that CO plan provisions include a comprehensive, accurate, and current emission inventory from all sources of relevant pollutants in the nonattainment area. In addition, page 8, section 5a of the September 4, 1992 memorandum from John Calcagni, former Director, Air Quality Management Division, to EPA Regional Air Division Directors entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' requires States to ''develop an attainment inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. This inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include emissions during the time period associated with the monitoring data showing attainment.''

On November 23, 1999, New York submitted its CO redesignation request and maintenance plan to EPA. On March 22, 2000, New York submitted its update to the New York State Implementation Plan for Carbon Monoxide, entitled ''Update to the Downtown Brooklyn Master Plan Component of the Carbon Monoxide Attainment Demonstration.'' Finally, on May 25, 2001, New York submitted its Final Proposed Revision for redesignating the New York CO nonattainment area to attainment of the CO standard.

New York included the requisite inventory in the CO SIP. The base year for the inventory was 1996, using a three-month CO season of December 1996 through February 1997. The inventory covers the seven counties in the NYCMA.

The 1996 emissions inventory is also classified as the attainment year inventory for the CO redesignation plan. The calendar year 1996 inventory can be considered representative of attainment conditions because the NAAQS were not violated during 1996. The inventory included peak average wintertime daily emissions from stationary point, stationary area, off-highway mobile, and highway mobile sources of CO. These emission estimates were prepared in accordance with EPA guidance. EPA is approving the CO emissions inventory for the entire NYCMA CO nonattainment area.

Demonstration of Maintenance-Projected Inventories

New York estimates that total CO emissions will decrease from 4,510.7 tons per day in the 1996 base year to 3,539 tons per day in 2012. Such a reduction in CO emissions clearly supports the State's contention that the CO NAAQS will be maintained into the foreseeable future. These projected inventories were prepared in accordance with EPA guidance. The projections in Table 2 show that future CO emissions are expected to be below the level of emissions in the base year after the benefits of the Federal Motor Vehicle Control Program, reformulated gasoline and pre-1996 basic I/M program are taken into consideration. These improvements are expected to occur despite the fact that New York took into account the effects of growth due to economic activities and population changes on stationary and off-highway sources.

TABLE 2.—1996 BASE YEAR AND PROJECTED 2000, 2007 AND 2012 CARBON MONOXIDE EMISSION INVENTORIES WITH POST-1996 CONTROLS

[Tons/Peak Winter Season Day]

NYCMA nonattainment area by source category	1996 CO emission inventory (tons per day)	2000 projected CO emission inventory (tons per day)	2007 projected CO emission inventory (tons per day)	2012 projected CO emission inventory (tons per day)
Point	86.20	91	99	106
Area	699.50	708	720	735
Off-Highway Mobile	219	232	254	267
Highway Mobile	3506	2860	2381	2431
Total	4510.70	3891	3454	3539

Transportation Conformity Budgets

The submittal included transportation conformity budgets based on the control strategies, growth projections and assumptions used in the attainment demonstration and maintenance plans for the CO nonattainment area. Table 3 presents the 2000, 2007 and 2012 carbon monoxide transportation conformity budgets in tons of CO per winter day. These budgets are consistent with the State's emission baseline and projected inventories for highway mobile sources. EPA announced its findings that the budgets are adequate for transportation conformity purposes on March 27, 2000 (65 FR 16196). EPA is now proposing to approve these budgets.

TABLE 3.—CARBON MONOXIDE TRANSPORTATION CONFORMITY BUDGETS

[Tons of CO/winter day]

Year	CO (tons/winter day)
2000	2860
2007	2381
2012	2431

Monitoring Network

New York has committed to continue to operate its existing air monitoring network and quality assurance program in accordance with 40 CFR part 58 to ensure the development of complete and accurate emission inventory and air monitoring data.

Verification of Continued Attainment

Continued attainment of the CO NAAQS in New York depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State has projected CO emissions out to 2012 with interim years of 2000 and 2007. The State has also committed to track actual vehicle miles traveled (VMT) on an annual basis as part of the demonstration that growth above and beyond that predicted will not result in a change of attainment determination. This tracking process will be used along with the latest EPA emission model to ensure that the 1996 baseline attainment emissions are not exceeded.

In addition to tracking changes in VMT, New York will use a process based on planned development to identify areas at risk of exceeding the CO standard. This process will rely on information collected by the New York City Departments of City Planning, the New York City Department of Transportation, the New York State Department of Transportation, or other agencies that undertake major investment studies associated with transportation projects. Additionally, the New York State Department of Environmental Conservation is to be informed by New York City of any planned commercial developments larger than 300,000 square feet. Any project(s) that meets the State's criteria will be considered an area at potential risk for violating the CO standard and would be required to mitigate any projected violations of the NAAQS.

Finally, the State previously identified the Long Island City and Downtown Brooklyn Business Districts as areas at risk of violating the CO standard because in the 1992 attainment demonstration these areas showed the potential for future exceedance of the CO standard. However, that attainment demonstration did not take credit for the benefits of the now implemented enhanced motor vehicle I/M program. With these credits, the State has demonstrated that these areas would not exceed the CO standard in the future. Accordingly, New York's request to remove the DBMP TCMs from the SIP is approved.

EPA is proposing to approve New York State's plans for verifying continued attainment of the CO standard and for identifying areas at risk of exceeding the CO standard.

Contingency Plan

The level of CO emissions in New York will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, it is possible that the ambient air pollutant concentrations exceed or violate the NAAQS based upon some unforeseeable condition. In order to meet this challenge, the CAA requires states to develop contingency measures to offset these conditions. New York has committed to use its winter-time Reid Vapor Pressure (RVP) regulation as its contingency measure. New York State's Subpart 225–3 ''Fuel Composition and Use—Volatile Motor Fuel'' permits the commissioner to set a winter RVP level for gasoline if such a level is necessary for air quality purposes. This regulation was adopted on June 30, 1993 and was approved by EPA in 61 FR 38594 as part of New York's 1992 CO SIP.

e. The Area Must Meet All Applicable Requirements Under Section 110 and Part D of the CAA

In section 2.b. of this document EPA sets forth the basis for its conclusion that New York has a fully approved SIP which meets the applicable requirements of section 110 and Part D of the CAA. EPA notes that section 110 also requires that states include in their SIPs, where applicable, oxygenated gasoline programs. The oxygenated fuels program was removed from the New York SIP because the entire CMSA, including the New York portion, was attaining the CO NAAQS. (See 65 FR 20909 (April 19, 2000)). Since oxygenated fuel was removed from the SIP because it was no longer required, its removal does not pose a problem for the redesignation of the New York portion of the CMSA from nonattainment to attainment for the CO NAAQS.

3. What Are EPA's Findings?

EPA has determined that the information received from the NYSDEC constitutes complete redesignation requests under the general completeness criteria of 40 CFR part 51, appendix V, sections 2.1 and 2.2.

Additionally, the New York redesignation request meets the five requirements of section 107(d)(3)(E), noted earlier.

4. What Are EPA's Conclusions?

EPA is proposing to approve New York's request for redesignating the New York portion of the New York Northern New Jersey-Long Island CO nonattainment area to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA is also proposing to approve the New York CO maintenance plan because it meets the requirements set forth in section 175A of the CAA. In addition, EPA is proposing to approve the New York CO attainment demonstration that was submitted on November 15, 1992. Finally, EPA is proposing to approve the removal from the SIP of the 3 TCMs identified in the November 15, 1992 CO attainment demonstration and the 11 TCMs from the DBMP.

5. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

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

Dated: August 20, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–21933 Filed 8–29–01; 8:45 am]

BILLING CODE 6560–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–7045–6]

RIN 2040–AD08

Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Ambient Water; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed regulation would amend the ''Guidelines Establishing Test Procedures for the Analysis of Pollutants'' under section 304(h) of the Clean Water Act (CWA), by adding several analytical test procedures for enumerating the bacteria, Escherichia coli (E. coli) and enterococci, and the protozoans, Cryptosporidium and Giardia, in ambient water to the list of Agency-approved methods.

This proposal would make available a suite of Most Probable Number (MPN) (i.e. multiple-tube, multiple-well) and membrane filter (MF) methods for enumerating E. coli and enteroccoci bacteria in ambient water. Both culture-based and enzyme-substrate techniques are included. Some test methods are also applicable to total coliform determinations when these are the preliminary or concurrent steps for E. coli enumeration. Similarly, this document proposes new methods for detecting Cryptosporidium and Giardia in ambient water. Regulators may use these test procedures to assess Cryptosporidium and Giardia concentrations in ambient waters.

DATES: Comments must be postmarked, delivered by hand, or electronically mailed on or before October 29, 2001. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. Eastern Time (ET) on October 29, 2001.

ADDRESSES: Send written comments on the proposed rule to ''Part 136 Biological Methods'' Comment Clerk (W–99–14); Water Docket (4101); U. S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries should be delivered to: EPA's Water Docket at 401 M Street, SW., East Tower Basement (Room EB 57), Washington, DC 20460. If you wish to hand-deliver your comments, please call (202) 260–3027 between 9 a.m. and 4 p.m., Monday through Friday, excluding Federal holidays, to obtain the room location for the Docket. Comments also may be submitted electronically to: *OW-Docket@epa.gov.*

FOR FURTHER INFORMATION CONTACT: For regulatory information regarding this proposal, contact Maria Gomez-Taylor, Ph.D.; Engineering and Analysis Division (4303); Office of Science and Technology; Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, or call (202) 260–1639.

For technical information regarding analytical methods proposed in today's rule, contact Robin Oshiro; Office of Science and Technology (4304); Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, or call (202) 260–7278.

SUPPLEMENTARY INFORMATION:

Potentially Affected/Regulated Entities

EPA Regions, as well as States, Territories, and Tribes are authorized to implement the water quality standards program and the National Pollutant Discharge Elimination System (NPDES) program, and to issue permits that comply with the technology-based and water quality-based requirements of the Clean Water Act (CWA). In doing so, permitting authorities, including authorized States, Territories, and Tribes, make discretionary choices when writing permits, including the selection of pollutants to be measured and monitoring requirements. If EPA has ''approved'' (i.e., promulgated through rulemaking) standardized testing procedures for a given pollutant, the permit must specify one of the approved testing procedures or an approved alternate test procedure. Although EPA proposes to include test methods for four biological pollutants in section 136.3, it recommends their use only for ambient water quality monitoring. EPA does not propose to approve these test methods for effluent matrices.

EPA has developed ambient water quality criteria for E. coli and enteroccoci bacteria and is considering criteria for Cryptosporidium and Giardia. The States, Territories, and Tribes may adopt these criteria into their water quality standards and may issue water quality-based permits that require monitoring for these pollutants in ambient waters. Therefore, discharges with water quality-based permits could be affected by the standardization of testing procedures in this rulemaking in instances where the permitting

authority requires that such permits incorporate ambient water monitoring. EPA does not require inclusion of ambient water monitoring for NPDES permits. In addition, when a State, Territory, or authorized Tribe provides certification of Federal licenses under the CWA section 401, and when such certification requires measurement of waste constituents specified in 40 CFR 136, then such measurements must be in accordance with approved testing procedures if such procedures are available. 40 CFR 136.1(c). Categories and entities that ultimately may be affected/regulated include:

Category	Examples of potentially affected/regulated entities
Regional, State, and Territorial Governments and Indian Tribes.	States, Territories, and Tribes authorized to administer the water quality standards programs; States, Territories, and Tribes providing certification under Clean Water Act section 401; Governmental permittees.
Municipalities	Publicly-owned treatment works with water quality-based permits.
Industry	Industrial facilities with water quality-based permits.

This table is not intended to be exhaustive, but rather provides guidance for readers regarding entities likely to be affected/regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected/regulated by this action. Other types of entities not listed in the table also could be affected/regulated. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section.

Record and Commenting Procedures

The record for this rulemaking has been established under docket number W–99–14. A copy of the supporting documents cited in this proposal are available for review at EPA's Water Docket. The record is available for inspection from 9 a.m. to 4 p.m. EST, Monday through Friday, excluding Federal holidays at EPA's Water Docket, 401 M Street SW., East Tower Basement (Room EB 57), Washington, DC 20460. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

Commenters are requested to submit any references cited in their comments. Commenters also are requested to submit an original and three copies of their written comments and enclosures, and to clearly identify the specific pollutant and method to which the comment applies. Commenters that want a confirmed receipt of their comments should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

Electronic comments must be submitted as a Word Perfect for Windows 5/6/7/8 file or an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data also will be accepted on disks in Word Perfect 5/6/7/8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. All electronic comments must be identified by docket number. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

Information on Internet Access

This **Federal Register** document has been placed on the Internet for public review and downloading at the following location: http//www.epa.gov/fedrgstr.

Availability and Sources for Methods

Copies of analytical methods published by EPA are available for a nominal cost through the National Technical Information Service (NTIS); U.S. Department of Commerce; 5285 Port Royal Road; Springfield, VA 22161, or call (800) 553–6847. Copies of the EPA methods cited in this proposal may be obtained from Robin Oshiro; Office of Science and Technology (4304); Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue, NW.; Washington, DC 20460, or call (202) 260–7278. Copies of several of the EPA methods cited in this proposal may also be downloaded from the EPA Office of Research and Development; National Exposure Research Laboratory (NERL)-Cincinnati Microbiology home page at www.epa.gov/microbes/. Copies of published journal articles for selected EPA methods are available in the public domain. All other methods must be obtained from the publisher. Publishers (with contact information) for all methods are included in the References section of today's rule. Copies of all methods are also available in the public record for this proposal.

Outline of Preamble

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I. Statutory Authority

Today's proposal is pursuant to the authority of sections 303(c), 304(a), 304(h) and 501(a) of the Clean Water Act (CWA), 33 U.S.C. 1313(c), 1314(a), 1314(h), 1361(a) (the ''Act''). Section 303(c) of the Act establishes the basis for the current water quality standards program. This section requires EPA to review and approve or disapprove State-adopted water quality standards. Section 304(a) of the Act requires the EPA Administrator to conduct non-regulatory scientific assessments of ecological and public health effects to support the development of water quality criteria associated with specific ambient water uses. When these criteria are adopted as State water quality standards under section 303, they become the enforceable maximum acceptable levels of pollutants in ambient waters. Section 304(h) of the Act requires the EPA Administrator to ''promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit applications pursuant to section 402 of this Act.'' Section 501(a) of the Act authorizes the Administrator to ''prescribe such regulations as are necessary to carry out this function under this Act.''

II. Regulatory Background

To fulfill the CWA's mandate to maintain ''fishable and swimmable'' waters, EPA is required to develop ambient water quality criteria based on a scientific assessment of the relationship between pollutant concentrations and environmental and human health effects. Ambient water refers to any fresh, marine, or estuarine surface water used for recreation; propagation of fish, shellfish, or wildlife; agriculture; industry; navigation; or as source water for drinking water facilities. These ambient water quality criteria become enforceable water quality standards when adopted by State, Territorial, Tribal, and local governments implementing a water-quality based approach to pollution control. For bacterial pollution in ambient water, EPA has developed bacteriological ambient water quality criteria recommendations for E. coli in freshwater and enterococci in freshwater and marine waters (51 FR 8012, March 7, 1986). There are a number of zoonotic diseases of concern to humans (diseases transferred from animals to humans) if recreational or other waters are contaminated with fecal material from non-human animal species. E. coli species are a subset of the coliform bacteria group that is part of the normal intestinal flora of humans and animals and is, therefore, a direct indicator of fecal contamination from these sources in water. Enterococci, which include Enterococcus faecalis and Enterococcus faecium, are enteric bacteria used to indicate fecal contamination and the possible presence of pathogens, in water. Based on previous EPA guidance, total and fecal coliform bacteria currently have been included in many water quality standards as indicators of bacterial contamination (USEPA, 1976). However, more recent epidemiological studies described in Ambient Water Quality Criteria for Bacteria—1986 (USEPA, 1986a), indicate that E. coli and enterococci show a direct correlation with swimming-associated gastrointestinal illness rates, while fecal coliforms do not. As the concentration of E. coli and/or enterococci increase(s), the illness rates also increase. These indicators are used as part of the bacterial water quality criteria and standards to enhance the protection of human health and the environment.

In addition to bacterial pollution, EPA is concerned about waterborne parasites and has developed test methods for Cryptosporidium and Giardia. These waterborne parasites are responsible for cases of severe and widespread human illness when present in drinking water supplies as a result of contamination of source waters. To support future regulation of these organisms in drinking water, the Safe Drinking Water Act Amendments of 1996 required the EPA to evaluate the risk to public health associated with Cryptosporidium and Giardia contamination. To implement these requirements, EPA plans to assess Cryptosporidium and Giardia occurrence in freshwater surface water bodies. Because one of the designated uses of some ambient waters may include the use of the waterbody as a drinking water source, EPA may develop ambient water quality criteria for Cryptosporidium and Giardia in the future. EPA plans to use the test methods discussed in this notice to support these assessments. By doing so, EPA desires to promote consistency on the methods used for these assessments to ensure that the data collected are of good quality and comparable. EPA also wishes to make these methods available for use by the States and for general use for risk assessments.

In today's notice, EPA is proposing test methods for E. coli, enterococci, Cryptosporidium, and Giardia. Proposal of the bacterial methods supports the use of E. coli and enterococci as indicators in place of the total and fecal coliform indicators in State, Territorial, Tribal, and local water quality-based monitoring programs. Proposal of test methods for Cryptosporidium and Giardia supports the use of these methods in evaluating surface water occurrence of these organisms and the associated watershed vulnerability levels of concern for waterbodies designated as potential drinking water sources under the water quality standards program. EPA proposes to approve the use of test methods for E. coli, enterococci, Cryptosporidium, and Giardia for ambient water quality monitoring only. Although EPA believes that these methods are appropriate for ambient water quality monitoring, the Agency has not determined that these methods are acceptable for application to other matrices.

This proposal was initiated in response to national directives that seek to improve and assist in State, Territorial, Tribal, and local implementation of water quality standards, ambient water monitoring programs, and public notification programs to reduce public health risks posed by biological pollutants in ambient water. The primary initiatives that served as impetus for today's proposal include the Beaches Environmental Assessment Closure and Health (BEACH) Program; the Beach Action Plan (EPA–600–R–98–079); the Beach Watch Program; the Beaches Environmental Monitoring for Public Access and Community Tracking (EMPACT) Program; and the Water Quality Criteria and Standards Plan. Additionally, this rule is expected to satisfy requests by State, Territorial, Tribal, and local governments, regulated entities, and environmental laboratories that EPA publish analytical test procedures for enumerating E. coli, enterococci, Cryptosporidium, and Giardia in ambient water that were evaluated through interlaboratory validation or extensive intralaboratory comparison with previously approved methods.

III. Explanation of Today's Action

A. Methods for Bacterial Pollutants

This proposal would make available a suite of Most Probable Number (MPN) (i.e., multiple-tube, multiple-well), and membrane filter (MF) methods for enumerating (i.e., determining organism density) E. coli and enteroccoci in ambient water as part of State, Territorial, Tribal, and local water quality monitoring programs. Multiple-tube, multiple-well, and MF formats include culture and enzyme-substrate techniques. Culture methods use lactose fermentation (E. coli), presence of turbidity (enterococci), colony formation, or color to detect the target organism. Enzyme-substrate tests use chromogenic (e.g., indoxyl-β-D-glucuronide) or fluorogenic (e.g., 4-methylumbelliferyl-β-D-glucuronide, [MUG]) substrates that react with specific enzymes (generally, β-glucuronidase in E. coli and β-glucosidase in enterococci) to produce color changes or fluorescence to detect the target organism. The methods included in this proposal were developed by EPA, voluntary consensus standards bodies (VCSBs) (i.e., American Public Health Association [APHA], American Water Works Association [AWWA], and Water Environment Foundation [WEF] who jointly publish Standard Methods for the Examination of Water and Wastewater, referred to as ''Standard Methods;'American Society for Testing and Materials [ASTM]; Association of Official Analytical Chemists International [AOAC]), and commercial vendors with methods submitted to the EPA Office of Water (OW) Alternate Test Procedure (ATP) process. For several procedures, an EPA method, VCSB method, and/or a commercially available method (submitted to the ATP program) are proposed.

Although there are several methods (not yet approved by EPA) that are applicable to simultaneous determination of total coliform and E. coli, EPA is proposing to approve methods for analysis of E. coli only. EPA made this choice because at present there are no EPA-approved methods for E. coli, whereas EPA-approved methods are already available for the determination of total coliform. There is a request for comment on the expansion of today's rule to include total coliforms in Section III.A.5. Several of the total coliform test methods (or selected procedural steps) have already been approved by EPA (see Table IA at 40 CFR 136.3) or have been proposed for approval for the Clean Water Act or Safe Drinking Water Act compliance monitoring programs (66 FR 3526, January 16, 2001).

Proposed methods were selected based on data generated by EPA laboratories, submissions to the ATP program and VCSBs, published peer-reviewed journal articles, and/or publicly available study reports that indicate their applicability to quantitative analysis of the target organisms in ambient water. Since data were generated in multiple studies using different method versions and different statistical analyses, the test procedures in today's rule must be evaluated against the end-users' needs based on data quality objectives. End-users should compare any new proposed alternate method with the relevant EPA-recommended method(s) before adopting it for that matrix to ensure that the proposed method generates data of comparable quality. EPA-recommended methods for matrices in which they were tested are summarized in Tables 3 and 5. A media acronym table is provided in Section V. Full citations for methods and data reports are provided in the References section and are included in the docket for today's proposed rulemaking. At the time of final rulemaking, EPA plans to issue a draft protocol for determining the comparability of alternative test methods to those promulgated in the final rule. In addition, EPA will issue draft guidance on acceptable characteristics of methods for determining equivalency (e.g., acceptable range of false positives/false negatives). There is a request for comment in Section III.A.5 inviting suggestions on acceptable characteristics of methods and on method comparability criteria to support the equivalency testing protocol.

1. Most Probable Number (MPN) and Membrane Filtration (MF) Methods

In Most Probable Number tests, the number of tubes/wells producing a positive reaction provides an estimate of the original, undiluted density (i.e., concentration) of target organisms in the sample. This estimate of target organisms, based on probability formulas, is termed the Most Probable Number. MPN tests can be conducted in multiple-tube fermentation (MTF), multiple-tube enzyme substrate, or multiple-well enzyme substrate formats. In multiple-tube tests, serial dilutions may be used to obtain estimates over a range of concentrations, with replicate tubes analyzed at each ten-fold dilution/volume. The numbers of replicate tubes and sample dilutions/volumes are selected based on the expected quality of the water sample. Generally, for non-potable water samples, five replicate tubes at a minimum of three dilutions/volumes are used. Tubes are incubated, and positive results are reported and confirmed. Positive results are determined under specified conditions by the presence of acid and/or the production of gas using MTF tests, or by color change or fluorescence using enzyme substrate tests. Tests also may be conducted in a multiple-well format to determine MPN, using commercially prepared substrate media, multiple-well trays, and MPN tables provided by the manufacturer. Target organism density is estimated by comparing the number of positive tubes or wells with MPN tables. The MPN tables relate the number of positive tubes or wells to an estimate of the mean target organism density based on probability formulas. Results in both types of tests are generally reported as MPN per 100 mL.

The multiple-tube fermentation methodology is useful for detecting low concentrations of organisms (<100/100 mL), particularly in samples containing heavy particulate matter, toxic compounds (e.g. metals), or injured or stressed organisms. Multiple-tube tests are applicable to freshwater, estuarine, and marine ambient waters. Since MPN tables assume a Poisson distribution, samples must be adequately shaken to break up any clumps and provide even distribution of bacteria. If the sample is not gently shaken, the MPN value may underestimate the actual bacterial density. The overall precision of each multiple-tube test depends on the number of tubes used and sample dilutions/volumes tested. Unless a large number of tubes are used (five tubes per dilution/volume or more), the precision of multiple-tube tests can be very poor. Precision is improved when the results from several samples from the same sampling event are processed, estimated separately, and then mathematically combined using the geometric mean. Further background information on multiple-tube tests is available in the 20th Edition of Standard Methods for the Examination of Water and Wastewater (APHA, 1998).

Membrane filtration is a direct-plating method in which sample dilutions/volumes are filtered through 0.45 μm membrane filters that are subsequently transferred to petri plates containing selective primary isolation agar or an absorbent pad saturated with selective broth. A second substrate medium is used in two-step MF procedures to confirm and/or differentiate the target organisms. The total sample volume to be analyzed may be distributed among multiple filters and diluted as needed, based on the anticipated water sample type, quality, and character (e.g., organism density, turbidity). The goal is to obtain plates with counts within the acceptable counting range of the method. The acceptable counting range of membrane filter tests depends on the specific analytical technique and the target organism under study. Plates are incubated and target colonies are counted. A percentage of the target colonies may then be verified as specified by the method. Target colonies are detected by observing the presence of colonies that meet a specific morphology, color, or fluorescence under specified conditions. Colonies may be counted with the aid of a fluorescent light, magnifying lens or dissecting microscope, or long-wavelength (366-nm) ultraviolet (UV) light source. Results generally are reported as colony-forming units (CFU) per 100 mL. Organism density is determined by dividing the number of target CFU by the volume (mL) of undiluted sample that is filtered and multiplying by 100. If verification steps are performed, the initial target colony count is adjusted based upon the percentage of positively verified colonies and reported as a ''verified count per 100 mL'' (APHA, 1998).

Membrane filtration is applicable to most freshwater, estuarine, and marine ambient waters, with limitations where an underestimation of organism density is likely: water samples with high turbidity, toxic compounds, or large numbers of non-coliform (background) bacteria, and organisms damaged by chlorine or toxic compounds. To minimize these interferences, replicates of smaller sample dilutions/volumes may be filtered and the results combined. When the MF method has not been used previously on an

individual water type, parallel tests should be conducted with a MTF to demonstrate applicability, lack of interferences, and at least comparable recovery. For example, colonies from samples containing high-background levels or stressed organisms should be verified. If the MTF results are consistently higher than those obtained in MF tests, or there is an indication of suboptimal recovery, use an appropriate recovery enhancement technique and demonstrate that the recovery enhancement technique is comparable to MTF. Further background information on MF tests is available in Standard Methods for the Examination of Water and Wastewater (APHA,1998).

A statistical comparison of results obtained by the multiple-tube and MF methods showed that the MF method is more precise in enumerating target organisms than the MPN test, but differences in recovery were generally not statistically significant. However, based on susceptibility to interferences, MF tests may underestimate the number of viable bacteria, and the MPN method may overestimate the concentration because of the built-in positive bias of the method (Thomas, 1955). Tables with 95% confidence limits are available for both methods, based on the assumption that bacteria exhibit a Poisson distribution. Because of susceptibility of some MF tests to interferences, verification of some MF results with multiple-tube tests is critical. Additionally, some MPN tests require confirmation tests because of the false positive/false negative rates of the particular media. In general, although numerical results may not be identical, data from each method yield similar water quality information based on performance.

2. Selection of Proposed Methods

A variety of methods for E. coli and enteroccoci are being proposed in today's rule because a range of techniques are routinely used for different applications by regulatory authorities, permitees, laboratories, researchers, and others. The methods presented have been evaluated based on different study designs and statistical analyses. The variety of waters subject to monitoring, the selection of an appropriate method, number of tubes, sample dilutions/volumes, and other analytical design decisions may be made based on the available information on the type, quality, character, consistency of results, anticipated target organism density, and designated use of the water to be monitored.

3. Methods for E. coli

EPA is proposing several methods for enumerating E. coli in ambient water. Brief descriptions of the proposed multiple-tube, multiple-well, and MF methods are provided. Method performance data is summarized in Table 3.

In Table 1, methods in the same row use the same technique, but are published by different entities. For example, ONPG–MUG is published in the ''Standard Methods'' manual and in the Association of Official Analytical Chemists (AOAC) manual, and is also available as a commercial product. Voluntary Consensus Standards (VCS) Methods are those developed or adopted by domestic and international voluntary consensus standard bodies. The American Public Health Association (APHA), American Water Works Association (AWWA), and Water Environment Foundation (WEF) jointly publish methods approved by a methods approval program in Standard Methods for the Examination of Water and Wastewater (''Standard Methods''). The American Society for Testing and Materials (ASTM) are methods that have met the requirements of the ASTM methods approval program. The Association of Official Analytical Chemists also publishes methods that have met the requirements of the AOAC methods approval program. EPA methods are those that have been developed by the US EPA.

TABLE 1.—PROPOSED METHODS FOR E. COLI ENUMERATION [1,2]

Technique	Method [1,2]	EPA method	VCS methods			Commercial example
			Standard methods	ASTM	AOAC	
Most Probable Number (MPN).	LTB→EC–MUG		9221B.1/ 9221F	.		
	ONPG–MUG		9223B		991.15	Colilert® [3,5]
	ONPG–MUG		9223B			Colilert-18® [3,6]
	CPRG–MUG		9223B			Colisure™ [3,5]
Membrane Filter (MF)	mENDO→NA–MUG		9222B/9222G			
	LES–ENDO→NA–MUG		9222B/9222G			
	mFC→NA–MUG		9222D/9222G			
	mTEC agar	1103.1	9213D	D5392–93		
	Modified mTEC agar	Modified 1103.1				
	MI agar	EPA–600–R–013 [7]				
	m-ColiBlue24 broth					m-ColiBlue24 [4,5]

[1] A media acronym table is provided in Section V.
[2] Tests must be conducted in a format that provides organism enumeration.
[3] Manufactured by IDEXX.
[4] Manufactured by Hach Company.
[5] Method currently approved for determining presence/absence of total coliform and E. coli in drinking water.
[6] Acceptable version of method approved as a drinking water ATP.
[7] Membrane Filter Method for the Simultaneous Detection of Total Coliforms and Escherichia coli in Drinking Water.

Most Probable Number Tests for *E. coli*

a. LTB→EC–MUG (Standard Methods 9221B.1/9221F)

The multiple-tube fermentation method for enumerating E. coli in water uses multiple-tubes and dilutions/volumes in a two-step procedure to determine E. coli concentrations (APHA, 1998). In the first step, or ''presumptive phase,'' a series of tubes containing lauryl tryptose broth (LTB) are inoculated with undiluted samples and/or dilutions/volumes of the samples and mixed. Inoculated tubes are incubated for 24 ± 2 h at 35 ± 0.5 °C. Each tube then is swirled gently and examined for growth (i.e., turbidity) and

production of gas in the inner Durham tube. If there is no growth or gas, tubes are re-incubated for 24 ± 2 h at 35 ± 0.5 °C and re-examined. Production of growth and gas within 48 ± 3 h constitutes a positive presumptive test for coliforms, which include E. coli.

After enrichment in the presumptive medium, positive tubes are subjected to a second step for enumeration of E. coli. Presumptive tubes are agitated, and growth is transferred using a sterile loop or applicator stick to tubes containing EC broth supplemented with 4-methylumbelliferyl-β-D-glucuronide (MUG). Inoculated tubes are incubated at 44.5 ± 0.2 °C for 24 ± 2 h in a water bath. All tubes exhibiting growth and gas production are examined for bright blue fluorescence under long-wavelength UV light (366-nm) indicating a positive test for E. coli. The density of E. coli in MPN/100 mL is then calculated from the number of positive EC–MUG tubes, using MPN tables or formulas.

b. ONPG–MUG (Standard Methods 9223B, AOAC 991.15, Colilert®, Colilert-18®, and Autoanalysis Colilert)

ONPG–MUG tests are chromogenic/fluorogenic enzyme substrate tests for the simultaneous determination of total coliforms and E. coli in water. These tests use commercially available media containing the chromogenic substrate ortho-nitrophenyl-β-D-galactopyranoside (ONPG), to detect total coliforms and the fluorogenic substrate 4-methylumbelliferyl-β-D-glucuronide (MUG), to detect E. coli. All tests must be conducted in a format that provides quantitative results for ambient water. Colilert-18® should be used for testing marine waters with a minimum of a 10-fold dilution with sterile freshwater. Media formulations are available in disposable tubes for the multiple-tube procedure or packets for the multiple-well procedure. Appropriate preweighed portions of media for mixing and dispensing into multiple-tubes and wells are also available. The use of commercially prepared media is required for quality assurance and uniformity.

For the multiple-tube procedure, a well-mixed sample and/or sample dilution/volume is added to tubes containing predispensed media. Tubes are then capped and mixed vigorously to dissolve the media. Alternatively, this procedure can be performed by adding appropriate amounts of substrate media to a bulk diluted sample (with appropriate dilutions for enumeration), then mixing and dispensing into multiple-tubes. The number of tubes, and number of dilutions/volumes are determined based on the type, quality, and character of the water sample. A multiple-well procedure may be performed with sterilized disposable packets. The commercially available Quanti-Tray® or Quanti-Tray®/2000 multiple-well tests uses Colilert® or Colilert-18® media to determine E. coli (IDEXX, 1999b,c). In these tests, the packet containing media is added to a 100-mL sample (with appropriate dilutions for enumeration). The sample is then mixed and poured into the tray. A tray sealer separates the sample into 51 wells (Quanti-Tray) or 96 wells (Quanti-tray/2000) and seals the package which is subsequently incubated at 35 ± 0.5 °C for 18 h when using Colilert-18® or 24 h when using Colilert®. If the response is questionable after the specified incubation period, the sample is incubated for up to an additional 4 h at 35 ± 0.5 °C for both Colilert® tests.

After the appropriate incubation period, each tube or well is compared to the reference color ''comparator'' provided with the media. If the sample has a yellow color greater or equal to the comparator, the presence of total coliforms is verified, and the tube or well is then checked for fluorescence under long-wavelength UV light (366-nm). The presence of fluorescence greater than or equal to the comparator is a positive test for E. coli. If water samples contain humic acid or colored substances, inoculated tubes or wells should also be compared to a sample water blank. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer.

c. CPRG–MUG (Standard Methods 9223B, Colisure™)

CPRG–MUG is a chromogenic/fluorogenic enzyme substrate test for the simultaneous determination of total coliforms and E. coli in water. These tests use a commercially available medium containing the chromogenic substrate chlorophenol red-β-D-galactopyranoside (CPRG) to detect total coliforms, and the fluorogen MUG to detect E. coli. The sample is incubated for 24 ± 2 h at 35 ± 0.5 °C. If results are negative after 24 h, the sample is incubated up to an additional 4 h before calculating results. If the sample has changed from a yellow color to a red or magenta color, the presence of total coliforms is verified and the tube or well is then checked for fluorescence. The presence of blue fluorescence under a long-wavelength UV light (366-nm) is a positive test for E. coli. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer. Colisure™ is a commercially available format of this method and uses the same quantitative formats (multiple-tube and multiple-well) available for the Colilert® tests. Colisure™ is subject to the same interferences and procedural cautions listed for the Colilert® tests.

Membrane Filter (MF) Tests for *E. coli*

a. mEndo, LES–Endo, or mFC followed by transfer to NA–MUG media (Standard Methods 9222B/9222G or 9222D/9222G)

These membrane filter methods for enumerating E. coli are two-step incubation procedures (APHA, 1998). First, a sample is filtered through a 0.45 µm filter, then the filter is placed on a pad saturated with mEndo broth or a plate containing mEndo or LES–Endo agar and incubated for 23 ± 1 h at 35 ± 0.5 °C. Pink to red colonies with a metallic (golden-green) sheen on the filter are considered to be total coliforms. If initial determination of fecal coliforms is desired or non-potable water samples are analyzed, mFC media can be substituted for mEndo/LES–Endo. Following initial isolation of total coliforms (or fecal coliforms), the filter is transferred to nutrient agar containing 4-methylumbelliferyl-β-D-glucuronide (NA–MUG) and incubated for 4 h at 35 ± 0.5 °C. Sheen colonies on mEndo that fluoresce under a long-wavelength UV light (366-nm) are positive for E. coli.

b. mTEC Agar (EPA Method 1103.1, Standard Methods 9212D, ASTM D5392–93)

The mTEC agar method is a two-step procedure that provides a direct count of E. coli in water based on the development of colonies on the surface of a membrane filter when placed on a selective nutrient and substrate media (USEPA, 1985a). This method originally was developed by EPA to monitor the quality of recreational water. This method was also used in health studies to develop the bacteriological ambient water quality criteria for E. coli. In this method, a water sample is filtered through a 0.45µm; membrane filter, the filter is placed on mTEC agar (a selective primary isolation medium), and the plate is incubated first at 35 ± 0.5 °C for 2 h to resuscitate injured or stressed bacteria and then at 44.5 ± 0.2 °C for 23 ± 1 h in a water bath. Following incubation, the filter is transferred to a filter pad saturated with urea substrate medium. After 15 minutes, all yellow or yellow-brown colonies (occasionally yellow-green) are

counted as positive for E. coli using a fluorescent lamp and either a magnifying lens or a stereoscopic microscope.

c. Modified mTEC Agar (Modified EPA Method 1103.1)

The modified mTEC agar method is a single-step MF procedure that provides a direct count of E. coli in water based on the development of colonies on the surface of a filter when placed on selective modified mTEC media (USEPA, 2000a). This is a modification of the standard mTEC media that eliminates bromcresol purple and bromphenol red from the medium, adds the chromogen 5-bromo-6-chloro-3-indoyl-β-D-glucuronide (Magenta Gluc), and eliminates the transfer of the filter to a second substrate medium. In this method, a water sample is filtered through a 0.45μm membrane filter, the filter is placed on modified mTEC agar, incubated at 35 ± 0.5 °C for 2 h to resuscitate injured or stressed bacteria, and then incubated for 23 ± 1 h in a 44.5 ± 0.2 °C water bath. Following incubation, all red or magenta colonies are counted as E. coli.

d. MI Agar

The MI agar method is a single-step procedure used to simultaneously enumerate total coliforms and E. coli (Brenner, 1993). In this EPA-developed method, a water sample is filtered through a 0.45μm membrane filter, the filter is placed on an MI agar plate, and the medium is incubated at 35 ± 0.5 °C for 24 h. As with NA–MUG and modified mTEC, the MI agar MF procedure is based on the ability of E. coli to produce the enzyme β-glucuronidase, which hydrolyzes Indoxyl-β-D-glucuronide (IBDG) to form a blue color (indigo). E. coli colonies exhibit a blue color and may also be fluorescent under a long-wavelength UV light (366-nm). If desired, the plates can also be observed under long-wavelength UV light (366-nm) for the presence of fluorescent total coliform species. Because the blue color from the breakdown of IBDG can mask fluorescence, non-fluorescent blue colonies are included in the total coliform count. Water samples with high turbidity can clog the membrane filter, interfering with filtration and potentially interfering with the identification of target colonies. However, E. coli colonies on MI agar can be counted on plates from waters containing high particulate or background/non-coliform concentrations, chlorine-stressed organisms or nutrient-deprived organisms, temperature-sensitive E. coli, and/or anaerogenic strains that may not be recovered by other multiple-tube or membrane filter tests.

e. m-ColiBlue24 Broth

This broth method is a single-step MF test for enumerating total coliforms and E. coli. As with NA–MUG, modified mTEC, and MI media, the selective identification of E. coli is based on the detection of the β-glucuronidase enzyme. The test medium includes the chromogen 5-bromo-4-chloro-3-indoxyl-β-D-glucuronide (BCIG or X-Gluc). The chromogen BCIG is hydrolyzed by β-glucuronidase, releasing an insoluble indoxyl salt that produces blue colonies. M-ColiBlue24 broth is a commercially available format of this method and contains a nutritive lactose-based medium containing inhibitors to eliminate the growth of non-coliforms. With m-ColiBlue24 broth, a water sample is filtered through a 0.45μm membrane filter, and the filter is transferred to a plate containing an absorbent pad saturated with m-ColiBlue24 broth. The filter is incubated at 35 ± 0.5 °C for 24 h and examined for colony growth (Hach, 1999). The presence of E. coli is indicated by blue colonies.

TABLE 2.—ANALYTES DETECTED BY PROPOSED MEDIA

Technique	Media	Total coliform [1]	Fecal coliform [1]	E. coli
Most Probable Number (MPN)	LTB→EC–MUG	X [2]		X
	ONPG–MUG	X		X
	CPRG–MUG	X		X
	mFC→NA–MUG		X	X
	mENDO→NA–MUG	X		X
	LES–ENDO→NA–MUG	X		X
Membrane Filter (MF)	mTEC			X
	Modified mTEC			X
	MI	X		X
	m-ColiBlue24 broth	X		X

[1] Detection of total coliform or fecal coliform are included because their detection may be preliminary steps required for E. coli enumeration and are part of the E. coli method.
[2] LTB is the presumptive test for total coliforms. It is necessary to transfer sample to BGLB for confirmation to determine total coliform density.

Method Comparison Studies

To confirm the applicability and comparability of results obtained with individual methods, parallel quantitative comparison tests with multiple-tube or MF tests, and positive and negative control tests should be conducted for each site-specific sample in accordance with analytical quality control procedures in Standard Methods for the Examination of Water and Wastewater. Performance data for E. coli multiple-tube, multiple-well, and MF methods are provided in Table 3.

TABLE 3.—STUDY COMPARISONS OF E. COLI PROPOSED METHODS

Methods compared or tested	Water type(s) tested	Study design/number of samples	Results [1]	Reference(s) [2]
MI agar compared to mEndo→NA–MUG and/or mTEC agar.	Wastewater, spiked drinking water, and non-potable water.	Two single laboratory studies (23 samples and 51 samples) and an interlaboratory study (19 labs, 6 samples each).	• Overall differences not statistically significant • MI agar: Specificity 95.7%; • MI agar: False Positive (FP) = 4.3%; • MI agar: False Negative (FN) = 4.3%	Brenner, 1993. Brenner, 1996a. Brenner, 1996b.
Colilert® compared to multiple-tube fermentation and membrane filtration.	Surface water	.....	• No significant difference in recovery of E. coli • Correlation Coefficient (r) for Colilert® ranged from 0.706 to 0.89	Cowburn, 1994. Edberg, 1988. Edberg, 1989. Ellgas, undated. Fricker, 1995. Fricker, 1996a. Palmer, 1993.
Colilert® compared to LTB→EC–MUG.	Surface water	47 split samples	Colilert® found to be equally sensitive to LTB→EC–MUG	Edberg, 1990.
mTEC agar compared to modified mTEC agar.	Surface water	Single-laboratory, 43 split-samples.	• E. coli recovery rates were not statistically different • mTEC agar: FP = 6%; FN = 5% • modified mTEC agar: FP = 0%; FN = 4%	EPA, 1999b.
mTEC agar compared to modified mTEC agar, MI agar, and Colilert®.	Beach water (recreational).	70 samples from three Lake Erie beaches.	• No statistically significant difference between MI agar and mTEC agar. Statistically significant differences between modified mTEC agar and/or Colilert and standard method • Modified mTEC agar: r = 0.966*; FP = 0%*; FN = 11%* • MI agar: r = 0.983*; FP = 3%*; FN = 4%* • Colilert: r = 0.946*; FP = 5%*; FN = 9%* • *Based on reference method (mTEC agar)	Francy, 1999.
m-ColiBlue24 broth, mEndo→NA–MUG, and mTEC agar.	Surface water, non-chlorinated wastewater, wastewater spiked drinking water, finished drinking water.	19 surface water samples, 3 non-chlorinated wastewaters, 2 wastewater spiked drinking water, and 1 finished drinking water.	• Overall agreement with the reference methods was 98.8% for m-ColiBlue24 broth and 92.1% for mTEC agar m-ColiBlue24 broth: FP = 2.5%; FN = 0%; Sensitivity = 100%; Specificity = 97.7%	Grant, 1997.
Colilert®, Colilert-18®, and mTEC agar.	Fresh recreational water	204 (Colilert®) samples and 193 (Colilert-18®) samples.	• No statistically significant difference between test results • r = 0.905 and 0.921 respectively	IDEXX, 1999d. IDEXX, 1999e.
Colilert®, most probable number, and membrane filtration.	Marine water, seawater spiked with sewage effluent.	22 laboratories using 13 common samples plus 2 external QC samples.	All three techniques provided comparable results on marine samples	Noble, 1999.
Colilert-18® and membrane filtration.	Untreated surface water	6 rivers draining into drinking water reservoirs.	• Both techniques provided comparable results	Ostensvik, 2000.
Colisure™ compared to EC–MUG (multiple-tube fermentation) and method for detection of chlorine-injured E. coli.	Primary effluent	21 samples from 7 different geographical locations and 31 samples from 6 different locations (for detection of chlorine-injured E. coli).	• Colisure™: FP = 4.3%; FN = 2.4% • Detection of chlorine-injured E. coli: Colisure ™ had an average of 1.76 times more E. coli-positive results after 28 hours than the standard method	59 FR 35891, 1994.

[1] Methods of determining false positive and false negative rates were not standardized for all comparison studies.
[2] Complete reference information is provided in Section VI.

4. Methods for Enterococci

EPA is proposing several methods for enumerating enterococci in water. Brief descriptions of the proposed MPN and MF methods are provided below. In Table 4, methods in the same horizontal row use the same technique, but are published by different entities.

TABLE 4.—PROPOSED METHODS FOR ENTEROCOCCI ENUMERATION.[1], [2]

Methodology	Method [3]	EPA method	VCS method [4]			Commercial example
			Standard Methods	ASTM	AOAC	
Most Probable	Azide dextrose/PSE/BHI		9230B			
Number (MPN)	MUG media			D6503–99		Enterolert ™[4]
Membrane Filter	mE→EIA agar	1106.1	9230C	D5259–92		
(MF)	mEI agar	1600				

[1] Complete reference information is provided in Section VI.
[2] A media acronym table is provided in Section V.
[3] Tests must be conducted in a format that provides organism enumeration.
[4] Manufactured by IDEXX.

Most Probable Number (MPN) Tests for Enterococci

a. Azide Dextrose/PSE/BHI (Standard Methods 9230B)

The Azide Dextrose/PSE/BHI technique for enumerating enterococci in water uses multiple-tubes and dilutions/volumes in a three-step procedure (presumptive fecal streptococcus, confirmed fecal streptococcus, and enterococcus) to determine enterococci concentrations (APHA, 1998). In the presumptive phase, multiple-tubes containing azide dextrose are inoculated with sample and mixed with the broth by gentle agitation. Inoculated tubes are incubated for 24 ± 2 h at 35°C ± 0.5 °C. Each tube then is swirled and examined for turbidity. If turbidity is absent, tubes are incubated for an additional 24 h and re-examined. Production of turbidity within 48 ± 3 h constitutes a positive presumptive reaction for fecal streptococci.

After enrichment during the presumptive phase, positive azide dextrose tubes are subjected to a confirmation step for fecal streptococci. A portion of growth from each positive azide dextrose tube is streaked on Pfizer selective Enterococcus (PSE) agar using a sterile loop. Inverted plates are incubated at 35 °C ± 0.5 °C for 24 ± 2 h and observed for the presence of brownish-black colonies with a brown halo. Such colonies are confirmed as fecal streptococci.

Target colonies from the PSE medium can be transferred to a tube of brain-heart infusion (BHI) broth and incubated at 45 °C ± 0.5 °C for 48 h. Simultaneously, these colonies can be transferred to BHI broth containing 6.5% NaCl and incubated at 35 °C ± 0.5 °C for 48 h. Growth at both 45 °C in BHI medium and in BHI medium containing 6.5% NaCl at 35 °C is indicative of the Enterococcus bacterial group. The concentration in MPN/100 mL is then calculated from the number of positive 6.5% NaCl broth tubes using MPN tables or formulas.

b. 4-methylumbelliferyl-β-D-glucoside (MUG) Medium (ASTM D6503–99, Enterolert™)

This method utilizes a medium contaning the fluorogenic substrate 4-methylumbelliferyl-β-D-glucoside (MUG) to determine enterococci concentrations. Enterolert™ is a commercially available test that utilizes this substrate test for the determination of enterococci in water (IDEXX, 1999f). Enterolert™ tests are incubated for 24 h at 41 ± 0.5 °C and may use the same quantitative formats available for the Colilert® tests, cited earlier in Section III–A. After incubation, the presence of blue/white fluorescence is a positive result for enterococci. The concentration in MPN/100 mL is then calculated from the number of positive tubes or wells using MPN tables provided by the manufacturer. Enterolert™ is subject to the same interferences and cautions listed for the Colilert® tests. In addition, marine water samples must be diluted at least tenfold with sterile, non-buffered freshwater (Enterolert™ is already buffered).

Membrane Filter (MF) Tests for Enterococci

a. mE→EIA Agar (EPA 1106.1, Standard Methods 9230C, ASTM D5259–92)

The mEI agar method is a two-step MF procedure that provides a direct count of bacteria in water, based on the development of colonies on the surface of a membrane filter when placed on a selective nutrient medium (USEPA, 1985b). A water sample is filtered through a 0.45μm membrane filter, and the filter is placed on a plate containing selective mE agar. After the plate is incubated at 41 ± 0.5 °C for 48 h, the filter is transferred to an Esculin iron agar (EIA) plate and incubated at 41 ± 0.5 °C for 20–30 min. After incubation, all pink to red colonies on mE agar that form a black or reddish-brown precipitate on the underside of the filter when placed on EIA are counted as enterococci. Organism density is reported as enterococci per 100 mL.

b. mEI Agar (EPA Method 1600)

The mEI agar method is a single-step MF procedure that provides a direct count of bacteria in water, based on the development of colonies on the surface of a filter when placed on selective mEI agar (USEPA, 1997). This medium, a modification of the mE agar in EPA Method 1106.1, contains a reduced amount of 2-3-5-triphenyltetrazolium chloride, and an added chromogen, Indoxyl-β-D-glucoside. The transfer of the filter to EIA is eliminated, thereby providing results within 24 h. In this method, a water sample is filtered, and the filter is placed on mEI agar and incubated at 41 ± 0.5 °C for 24 h. Following incubation, all colonies with a blue halo, regardless of colony color, are counted as enterococci. Results are reported as enterococci per 100 mL.

Method Comparison Studies

To confirm the applicability and comparability of results obtained with individual methods, parallel quantitative comparison tests with multiple-tube or MF tests, and positive and negative control tests should be conducted for each site-specific sample in accordance with analytical quality control procedures in Standard Methods for the Examination of Water and Wastewater. Performance data for enterococci multiple-tube, multiple-well, and MF methods are provided in Table 5.

TABLE 5.—STUDY COMPARISONS OF ENTEROCOCCI PROPOSED METHODS

Methods compared or tested	Water type(s) tested	Study design/Number of samples	Results [1]	Reference(s) [2]
Enterolert™ compared to mE→EIA agar.	Recreational bathing water, tidal lagoons, water from marinas, untreated effluents, and marine water from stormwater-drainage sites.	343 samples	• Data indicated a strong linear correlation (r = 0.927) and no significant difference between the two methods (p = 0.39). • Enterolert™: False Positive (FP) = 2.4%; False Negative (FN) = 0.3%; Sensitivity = 99.8%; Specificity = 97.0%.	Abbott, 1998.
Enterolert™ compared to mE→EIA agar.	Marine and freshwater recreational bathing samples.	138 samples Connecticut Department of Public Health.	• When analyzing the entire sample population, there were no significant differences between the two methods. • Results classified by sample type (freshwater v. marine) showed a greater difference between the two methods. • Enterolert™ FP = 5.1%; FN = 0.4%.	Budnick, 1996.
Enterolert™ compared to mE→EIA agar.	Drinking water, freshwater, marine water, and untreated effluents.	821 samples	• Correlation coefficient (r) of 0.91 between the two methods. • Enterolert™: FP = 4.9%; FN = 0.6%.	Chen, 1996.
Enterolert™ compared to mE→EIA agar.	River water (323), partially treated effluent (516), treated effluents (620), and finished drinking water (1012).	2471 samples Thames Water Utilities	• r = 0.91 • Overall Enterolert™ detected enterococci in more samples and had fewer false positives, but these differences were not statistically significant. • Enterolert™: FP = 4.5% • mE-EIA: FP = 6.2%	Fricker, 1996.
mE→EIA agar compared to mEI agar.	Freshwater and marine water.	176 samples (including 44 duplicates). Single-laboratory study EPA Region 1	• No significant difference between the two methods. • mE→EIA agar: FP = 4%; FN = 8%; RPD= 38.7%. • mEI agar: FP = 2%; FN = 7%; RPD = 45.2%.	Liebman, 1999.
mE→EIA agar compared to mEI agar.	Surface water, non-chlorinated primary effluent, chlorinated secondary effluent, and marine waters.	Single-laboratory study Samples analyzed in duplicate	• No significant difference between the two methods. • mEI agar: FP = 6%; FN = 6.5%	Messer, 1998.
Azide Dextrose/PSE/BHI, mE→EIA agar, and Enterolert™.	Marine water, seawater spiked with sewage effluent.	22 laboratories using 13 common samples plus 2 external QC samples.	• Methods provide comparable results. • Average difference among methods was less than 6%.	Noble, 1999.
Azide Dextrose/PSE/BHI, mE→EIA agar, mEI agar, and Enterolert™.	Seawater samples from randomly selected sites.	7 labs performed side-by-side analyses on approximately 280 samples.	• Idexx vs. Standard Method: r = 0.1; correspondence = 88%*. • mEI agar vs. Standard Method: r = 0.9 correspondence = 99%. • mEI agar vs. Enterolert™: r = 0.89 correspondence = 97%. • Enterolert™ produced concentrations above the State threshold while standard methods produced results below for all samples with contradictory results.	Noble, 2000a.
mE→EIA agar, mEI agar, and Enterolert™.	Seawater samples from 79 randomly selected sites (31 open beach sites and 48 sites within 100 meters of a freshwater outlet).	6 labs performed side-by-side split sample analyses on approximately 48 samples.	• Enterolert™" vs. mEI agar: r = 0.93. • Enterolert™ vs. mE→EIA agar: r = 0.94.	Noble, 2000b.

[1] Methods of determining false positive and false negative rates were not standardized for all comparison studies.
[2] Complete reference information is provided in Section VI.

5. Request for Comment and Available Data

EPA requests public comments on the proposed methods for the bacterial indicators of fecal contamination. EPA invites comments on the technical merit, applicability, and implementation of the proposed *E. coli* and *enterococci* methods for ambient water monitoring. EPA also requests public comments on whether E. coli methods that are also applicable to total coliforms should be approved for determination of total coliforms in the final rule. Commenters should specify the method and bacteria/organisms to which the comment applies. EPA encourages commenters to provide copies of supporting data or references cited in comments. EPA also requests public comments on acceptable characteristics of these test methods for specific matrix applications, on comparability criteria to determine equivalency of alternative test methods, supporting data, and examples of any available alternative equivalency testing protocols. Additionally, EPA requests comments on any other applicable methods for analyzing *E. coli* and *enterococci* in ambient water not included in today's proposal. Method descriptions and supporting data may be submitted for additional test procedures that are applicable to enumerating these bacteria in ambient water.

B. Methods for Protozoa

EPA developed and validated two methods for determination of protozoan concentrations in ambient waters to support ongoing voluntary monitoring of ambient waters used as source waters for drinking water treatment plants. EPA validated Method 1622 for the determination of *Cryptosporidium* in ambient water in August 1998 and issued a validated draft method in January 1999. EPA validated Method 1623 for the simultaneous determination of *Cryptosporidium* and *Giardia* in ambient water in February 1999 and issued a validated draft method in April 1999. Methods 1622 and 1623 were revised and updated as a result of revised quality control criteria and the development of equivalent filters for use with the methods (USEPA, 2001c). The updates to Method 1622 (EPA–821–R–01–026) and Method 1623 (EPA–821–R–01–025) are proposed in today's rule.

1. Cryptosporidium and Giardia

Discussions of Methods 1622 and 1623 are combined for today's rule since all use essentially the same methodology: filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine presumptive concentrations, and confirmation through vital dye staining and differential interference contrast (DIC) microscopy for the detection of *Cryptosporidium* oocysts and *Giardia* cysts.

A 10- to 50-L volume of water is filtered and the oocysts, cysts, and extraneous materials are retained on the filter. Elution of the materials on the filter is accomplished with an aqueous buffered salt and detergent solution. The oocysts and cysts are concentrated through centrifugation, and the supernatant fluid is aspirated. Oocysts and cysts are captured by the attachment of magnetic beads conjugated to anti-*Cryptosporidium* and anti-*Giardia* antibodies. The oocysts and cysts are magnetically separated from the extraneous materials, and the extraneous materials are discarded. The magnetic beads are then detached from the oocysts and cysts. The oocysts and cysts are prepared on well slides and stained with fluorescently-labeled monoclonal antibodies and 4′,6-diamidino-2-phenylindole (DAPI). The stained sample is examined using fluorescence and differential interference contrast (DIC) microscopy. Qualitative analysis is performed by carefully scanning each slide well for objects that have the size, shape, and fluorescence characteristics of *Cryptosporidium* oocysts or *Giardia* cysts. Potential oocysts or cysts are confirmed through DAPI staining characteristics and DIC microscopy. Oocysts and cysts are identified when the size, shape, color, and morphology agree with specified criteria and examples in a photographic library. Quantitative analysis is performed by counting the total number of objects confirmed as oocysts or cysts on the slide.

The Method 1622 interlaboratory validation study (EPA–821–R–01–027) was conducted in August 1998 and involved 12 laboratories that analyzed spiked reagent water and raw surface water samples. Eleven laboratories participated in the Method 1623 interlaboratory validation study (EPA–821–R–028) conducted in 1999. Both the interlaboratory validation studies for Methods 1622 and 1623 followed the same approach for preparing spiked suspensions for single-blind test samples. The *Cryptosporidium* results obtained during the Method 1623 study were not statistically different from the *Cryptosporidium* results obtained during the Method 1622 interlaboratory validation study.

2. Request for Comment and Available Data

EPA requests public comments on the proposed methods for the protozoan pollutants. EPA invites comments on the technical merit, applicability, and implementation of the proposed *Cryptosporidium* and *Giardia* methods for ambient water monitoring. Commenters should specify the method and pollutant to which the comment specifies. EPA encourages commenters to provide copies of supporting data or references cited in comments. Additionally, EPA requests comments on any other applicable methods for analyzing for *Cryptosporidium* and *Giardia* in ambient water not included in today's proposal. Method descriptions and supporting data may be submitted for additional test procedures that are applicable to enumerating these protozoa in water.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, [58 FR 51735; (October 4, 1993)], the Agency must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L.

104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, Tribal, and local governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for the notification of potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, Tribal, or local governments or the private sector that may result in expenditures of $100 million or more in any one year. This rule makes available testing procedures for E. coli, enterococci, Cryptosporidium, and Giardia that may be used by a State, Territorial, Tribal or local authority for compliance with water quality standards or ambient monitoring requirements when testing is otherwise required by these regulatory authorities. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As discussed below, under the Regulatory Flexibility Act, the economic impact on small entities is anticipated to be small. It would not significantly affect them because any incremental costs incurred are small and it would not uniquely affect them because it would affect entities of all sizes depending upon whether testing for these bacteria or protozoa is otherwise required by a regulatory authority. Further, monitoring for small entities is generally expected to be less frequent than monitoring for larger entities. Thus, today's rule is not subject to the requirements of sections 203 of UMRA.

C. Regulatory Flexibility Act (RFA),as amended by the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration definition of small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less that 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed regulation would approve testing procedures for the measurement of E. coli and enterococci bacteria, and Cryptosporidium and Giardia protozoa in ambient water. EPA anticipates that the methods will be used by State regulatory authorities for evaluating attainment of water quality standards or ambient monitoring requirements. EPA NPDES regulations do not require monitoring of ambient water conditions in NPDES permits. In a few instances, ambient water monitoring requirements may be included in an EPA-issued permit where site-specific circumstances warrant. EPA regulations do, require NPDES permittees to use EPA-approved test methods for all monitoring data reported to the Agency (40 CFR 122.21). Consequently, to the extent that an NPDES permit requires monitoring and reporting of ambient water for E. coli, enterococci, Cryptosporidium, or Giardia (and NPDES regulations require the use of EPA-approved methods for all monitoring), EPA approval of these test methods arguably may impose costs on NPDES permit holders, including small entities. EPA is unaware, however, of any EPA-issued NPDES permits that currently require monitoring of ambient water for such pollutants. Hence, EPA does not expect approval of these methods to impose any additional costs as a result of their applicability to EPA-issued permits. As noted above, EPA's NPDES regulations do not require monitoring of ambient water conditions. Consequently, to the extent that a State requires such monitoring, those requirements are imposed under State, rather than federal, authority. Because States have the discretion *not* to require such monitoring, any increased costs to small entities arising from use of the methods proposed for approval by EPA today that are imposed as a result of State law are not attributable to this regulation.

Nonetheless, EPA evaluated these potential costs to determine whether EPA approval of the methods will have a significant impact on a substantial number of small entities. As previously noted, States may require ambient water monitoring to evaluate attainment of water quality standards. A few States currently require NPDES permit holders to monitor ambient water. Thus, some NPDES permittees are already testing ambient water for these parameters. Hence, the impact of using EPA-approved methods for such dischargers may represent little or no increased burden.

The small entities that might be affected by this rule include small governmental jurisdictions that have publically-owned treatment works (POTWs) and small businesses with water quality-based discharge permits. EPA looked first at the potential cost of the E. coli and enterococci methods proposed today. EPA conducted a survey of State, municipal, and commercial laboratories that routinely conduct bacterial analysis of water to compare the incremental analytical costs for existing total and fecal coliform methods already employed by many water quality monitoring programs with the methods proposed here. The mean analytical costs for total and fecal coliform were $22 ($15–48) and $21

($15–$35), respectively. The mean analytical costs for E. coli and enterococci were $22 ($10–$35) and $32 ($25–$50), respectively. The similarity of costs for total and fecal coliform versus E. coli and enterococci methods is expected since the analytical procedures used to determine these pollutants generally employ similar techniques, media, equipment, and require comparable laboratory time and effort to complete analysis. Some States are already using the proposed test methods for E. coli and enterococci in State ambient water quality monitoring programs (indeed, EPA is proposing to approve consensus methods for enumerating E. coli and enterococci in ambient waters. See section IV.E, below) and thus this rule would formalize current practice in those States. Furthermore, EPA expects that any modest potential increase in costs for enterococci analyses will be reduced once the proposed methods are broadly implemented by environmental laboratories and State water quality monitoring programs.

Next, EPA looked at the costs for testing for Cryptosporidium and Giardia. The range in cost for Methods 1622 and 1623 analysis of Cryptosporidium and Giardia is between $400–$500 for each method. As stated in section IV.E. below, EPA is not aware of any other acceptable test methods currently available for monitoring these pollutants. Methods 1622 and 1623 have been previously used for monitoring of various drinking water plant source waters to establish a national estimate of Cryptosporidium and Giardia occurrence. Because of the relatively high costs, EPA does not anticipate that these test methods will be used for daily or ongoing monitoring, but may be used program-specific occurrence assessments.

The purpose of this rule is only to make these methods available to States, Tribal and municipalities that may want to use them for ambient water monitoring. As noted above, the costs associated with Cryptosporidium and Giardia analysis would not be a Federally-mandated cost, but rather would flow from a State's adoption of ambient monitoring requirements. The inclusion of these test methods in section 136.3 is intended to make these test methods available to States and others for use in water quality monitoring programs. EPA is not establishing any compliance monitoring requirements for these pollutants.

D. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. This rule proposes to make available new test methods for E. coli, enterococci, Cryptosporidium and Giardia for use in ambient water monitoring programs but EPA would not require the use of these test methods.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the EPA decides not to use available and applicable voluntary consensus standards. This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. EPA's search of the technical literature revealed several consensus methods appropriate for enumerating E. coli and enterococci in ambient waters. Accordingly, methods for E. coli and enterococci published by Standard Methods for the Examination of Water and Wastewater, ASTM, and AOAC are included in this proposal and are listed in Table IA at the end of this notice (see footnotes 4,10, and 11, respectively, for the complete citations). No voluntary consensus standards were found for Cryptosporidium or Giardia. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards for enumerating E. coli, enterococci, Cryptosporidium, and Giardia in ambient waters, and to explain why such standards should be used in this regulation.

F. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, (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 EPA has 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 the Executive Order because it is neither economically significant as defined in Executive Order 12866, nor does it concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), 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 proposed rule does not have tribal implications. It 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. This proposed rule makes available test methods that may be used by a regulatory authority to demonstrate compliance with ambient water quality monitoring or water quality standards. However, Federal regulations do not require the use of these test methods. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

H. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), 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 proposed rule does not have federalism implications. It 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. This proposed rule makes new analytical methods available for conducting analysis of ambient water for enumeration of E.coli, enterococci, Cryptosporidium, or Giardia. EPA does not, however, propose to require use of these methods under this rule. Thus, Executive Order 13132 does not apply to this rule.

Although Section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with representatives of State and local governments in developing the proposed regulation. In fact, it was State representatives who requested that EPA include test methods for these biological pollutants in section 136.3 because they want to use EPA-approved test methods for ambient water monitoring. EPA is proposing this action in response to these requests. EPA included a number of test methods currently being used by States for these pollutants in today's proposed rulemaking. No significant concerns were raised about these methods.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA ans State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.''

We have not prepared a Statement of Energy Effects for this proposed rule because this rule is not a significant energy action, as defined in Executive Order 13211. This is not a significant regulatory action under Executive Order 12866, and it does not have a significant adverse effect on the supply, distribution, or use of energy.

V. Media Acronyms

BHI—brain-heart infusion agar
BGLB—brilliant green lactose bile broth
CPRG—chlorophenol red-β-D-galactopyranoside
DAPI—4′,6-diamidino-2-phenylindole
DIC—differential interference contrast
EC—E. coli
EIA—esculin iron agar
LES-Endo—Lawrence Experimental Station—Endo Agar
LTB—lauryl tryptose broth
mEI—membrane-Enterococcus iron agar
mFC—membrane-Fecal coliform agar
mTEC—membrane-Thermotolerant E. coli agar
MUG—4-methylumbelliferyl-β-D-glucuronide
NA—nutrient agar
ONPG—ortho-nitorphenyl-β-D-galactopyranoside
PSE—Pfizer selective Enterococcus agar

VI. References

Abbott, S., et al. 1998. ''Evaluation of Enterolert for the Enumeration of Enterococci in the Marine Environment.'' New Zealand Journal of Marine and Freshwater Research. 32:505–513.

AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. AOAC International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417.

APHA. 1998. Standard Methods for the Examination of Water and Wastewater. 20th Edition. American Public Health Association. 1015 15th Street, NW, Washington, DC 20005.

ASTM. 2000. Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. ASTM. 100 Barr Harbor Drive, West Conshohocken, PA 19428.

Brenner, K.P., et al. 1993. ''New Medium for the Simultaneous Detection of Total Coliforms and Escherichia coli in Water.'' Applied and Environmental Microbiology. 59:3534–3544.

Brenner, K.P., et al.1996a. ''Comparison of the Recoveries of Escherichia coli and Total Coliforms from Drinking Water by the MI Agar Method and the U.S. Environmental Protection Agency-Approved Membrane Filter Method.'' Applied and Environmental Microbiology. 62:203–208.

Brenner, K.P., et al. 1996b. ''Interlaboratory Evaluation of MI Agar and the U.S. Environmental Protection Agency-Approved Membrane Filter Method for the Recovery of Total Coliforms and Escherichia coli from Drinking Water.'' Journal of Microbiological Methods. 67:111–119.

Budnick, G.E., et al. 1996. ''Evaluation of Enterolert for Enumeration of Enterococci in Recreational Waters.'' Applied and Environmental Microbiology. 62:3881–3884.

Chen, C.M.., et al. 1996. ''Enterolert—A Rapid Method for Detection of Enterococci spp.'' In: ASM abstracts, no. Q448. 96th American Society of Microbiology general meeting. New Orleans. 464 p.

Cowburn, J.K., et al. 1994. A Preliminary Study of the use of Colilert® for Water Quality Monitoring. Lett. Appl. Microbiol. 19:50–52.

Edberg, S.C., et al. 1990. ''Enumeration of Total Coliforms and Escherichia coli from Source Water by Defined Substrate Technology.'' Applied and Environmental Microbiology. 56(2):366–369.

Edberg, S.C., et al. 1989. ''National Field Evaluation of a Defined Substrate

Method for the Simultaneous Detection of Total Coliforms and Escherichia coli from Drinking Water: Comparison with Presence/Absence Techniques.'' Applied and Environmental Microbiology. 55: 1003–1008.

Edberg, S.C., et al. 1988. ''National Field Evaluation of a Defined Substrate Method for the Simultaneous Enumeration of Total Coliforms and Escherichia coli from Drinking Water: Comparison with Standard Multiple-tube Fermentation Method.'' Applied and Environmental Microbiology. 54:1595–1601.

Ellgas, W.M., et al. Undated. ''Evaluation of Autoanalysis Colilert® In Wastewater.''

Francy, D.S., et al. 2000. ''Comparison of Methods for Determining Escherichia coli Concentrations in Recreational Waters.'' Water Research. 34:2770–2778.

Fricker, E.J., et al. 1996a. ''Use of Two Presence/Absence Systems for the Detection of E. coli and Coliforms from Water.'' Water Research. 30:2226–2228.

Fricker, E.J., et al. 1996b. ''Use of Defined Substrate Technology and a Novel Procedure for Estimating the Numbers of Enterococci in Water.'' Journal of Microbiological Methods. 27: 207–210.

Fricker, E.J., et al. 1995. ''Quantitative Procedures for the Detection of E. coli, Coliforms, and Enterococci in Water using Quanti-Tray and Enterolert.'' p. 2031–2036. In Proceedings of the Water Quality Technology Conference, New Orleans. American Water Works Association, Denver, CO.

Grant, M.A. 1997. ''A New Membrane Filtration Medium for Simultaneous Detection and Enumeration of Escherichia coli and Total Coliforms.'' Applied and Environmental Microbiology. 63:3526–3530.

Hach Company, Inc. 1999. m-ColiBlue24 Method is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

Hach Company, Inc. 1998. ''Comparability Study Using The Protocol for Alternate Test Procedures for Microbiology in Compliance With Drinking Water Regulations—m-ColiBlue 24, Membrane Filter Method For Isolation of Total Coliforms and E. coli in Finished Water.'' Morehead State University Water Testing Laboratory. Dr. Ted Pass II.

IDEXX Laboratories, Inc. 1999a. Description of Colilert®, Colilert-18®, Quanti-Tray®, Quanti-Tray®/2000, Colisure™, and Enterolert™ methods may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

IDEXX Laboratories, Inc. 1999b. ''Quanti-Tray™: A Simple Method for Quantitation of Bacterial Density in Liquid Samples.''

IDEXX Laboratories, Inc. 1999c. ''Quanti-Tray/2000™: Detection and Enumeration of Bacteria from High Bacterial Density Liquid Samples Without Dilution.''

IDEXX Laboratories, Inc. 1999d. Recreational Water Study, State of Illinois.

IDEXX Laboratories, Inc. 1999e. Recreational Water Study, Oakland County Health Department, Pontiac, Michigan.

Levin, M.A., et al. 1975. ''Membrane Filter Technique for Enumeration of Enterococci in Marine Waters.'' Applied Microbiology. 30:66–71.

Liebman, M. 1999. ''Short Summary of Statistical Results Comparing the New Methods 1600 vs. the Standard Method for Enterococci.'' EPA Region 1 Draft Report.

Messer, J.W., et al. 1998. ''A Rapid, Specific Membrane Filtration Procedure for Enumeration of Enterococci in Recreational Water.'' Applied and Environmental Microbiology. 64:678–680.

Noble, R.T., et al. 1999. Southern California Bight 1998 Regional Monitoring Program: Summer Shoreline Microbiology. Southern California Coastal Water Research Project Authority. Westminster, CA.

Noble, R.T., et al. 2000a. Southern California Bight 1998 Regional Monitoring Program: Winter Shoreline Microbiology. Southern California Coastal Water Research Project Project. Westminster, CA.

Noble, R.T., et al. 2000b. Southern California Bight Regional Monitoring Program: Storm Event Shoreline Microbiology. Southern California Coastal Water Research Project Project. Westminster, CA.

Ostensvik, O. 2000. ''Coliform Bacteria and Escherichia coli in Norwegian Drinking Water Sources—Comparison of Methods Based on the Fermentation of Lactose and Methods Based on the Activity of Specific Enzymes.'' In Proceedings of the Water Quality Technology Conference, Salt Lake City. American Water Works Association. Denver, CO.

Palmer, C.J. et al. 1993. ''Evaluation of Colilert-marine Water for Detection of Total Coliforms and Escherichia coli in the Marine Environment.'' Applied and Environmental Microbiology. 59:786–790.

Thomas, H.A., et al. 1955. ''Estimation of Coliform Density by the Membrane Filter and the Fermentation Tube Methods.'' American Journal of Public Health. 45(11): 1431–1437.

USEPA. 2001a. Method 1622: Cryptosporidium in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–026.

USEPA. 2001b. Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–025.

USEPA. 2001c. Implementation and Results of the Information Collection Rule Supplemental Surveys. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA 815–R–01–003.

USEPA. 2001d. Interlaboratory Validation Study Results for Cryptosporidium Precision and Recovery for U.S. EPA Method 1622. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–027.

USEPA. 2001e. Results of the Interlaboratory Method Validation Study for Determination of Cryptosporidium and Giardia Using U.S. EPA Method 1623. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–01–028.

USEPA. 2000a. Improved Enumeration Methods for the Recreational Water Quality Indicators: Enterococci and Escherichia coli. U.S. Environmental Protection Agency. Office of Science and Technology. Washington, DC. EPA/821/R–91/004.

USEPA. 2000b. Membrane Filter Method for the Simultaneous Detection of Total Coliforms and Escherichia coli in Drinking Water. U.S. Environmental Protection Agency, Office of Research and Development, Cincinnati, OH. EPA 600–R–00–013.

USEPA. 1999a. Action Plan for Beaches and Recreational Waters. U.S. Environmental Protection Agency. Office of Research and Development. Office of Water. EPA/600/R–98/079.

USEPA. 1999b. ''A Modified mTEC Medium for Monitoring Recreational Waters.'' Presented at American Society for Microbiology Annual Meeting, Miami Beach, FL. May 1997.

USEPA. 1998. Clean Water Action Plan: Restoring and Protecting America's Waters. U.S. Environmental Protection Agency and U.S. Department of Agriculture. February 14, 1998. EPA–840–R–98–001.

USEPA. 1997. Method 1600: Membrane Filter Test Method for Enterococci in Water. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821–R–97–004.

USEPA. 1986a. Ambient Water Quality Criteria for Bacteria—1986. Office of Water Regulations and Standards Division. Washington, DC. EPA–440–5–84–002.

USEPA. 1986b. Memo from T.H. Ericksen, HERL, Microbiology Branch to Participants in the EMSL–HERL Study for the Interlaboratory Testing of mE and mTEC Media for the Enumeration of Enterococci and E. coli. Four data summary tables attached.

USEPA. 1985a. ''Test Method 1103.1: Escherichia coli In Water By The Membrane Filter Procedure'' Included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.

USEPA. 1985b. ''Test Method 1106.1: Enterococci In Water By The Membrane Filter Procedure'' Included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental

Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.
USEPA. 1976. ''Quality Criteria for Water.'' U.S. Environmental Protection Agency. Washington, DC. EPA–600–3–76–079.

List of Subjects in 40 CFR Part 136

Environmental protection, Reporting and recordkeeping requirements, Water pollution control.

Dated: August 23, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

1. The authority citation for Part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

2. Section 136.3 is amended:

a. In paragraph (a) by revising Table IA.

b. By revising paragraphs (b)(10) and (b)(11), adding and reserving paragraphs (b)(44) to (b)(50), and adding paragraphs (b)(51) through (b)(60).

c. In paragraph (e) by revising the entries in Table II for Table IA and adding a new footnote 17.

§ 136.3 Identification of test procedures.

(a) * * *

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
Bacteria:							
1. Coliform (fecal), number per 100 mL.	Most Probable Number (MPN), 5 tube. 3 dilution, or Membrane filter (MF) [2], single step.	p.132 [3]	9221C E [4]				
		p. 124 [3]	9222D [4]			B–0050–85 [5]	
2. Coliform (fecal) in presence of chlorine, number per 100 mL.	MPN, 5 tube, 3 dilution, or. MF, single step [6]	p. 132 [3]	9221C E [4]				
		p. 124 [3]	9222D [4].				
3. Coliform (total), number per 100 mL	MPN, 5 tube, 3 dilution, or. MF [2], single step or two step.	p. 114 [3]	9221B [4]				
		p. 108 [3]	9222B [4]			B–0025–85 [5]	
4. Coliform (total), in presence of chlorine, number per 100 mL	MPN, 5 tube, 3 dilution, or. MF2 with enrichment	p. 114 [3]	9221B [4]				
		p. 111 [3]	9222(B+B.5c) [4].				
5. E. coli, number per 100 mL [29]	MPN [7,9,15]		9221B.1/ 9221F [4,12,14].				
			9223B [4,13]		[11] 991.15		Colilert® [13,18] Colilert-® [13,16,18] Colisure™ [13,17,18]
	MF [2,6,7,8,9]		9222B/ 9222G [4,20].				
		1103.1 [21] 1103.1M [22]. MI agar [23].	921D [4]	53592–93 [10]			
							mColiBlue24 [19]
6. Fecal streptococci, number per 100 mL	MPN, 5 tube, 3 dilution, mf [2], or Plate count	p. 139 [3]	9230B [4]				
		p. 136 [3]	9230C [4]			B–0055–85 [5]	
		p. 143 [3]					
7. Enterococci, number per 100 mL [29]	MPN [7,9]		9230B [4].				
				D6503–99 [10]			Enterolert™ [13,24]
	MF [2,6,7,8,9]	1106.1 [25] 1600 [26]	9230C [4]	D5259–92 [10]			
	Plate count	p. 14 [33]					
Protozoa:							
8. Cryptosporidium [29]	Filtration/IMS/FA	1622 [27] 1623 [28]					
9. Giardia [29]	Filtration/IMS/FA	1623 [28]					
Aquatic Toxicity:							

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS—Continued

Parameter and units	Method [1]	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
10. Toxicity, acute, fresh water organisms, LC50, percent effluent.	Daphnia, Ceriodaphnia, Fathead Minnow, Rainbow Trout, Brook Trout, or Bannerfish Shiner mortality.	Sec. 9 [30].					
11. Toxicity, acute, estuarine and marine organisms, LC50, percent effluent.	Mysid, Sheepshead Minnow, or Menidia spp. mortality.	Sec. 9 [30].					
12. Toxicity, chronic, fresh water organisms, NOEC or IC25, percent effluent.	Fathead minnow larval survival and growth.	1000.0 [31]					
	Fathead minnow embryo-larval survival and teratogenicity.	1001.0 [31] 1002.0 [31]					
	Ceriodaphnia survival and reproduction.						
	Selenastrum growth.	1000.0 [32].					
13. Toxicity, chronic, estuarine and marine organisms, NOEC or IC25, percent effluent.	Sheepshead minnow larval survival and growth.	1004.0 [31] 1005.0 [32]					
	Sheepshead minnow embryo-larval survival and teratogenicity.	1006.0 [32] 1007.0 [32]					
	Menidia beryllina larval survival and growth.	1008.0 [32]					
	Mysidopsis bahia survival, growth, and fecundity.	1009.0 [32]					
	Arbacia punctulata fertilization.						
	Champia parvula reproduction 1004.032.						

Notes to Table IA:

[1] The method must be specified when results are reported.

[2] A 0.45 μm membrane filter (MF) or other pore size certified by the manufacturer to fully retain organisms to be cultivated and to be free of extractables which could interfere with their growth.

[3] USEPA. 1978. Microbiological Methods for Monitoring the Environment, Water, and Wastes. Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio. EPA/600/8–78/017.

[4] APHA. 1998, 1995, 1992. Standard Methods for the Examination of Water and Wastewater. American Public Health Association. 20th, 19th, and 18th Editions. Amer. Publ. Hlth. Assoc., Washington, DC.

[5] USGS. 1989. U.S. Geological Survey Techniques of Water-Resource Investigations, Book 5, Laboratory Analysis, Chapter A4, Methods for Collection and Analysis of Aquatic Biological and Microbiological Samples, U.S. Geological Survey, U.S. Department of Interior, Reston, Virginia.

[6] Because the MF technique usually yields low and variable recovery from chlorinated wastewaters, the Most Probable Number method will be required to resolve any controversies.

[7] Tests must be conducted to provide organism enumeration (density). Select the appropriate configuration of tubes/filtrations and dilutions/volumes to account for the quality, character, consistency, and anticipated organism density of the water sample.

[8] When the MF method has not been used previously to test ambient waters with high turbidity, large number of noncoliform bacteria, or samples that may contain organisms stressed by chlorine, a parallel test should be conducted with a multiple-tube technique to demonstrate applicability and comparability of results.

[9] To assess the comparability of results obtained with individual methods, it is suggested that side-by-side tests be conducted across seasons of the year with the water samples routinely tested in accordance with the most current Standard Methods for the Examination of Water and Wastewater or EPA alternate test procedure (ATP) guidelines.

[10] ASTM. 2000, 1999, 1998. Annual Book of ASTM Standards—Water and Environmental Technology. Section 11.02. ASTM. 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[11] AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. AOAC International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417.

[12] The multiple-tube fermentation test is used in 9221B.1. Lactose broth may be used in lieu of lauryl tryptose broth (LTB), if at least 25 parallel tests are conducted between this broth and LTB using the water samples normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform using lactose broth is less than 10 percent. No requirement exists to run the completed phase on 10 percent of all total coliform-positive tubes on a seasonal basis.

[13] These tests are collectively known as defined enzyme substrate tests, where a substrate is used to detect the enzyme β-glucuronidase produced by E. coli.

[14] After prior enrichment in a presumptive medium for total coliform using 9221B.1, all presumptive tubes or bottles showing any amount of gas, growth or acidity within 48 h ± 3 h of incubation shall be submitted to 9221F. Commercially available EC-MUG media or EC media supplemented in the laboratory with 50 μg/mL of MUG may be used.

[15] Samples shall be enumerated by the multiple-tube or multiple-well procedure. Using multiple-tube procedures, employ an appropriate tube and dilution configuration of the sample as needed and report the Most Probable Number (MPN). Samples tested with Colilert® and Colisure™ tests may be enumerated with the multiple-well procedures, Quanti-Tray® or Quanti-Tray® 2000, and the MPN calculated from the table provided by the manufacturer.

[16] Colilert-18'' is an optimized formulation of the Colilert'' for the determination of total coliforms and E. coli that provides results within 18 h of incubation at 35 °C rather than the 24 h required for the Colilert'' test and is recommended for marine water samples.

[17] Colisure® must be incubated for 28 h before examining the results. If an examination of the results at 28 h is not convenient, then results may be examined at any time between 28 h and 48 h.

[18] Descriptions of the Colilert®, Colilert-18®, Quanti-Tray®, Quanti-Tray®/2000, and Colisure™ may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[19] A description of the mColiBlue24 test is available from Hach Company, 100 Dayton Ave., Ames, IA 50010.

[20] Subject total coliform positive samples determined by 9222B or other membrane filter procedure to 9222G using NA-MUG media.

[21] USEPA. 1985. Test Method 1103.1: Escherichia coli In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.

[22] USEPA. 2000. Improved Enumeration Methods for the Recreational Water Quality Indicators: Enterococci and Escherichia coli. U.S. Environmental Protection Agency. Office of Science and Technology. Washington, DC. EPA/821/R–91/004.

[23] Preparation and use of MI agar with a standard membrane filter procedure is set forth in the article, Brenner et al. 1993. ''New Medium for the Simultaneous Detection of Total Coliform and Escherichia coli in Water.'' Appl. Environ. Microbiol. 59:3534–3544 and electronic document, EPA–600-R–00–013.

[24] A description of the Enterolert® test may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092.

[25] USEPA. 1985. Test Method 1106.1: Enterococci In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076.

[26] USEPA. 1997. Method 1600: Membrane Filter Test Method for Enterococci in Water. U.S. Environmental Protection Agency. Office of Water. Washington, DC. EPA–821-R–97–004.

[27] Method 1622 uses filtration, concentration, immunomagnetic separation of oocysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the detection of Cryptosporidium.

[28] Method 1623 uses filtration, concentration, immunomagnetic separation of oocysts and cysts from captured material, immunofluorescence assay to determine concentrations, and confirmation through vital dye staining and differential interference contrast microscopy for the simultaneous detection of Cryptosporidium and Giardia oocysts and cysts.

[29] Recommended for enumeration of target organism in ambient water only. Applicability to other matrices must be demonstrated.

[30] USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. EPA/600/4–90/027F.

[31] USEPA. 1994. Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms. Third Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. EPA/600/4–91/002.

[32] Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms. Second Edition. U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Cincinnati, Ohio. EPA/600/4–91/003. These methods do not apply to marine waters of the Pacific Ocean.

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(b) * * *

(10) Annual Book of ASTM Standards, Water, and Environmental Technology, Section 11, Volumes 11.01 and 11.02, 1994, 1999, and 2000 in 40 CFR 136.3, Table IA.

(11) AOAC. 1995. Official Methods of Analysis of AOAC International, 16th Edition, Volume I, Chapter 17. AOAC International. 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877–2417. Table IA.

* * * * *

(51) IDEXX Laboratories, Inc. 1999. Description of Colilert®, Colilert-18®, Quanti-Tray®, Quanti-Tray®/2000, Colisure™, and Enterolert™ methods are available from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. Table IA, Notes 18 and 24.

(52) Hach Company, Inc. 1999. m-ColiBlue24 Method is available from Hach Company, 100 Dayton Ave., Ames, IA 50010. Table IA, Note 19.

(53) USEPA. 1985. Test Method 1103.1: Escherichia coli In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076. Table IA, Note 21.

(54) USEPA. 1985. Test Method 1106.1: Enterococci In Water By The Membrane Filter Procedure included in: Test Methods For Escherichia coli and Enterococci In Water By the Membrane Filter Procedure. U.S. Environmental Protection Agency, Office of Research and Development, Environmental Monitoring Support Laboratory, Cincinnati, OH. EPA–600–4–85–076. Table IA, Note 25.

(55) USEPA. 2000. ''Improved Enumeration Methods for the Recreational Water Quality Indicators: Enterococci and Escherichia coli.'' U.S. Environmental Protection Agency, Office of Science and Technology, Washington, DC. EPA/821/R–91/004. Table IA, Note 22.

(56) Brenner et al. 1993. ''New Medium for the Simultaneous Detection of Total Coliform and Escherichia coli in Water.'' Appl. Environ. Microbiol. 59:3534–3544. Table IA, Note 23.

(57) USEPA 2000. ''Membrane Filter Method for the Simultaneous Detection of Total Coliforms and Escherichia coli in Drinking Water.'' February 2000. U.S. Environmental Protection Agency, Office of Research and Development, Cincinnati, OH 45268. EPA 600–R–00–013. Table IA, Note 23.

(58) USEPA. 1997. ''Method 1600: Membrane Filter Test Method for Enterococci in Water.'' U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–821–R–97–004. Table IA, Note 26.

(59) USEPA. 2001. ''Method 1622: Cryptosporidium in Water by Filtration/IMS/FA.'' U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–821–R–01–026. Table IA, Note 27.

(60) USEPA. 2001. ''Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA.'' U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–821–R–01–025. Table IA, Note 28.

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(e) * * *

TABLE II.—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES

Parameter No./name	Container [1]	Preservation [2,3]	Maximum holding time [4] (in hours)
Table IA—Bacteria Tests:			
1–5 Coliform, total, fecal, and E. coli	PP, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5]	6
6 Fecal streptococci	PP, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5]	6
7 Enterococci	PP, G	Cool, <10 °C, 0.0008% $Na_2S_2O_3$ [5]	6

TABLE II.—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES—Continued

Parameter No./name	Container [1]	Preservation [2,3]	Maximum holding time [4] (in hours)
Table IA—Protozoa Tests:			
8 Cryptosporidium	LDPE	0–8 °C	[17] 72
9 Giardia	LDPE	0–8 °C	[17] 72
Table IA—Aquatic Toxicity Tests:			
10–13 Toxicity, acute and chronic	P, G	Cool, 4 °C [16]	36
* * * * * * *			

[1] Polyethylene (P) or glass (G). For bacteria, plastic sample containers must be made of sterilizable materials (polypropylene [PP] or other autoclavable plastic). For protozoa, plastic sample containers must be made of low-density polyethylene (LDPE).

[2] Sample preservation should be performed immediately upon sample collection. For composite chemical samples, each aliquot should be preserved at the time of collection. When use of an automated sampler makes it impossible to preserve each aliquot, then chemical samples may be preserved by maintaining at 4 °C until compositing and sample splitting is completed.

[3] When any sample is to be shipped by common carrier or sent through the United States Mails, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirements of Table II, the Office of Hazardous Materials, Transportation Bureau, Department of Transportation, has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater); Nitric acid (HNO_3) in water solutions of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric acid (H_2SO_4) in water solutions of concentrations of 0.35% by weight or less (pH about 1.15 or greater); and Sodium hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before analyses and still be considered valid. Samples may be held for longer periods only if the permittee, or monitoring laboratory, has data on file to show that for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under § 136.3(e). Some samples may not be stable for the maximum time period given in the table. A permittee or monitoring laboratory is obligated to hold the samples for a shorter time if knowledge exists to show that this is necessary to maintain sample stability. See § 136.3(e) for details. The term ''analyze immediately'' usually means within 15 minutes or less of sample collection.

[5] Should only be used in the presence of residual chlorine.

* * * * * * * *

[16] Sufficient ice should be placed with the samples in the shipping container to ensure that ice is still present when samples arrive at the laboratory. However, even if ice is present when the samples arrive, it is necessary to immediately measure the temperature of the samples and confirm that the 4 °C temperature maximum has not been exceeded. In the isolated cases where it can be documented that this holding temperature can not be met, the permittee can be given the option of on-site testing or can request a variance. The request for a variance should include supportive data which show that the toxicity of the effluent samples is not reduced because of the increased holding temperature.

[17] Holding time is calculated from time of sample collection to the completion of centrifugation.

* * * * *

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG10

Endangered and Threatened Wildlife and Plants; Proposed Special Regulations for the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: On May 22, 2001, the U.S. Fish and Wildlife Service adopted special regulations governing take of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*). This notice proposes to amend those regulations, which provide exemption from take provisions under section 9 of the Endangered Species Act for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, and perfected water rights. This action would provide exemption from the section 9 take prohibitions for certain noxious weed control and ditch maintenance activities. We believe this action would provide further relief for landowners while ensuring conservation of the Preble's meadow jumping mouse.

DATES: Comments must be received on or before October 1, 2001 to receive consideration.

ADDRESSES: Comments concerning this proposal should be sent to LeRoy Carlson, Field Supervisor, Colorado Field Office, Ecological Services, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: LeRoy W. Carlson at the above address or telephone 303/275–2370.

SUPPLEMENTARY INFORMATION:

Background

The final rule listing the Preble's meadow jumping mouse (*Zapus hudsonius preblei*) (Preble's) as a threatened species under the Endangered Species Act (Act) of 1973 (16 U.S.C. 1531 *et seq.*) was published in the **Federal Register** on May 13, 1998 (63 FR 26517). Section 9 of the Act prohibits take of endangered wildlife. The Act defines take to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct. However, the Act also provides for the authorization of take and exceptions to the take prohibitions. Take of listed species by non-Federal property owners can be permitted through the process set forth in section 10 of the Act. For federally funded or permitted activities, take of listed species may be allowed through the consultation process of section 7 of the Act. We, the Fish and Wildlife Service, have issued regulations (50 CFR 17.31) that generally apply to threatened wildlife the prohibitions that section 9 of the Act establishes with respect to endangered wildlife. Our regulations for threatened wildlife also provide that a ''special rule'' under section 4(d) of the Act can be tailored for a particular threatened species. In that case, the general regulations for some section 9 prohibitions do not apply to that species, and the special rule contains the prohibitions (and exemptions) necessary and appropriate to conserve that species.

On December 3, 1998, we proposed a section 4(d) rule (63 FR 66777) to define conditions under which certain activities that could result in incidental take of Preble's would be exempt from the section 9 take prohibitions. We held two public meetings, at which 129 people attended. We also received 614 comment letters. On May 22, 2001, we published a final rule (66 FR 28125) adopting certain portions of this proposal. Some comments received on the proposed rule suggested additional exemptions to promote conservation of the Preble's. After consideration of these comments, we are now proposing to amend the section 4(d) rule to add special provisions providing exemptions from section 9 prohibitions for certain weed control and ditch maintenance activities.

Provisions of the Proposed Rule

Term

We propose that the special regulations contained in this amendment be applicable for a period not to exceed 36 months from May 22, 2001, the date the final special rule became effective, in order to be consistent with the 36-month timeframe of the May 22, 2001, final section 4(d) rule, (*i.e.,* May 22, 2001, to May 22, 2004). We expect that, during this time period, comprehensive Habitat Conservation Plans for the Preble's will be developed and a recovery plan and other conservation efforts for the Preble's will be completed.

Additional Exemptions

We propose that the activities discussed below, which may result in incidental take of Preble's, would be exempted from the section 9 take prohibitions. ''Incidental take'' refers to taking that is otherwise prohibited, if such taking is incidental to, and not the purpose of, an otherwise lawful activity, and is consistent with exceptions provided in this special rule. Take not exempted by this proposed rule and not otherwise authorized under the Act may be referred to the appropriate authorities for civil enforcement or criminal prosecution.

a. *Noxious weed control activities*—Comments on the proposed section 4(d) rule of December 3, 1998, included a request to consider a rangewide exemption for control of noxious weeds. The comments stressed that laws in both Colorado and Wyoming require control of noxious weeds and that such control is compatible with Preble's conservation. We propose to amend the final 4(d) rule by including a rangewide exemption for noxious weed control, with appropriate limitations designed to prevent eradication of entire plant communities in the course of controlling weeds. We believe that this exemption will facilitate conservation of the Preble's, because noxious weeds are displacing desirable natural vegetation on which the Preble's depends for survival.

b. *Ongoing ditch maintenance activities*—In the December 3, 1998, proposed rule, we stated that we considered adopting a rangewide exemption for periodic maintenance of existing water supply ditches, but chose not to do so because ditches support occupied and potential Preble's habitat. We received a large number of comments on this decision, many supporting a rangewide exemption and arguing that current maintenance practices have resulted in viable habitat for the Preble's.

In response to these comments, we have elected to propose a limited exemption for customary ditch maintenance activities that are designed to protect and enhance Preble's habitat. This proposed exemption builds upon the guidance provided in a January 31, 2001, ''To Whom It May Concern Letter'' (Letter), which was originally issued by us on March 11, 1999, and reissued on February 1, 2000, and January 31, 2001, and which was our initial response to these comments. While the Letter specifically describes activities throughout the range of the Preble's that we believe would not constitute take under section 9 of the Act, this proposed amendment to the 4(d) rule specifies certain activities that may result in take and grants exemption from such take.

Our intent is to allow normal and customary maintenance activities that will result only in temporary or limited disturbance of Preble's habitat, and that will result in only minimal take of Preble's. We intend for this exemption to apply only to manmade ditches and not to alteration of habitat along naturally occurring streams and watercourses.

We believe that a limited exemption is necessary, not only to provide relief to those who must maintain active ditches, but to assure that currently existing Preble's habitat along ditches remains functionally intact and viable. Should limited ditch maintenance not be allowed to continue, we face the possibility that these ditches would no longer be capable of conveying water and any habitat dependent on this water would degrade over time and eventually be lost. Maintenance of these ditches, as defined by this proposed rule, is necessary to maintain future conservation options for the Preble's.

Therefore, we propose to exempt from the section 9 take prohibitions, limited maintenance activities on water conveyance ditches throughout the range of the Preble's. We believe that providing exemption from take for all ditch maintenance activities would be imprudent because—(a) some areas contain many ditches known or thought to be occupied by Preble's, (b) the stability of many local Preble's populations is uncertain, (c) the importance of ditch habitat to Preble's populations in many areas is not completely known, and (d) some occupied ditches may serve as important population refugia and travel corridors connecting populations.

We propose exemptions from the take prohibitions of section 9 of the Act for the following ditch maintenance activities, if the Best Management Practices described below are followed.

1. Normal and customary ditch maintenance activities that result in the annual loss of no more than ¼ mile of riparian shrub habitat within any one linear mile of ditch within any calender year. Riparian shrub habitat is defined as vegetation dominated by plants that generally have more than one woody stem that measures less than 2 inches in diameter and are typically less than 10 feet in height at maturity, put on new growth each season, and have a bushy appearance. Examples of shrubs include, but are not limited to, willow, snowberry, wild plum, and alder.

2. Included in 1. above is the burning of ditches that results in the annual loss of no more than ¼ mile of riparian shrub habitat within any one linear mile of ditch within any calendar year and is conducted out-of-season (see ''Best Management Practices'').

Best Management Practices

Avoiding impacts to shrubs—Persons engaged in ditch maintenance activities must, to the maximum extent practicable, avoid impacts to shrub vegetation. For example, if it is possible to access the ditch for maintenance or repair activities from an area containing no shrubs, then damage to adjacent shrub vegetation must be avoided.

Disposition of debris—Persons engaged in placing or sidecasting silt and debris removed during ditch cleaning, vegetation or mulch from mowing/cutting, or other material from ditch maintenance must, to the maximum extent practicable, avoid shrub habitat, and at no time disturb more than ¼ mile of riparian shrub habitat within any one linear mile of ditch within any calendar year.

Timing of work—To the maximum extent practicable, all ditch maintenance will be carried out during the Preble's hibernation season, November through April. Any maintenance activities carried out during the Preble's active season, May through October, will be conducted during daylight hours only.

This exemption includes maintenance of roads used to access ditches and related infrastructure. These maintenance activities are limited to the historic footprint associated with the infrastructure and access roads. Examples of activities that are covered by the exemption include the following activities, each limited to the destruction of ¼ mile of riparian shrub habitat within one linear mile of ditch within any calendar year:

a. *Clearing trash, debris, vegetation, and silt by either physical, mechanical, chemical, or burning procedures*—Examples include mowing or cutting grasses and weeds, removal of silt and debris from the ditch below the high-water line, and control of shrubs that could result in ditch leakage.

b. *Reconstruction, reinforcement, repair, or replacement of existing infrastructure with components of substantially similar materials and design*—Examples include replacement of a damaged headgate, grading or filling areas susceptible to ditch failure, patchwork on a concrete ditch liner, or replacement of failed culvert with a new culvert of the same design and material.

The following maintenance activities are *not* exempted from the take provisions of section 9 of the Act:

a. *Replacement of existing infrastructure with components of substantially different materials and design*—such as replacing an existing gravel access road with a permanently paved road.

b. *Construction of new infrastructure or the movement of existing infrastructure to new locations*—Examples include redrilling a well in a new location, building a new access road, change in the location of a diversion structure or installation of new diversion works where none previously existed.

Comments

These additional exemptions are proposed in response to comments received during the public review on the December 3, 1998, 4(d) rule proposal. Water rights owners argued that lack of an exemption for periodic maintenance of existing ditches conflicted with the exemption for existing uses of perfected water rights, because ditch maintenance is an intrinsic part of exercising a perfected water right. In addition, respondents noted that ditch maintenance is required by State law in both Wyoming and Colorado. Failure to adequately maintain water conveyance structures can result in fines, penalties, and liability for damage to property caused by ditch failures. Finally, respondents noted that prohibition of ditch maintenance could subsequently result in curtailment or cessation of water diversions. This situation in turn could result in forfeiture or abandonment of water rights under State law.

By exempting limited periodic maintenance activities on existing water supply ditches, this proposed amendment facilitates consistency among the rangewide exemptions. Where appropriate, permits can be issued under section 10 of the Act to allow incidental take of Preble's for activities not proposed to be exempted through this rule.

Some respondents believed that any exemption should include maintenance of water supply wells, water measurement devices, dams, other infrastructure, and associated roads.

The proposed amendment includes a limited exemption for maintenance of roads used to access existing ditches and related infrastructure provided that these activities do not exceed the maximum allowable loss of riparian shrub habitat in any calendar year. This exemption covers only maintenance and replacement of dams or infrastructure directly related to, and used in, the operation of ditches. An exemption also applies to activities covered in § 17.40 (l)(2)(v) of the final rule relating to *existing* uses of water associated with the exercise of perfected water rights. Any person contemplating dam or infrastructure work not covered by either of these two exemptions should consult with us when the maintenance procedure has the potential to take Preble's.

Several respondents requested rangewide exemptions for maintenance of other types of water-related infrastructure. The suggested exemptions included maintenance of sewer lines; wastewater treatment and conveyance facilities; and stormwater collection, conveyance, and treatment facilities.

We elected not to propose an exemption for these types of water-related infrastructure. These systems typically incorporate extensive pipeline systems that either cross Preble's habitat, or are installed along stream corridors that provide Preble's habitat. Activities to maintain this infrastructure can create large areas of surface disturbance within or near Preble's habitat that could temporarily or permanently prevent occupation of habitat or migration from one Preble's habitat area to an adjacent Preble's habitat area.

Owners and operators of stormwater and wastewater systems will be required to consult with us when their maintenance activities have the potential to result in take of Preble's. We will work with wastewater and stormwater system owners and operators to develop maintenance procedures that minimize and mitigate take of Preble's when maintenance activities occur within Preble's habitat.

Comments Solicited

The Service invites comments on this proposed rule. Comments should be forwarded to the Field Supervisor, Colorado Field Office (see **ADDRESSES** section). While our normal practice is to solicit comments on proposed rules for 60 days, we believe a 30-day comment period is sufficient in this case because we have already received public comments regarding the substance of this proposed rule.

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 or 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 proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to Office of Regulatory Affairs, Department of Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You also may e-mail the comments to *Exsec@ios.doi.gov.*

Required Determinations

A Record of Compliance was prepared for the May 22, 2001, final rule that exempted from the take prohibitions listed in section 9 of the Act, the four activities of rodent control, ongoing agricultural activities, landscaping, and

ongoing use of existing water rights. A Record of Compliance certifies that a rulemaking action complies with the various statutory, Executive Order, and Department Manual requirements applicable to rulemaking. Amendment of the May 22, 2001, rule to include the two additional exemptions proposed herein, noxious weed control and ongoing ditch maintenance, does not add any significant elements to this Record of Compliance.

Without this proposed special rule, noxious weed control or ongoing ditch maintenance activities that may result in take of Preble's would not be exempted from the take prohibitions. This rule would allow certain affected landowners to engage in certain noxious weed control and ditch maintenance activities that may result in take of Preble's. Without this rule, anyone engaging in those activities would need to seek an authorization from us through an incidental take permit under section 10(a) or an incidental take statement under section 7(a)(2) of the Act. This process takes time and can involve an economic cost. The rule would allow these landowners to avoid the costs associated with abstaining from conducting these activities or with seeking an incidental take permit from us. These economic benefits, while important, do not rise to the level of ''significant'' under the following required determinations.

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget has determined that this rule is not a significant regulatory action. This rule would not have an annual economic impact of more than $100 million, or significantly affect any economic sector, productivity, jobs, the environment, or other units of government. This rule would reduce the regulatory burden of the listing of the Preble's meadow jumping mouse under the Act as a threatened species by providing certain exemptions to the section 9 take prohibitions that currently apply throughout the Preble's range. These exemptions would reduce the economic costs of the listing; therefore, the economic effect of the rule would benefit landowners and the economy. This effect does not rise to the level of ''significant'' under Executive Order 12866.

This rule will not create inconsistencies with other Federal agencies' actions. Other Federal agencies would be mostly unaffected by this proposed rule.

This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Because this rule would allow landowners to continue otherwise prohibited activities without first obtaining individual authorization, the rule's impacts on affected landowners would be positive.

This rule will not raise novel legal or policy issues. We have previously promulgated section 4(d) rules for other species, including the special rule for the Preble's pertaining to rodent control, ongoing agricultural activities, landscaping, and activities associated with water rights. This rule would simply add exempted activities to that rule.

Regulatory Flexibility Act

We have determined that this rule would 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.*). An initial regulatory flexibility analysis is not required, and a Small Entity Compliance Guide is not required. This rule would reduce the regulatory burden of the listing of the Preble's as a threatened species. Without this proposed rule and the final special rule, all of the take prohibitions listed in section 9 of the Act would apply throughout the range of the Preble's. This rule would allow certain affected landowners to engage in noxious weed control and ditch maintenance activities that may result in take of Preble's. This rule would enable these landowners to avoid the costs associated with abstaining from conducting these activities to avoid take of Preble's or seeking incidental take permits from us.

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 would not have an annual effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. As described above, this rule would reduce regulatory burdens on affected entities, who are mostly agricultural producers.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. This rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A Small Government Agency Plan is not required.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications. By reducing the regulatory burden placed on affected landowners resulting from the listing of the Preble's as a threatened species, this rule would reduce the likelihood of potential takings. Affected landowners would have more freedom to pursue activities (i.e., noxious weed control and ditch maintenance) that may result in taking of Preble's without first obtaining individual authorization.

Federalism

In accordance with Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Currently, the State of Colorado, the Service, and various local governmental entities in Colorado and Wyoming are working together to develop plans to conserve the Preble's and its habitat. This collaborative approach is expected to result in the development of Habitat Conservation Plans that will provide the foundation upon which to build a lasting, effective, and efficient conservation program for the Preble's. Because we anticipate beneficial impacts of such collaborative conservation efforts, we are proposing that this rule would be applicable only during the 36-month timeframe of the final special rule.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

Paperwork Reduction Act

We have examined this proposed rule under the Paperwork Reduction Act of 1995 and found it to contain no requests for information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The National Environmental Policy Act analysis has been conducted. An Environmental Assessment was prepared for the final special rule. The additional exemptions covered in this proposed rule were included in this analysis.

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) and E.O. 13175, we have evaluated possible effects on federally recognized Indian Tribes. We have determined that, because no Indian trust resources occur within the range of the Preble's, this rule would have no effects on federally recognized Indian Tribes.

Executive Order 13211

We have evaluated this proposed rule in accordance with E.O. 13211 and have determined that this rule would have no effects on energy supply, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service proposes to amend 50 CFR part 17, as set forth below:

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.

2. Amend § 17.40 by adding paragraph (l)(2)(vi) and (l)(2)(vii) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(l) Preble's meadow jumping mouse (*Zapus hudsonius preblei*).

* * * * *

(2) * * *

(vi) *Noxious weed control*. Preble's meadow jumping mice may be taken incidental to noxious weed control as long as the weed control:

(A) Is implemented pursuant to the undesirable plant management plan adopted by the applicable county or municipal government;

(B) Is implemented in consultation with the weed control officer designated by the applicable county or municipal government;

(C) Utilizes the best available methods of integrated management as prescribed in the local undesirable plant management plan; and

(D) Follows herbicide application guidelines as prescribed by herbicide manufacturers and Federal law.

(vii) *Ditch maintenance activities.* Preble's meadow jumping mice may be taken incidental to normal and customary ditch maintenance activities only if the activities:

(A) Result in the annual loss of no more than ¼ mile of riparian shrub habitat per linear mile of ditch, including burning of ditches that results in the annual loss of no more than ¼ mile of riparian shrub habitat per linear mile of ditch.

(B) Are performed within the historic footprint of the surface disturbance associated with ditches and related infrastructure, and

(C) Follow the Best Management Practices described in paragraphs (1)(2)(vii)(C)(*1*) through (*3*) of this section.

(*1*) Persons engaged in ditch maintenance activities must avoid, to the maximum extent practicable, impacts to shrub vegetation. For example, if accessing the ditch for maintenance or repair activities from an area containing no shrubs is not possible, then damage to adjacent shrub vegetation must be avoided.

(*2*) Persons engaged in placement or sidecasting of silt and debris removed during ditch cleaning, vegetation or mulch from mowing or cutting, and other material from ditch maintenance must, to the maximum extent practicable, avoid shrub habitat and at no time disturb more than ¼ mile of riparian shrub habitat per linear mile of ditch within any calendar year.

(*3*) To the maximum extent practicable, all ditch maintenance activities will be carried out during the Preble's hibernation season, November through April.

(D) All ditch maintenance activities carried out during the Preble's active season, May through October, will be conducted during daylight hours only.

(E) Ditch maintenance activities that would result in permanent or long-term loss of potential habitat, including replacement of existing infrastructure with components of substantially different materials and design, such as replacement of open ditches with pipeline or concrete-lined ditches, replacement of an existing gravel access road with a permanently paved road, or replacement of an earthen diversion structure with a rip-rap and concrete structure, and construction of new infrastructure or the movement of existing infrastructure to new locations, such as realignment of a ditch, building a new access road, or installation of new diversion works where none previously existed, would not be considered normal and customary.

* * * * *

Dated: August 8, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–21680 Filed 8–29–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[I.D. 080601E]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice of receipt of an application for an exempted fishing permit (EFP); request for comments.

SUMMARY: NMFS announces receipt of an application for an EFP from the California Department of Fish and Game. The EFP application applies to vessels with valid California state delivery permits fishing for chilipepper rockfish with small footrope trawl gear south of 40°10′ N. lat. If awarded, the EFP would allow federally managed groundfish species to be landed in excess of cumulative trip limits and a portion of the chilipepper rockfish caught to be sold for profit, providing the vessels carry state-sponsored observers. Observers would collect data that are otherwise not available. This EFP proposal is intended to promote the objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing data that can be used to enhance management of the groundfish fishery.

DATES: Comments must be received by October 1, 2001.

ADDRESSES: Copies of the EFP application are available from Becky Renko Northwest Region, NMFS, 7600

Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Becky Renko 206–526–6140.

SUPPLEMENTARY INFORMATION: This action is authorized by the FMP and implementing regulations at 50 CFR 600.745 and 50 CFR 660.350.

At the June 2001 Pacific Fishery Management Council (Council) meeting, the State of California presented NMFS with an EFP application. The primary purpose of the exempted fishing activity would be to measure bycatch rates of bocaccio and other rockfish species associated with the small footrope chilipepper trawl fishery in Federal waters south of 40°10′ N. lat. Fishing for chilipepper rockfish, which is an abundant and commercially important species off California, is constrained south of 40O10' N. lat. by efforts to rebuild bocaccio, an overfished rockfish species. Fishers believe that the small footrope trawl fishery for chilipepper rockfish can be prosecuted with a much lower rockfish bycatch rate than is currently assumed.

If issued, this EFP will allow participating vessels to retain and sell for profit, chilipepper rockfish up to 25,000 lbs (11.34 mt) per month. Once a vessel has harvested a specified portion of its bocaccio trip limit, it may no longer fish for and land chilipepper rockfish. All other incidentally caught species would also continue to be counted against the individual vessel's cumulative trip limits. Vessels fishing under the EFP would be required to retain all rockfish (*Sebastes* and *Sebastolobus*). Proceeds from the sale of rockfish that are in excess of each vessel's trip limits will be forfeited to the State of California. Requiring the retention of all rockfish is expected to provide information to evaluate the broader application of a full retention program in the groundfish fleet. Observer data collected during this project are expected to benefit the management of the groundfish fishery by: (1) providing information on catch rates of incidentally caught species, including bocaccio rockfish, by fishing location, (2) allowing for the collection of biological data that is otherwise not available from landed catch, and (3) providing data that can be used to evaluate the full retention of rockfish as a management measure. If the EFP is issued, approximately 30 vessels would be eligible to participate under this EFP because of their historic participation in this fishery. Up to five vessels may operate under this permit at any one time. The fishing periods identified in the EFP are proposed for May through September, 2002.

In accordance with regulations at 50 CFR 600.745 and 660.306 (f), NMFS has determined that the proposal warrants further consideration and consulted with the Council. The Council considered the EFP application during its June 11-15, 2001, meeting and recommended that NMFS issue the EFP. A copy of the application is available for review from NMFS (see **ADDRESSES**). Regulations issued under the Magnuson-Stevens Fishery Conservation and Managmeent Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs. Based on the outcome of this EFP, this action may lead to further rulemaking.

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

Dated: August 24, 2001.

Dean Swanson,

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

[FR Doc. 01–21950 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 169

Thursday, August 30, 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

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that the rice variety designated ''Bolivar'' is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to the Texas A&M University System of College Station, Texas, an exclusive license to this variety.

DATES: Comments must be received on or before November 28, 2001.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1158, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5257.

SUPPLEMENTARY INFORMATION: The Federal Government's intellectual property rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Michael D. Ruff,

Assistant Administrator.

[FR Doc. 01–21983 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–009–3]

Wildlife Services; Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to oral rabies vaccination programs in several States. The environmental assessment analyzes the potential environmental effects of the continuation and expansion of the Agency's involvement in programs to stop the spread of certain wildlife-borne rabies strains in the States of New York, Ohio, Texas, Vermont, and West Virginia, and examines similar efforts that may be conducted in New Hampshire, Pennsylvania, Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. The environmental assessment provides a basis for our conclusion that the implementation of these oral rabies vaccination programs will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: To obtain copies of the environmental assessment and finding of no significant impact, contact Elizabeth Harris, Operational Support Staff, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; phone (301) 734–7921, fax (301) 734–5157, or e-mail: elizabeth.harris@aphis.usda.gov.

You may also read the environmental assessment and finding of no significant impact in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Martin Mendoza, Jr., Director, Operational Support Staff, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; phone (301) 734–7921.

SUPPLEMENTARY INFORMATION:

Background

The Wildlife Services (WS) program in the Animal and Plant Health Inspection Service (APHIS) cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources. Wildlife-borne diseases that can affect domestic animals and humans are among the types of conflicts that APHIS–WS addresses. Wildlife is the dominant reservoir of rabies in the United States.

On December 7, 2000, a notice was published in the **Federal Register** (65 FR 76606–76607, Docket No. 00–045–1) in which the Secretary of Agriculture declared an emergency and transferred funds from the Commodity Credit Corporation to APHIS–WS for the continuation and expansion of oral rabies vaccination (ORV) programs to address rabies in the States of Ohio, New York, Vermont, Texas, and West Virginia.

On March 7, 2001, we published a notice in the **Federal Register** (66 FR 13697–13700, Docket No. 01–009–1) to solicit public involvement in the planning of a proposed cooperative program to stop the spread of rabies in the States of New York, Ohio, Texas, Vermont, and West Virginia. The notice also stated that a small portion of northeastern New Hampshire and the western counties in Pennsylvania that border Ohio could also be included in these control efforts, and discussed the possibility of APHIS–WS cooperating in

smaller-scale ORV projects in the States of Florida, Massachusetts, Maryland, New Jersey, Virginia, and Alabama. The March 2001 notice contained detailed information about the history of the problems with raccoon rabies in eastern States and with gray fox and coyote rabies in Texas, along with information about previous and ongoing efforts using ORV baits in programs to prevent the spread of the rabies strains of concern.

Subsequently, on May 17, 2001, we published in the **Federal Register** (66 FR 27489, Docket No. 01–009–2) a notice in which we announced the availability, for public review and comment, of an environmental assessment (EA) that examined the potential environmental effects of the ORV programs described in our March 2001 notice. We solicited comments on the EA for 30 days ending on June 18, 2001. We received one comment by that date. The comment was from an animal protection organization and supported APHIS' efforts toward limiting or eradicating rabies in wildlife populations. The commenter did not, however, support the use of lethal monitoring methods or local depopulation as part of an ORV program.

In this document, we are advising the public of APHIS' record of decision and finding of no significant impact (FONSI) regarding the use of oral vaccination to control specific rabies virus variants in raccoons, gray foxes, and coyotes in the United States. This decision will allow APHIS–WS to purchase and distribute ORV baits, monitor the effectiveness of the ORV programs, and participate in implementing contingency plans that may involve the reduction of a limited number of local target species populations through lethal means (i.e., the preferred alternative identified in the EA). The decision is based upon the final EA, which reflects our review and consideration of the comments received from the public in response to our March 2001 and May 2001 notices and information gathered during planning/scoping meetings with State health departments, other State and local agencies, the Ontario Ministry of Natural Resources, and the Centers for Disease Control and Prevention.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 24th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–21928 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–093–9]

Scrapie Eradication Uniform Methods and Rules; Reopening and Extension of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are reopening and extending the comment period for a notice seeking public comments on the draft Scrapie Eradication Uniform Methods and Rules. This action will allow interested persons additional time to prepare and submit comments.

DATES: We invite you to comment on the draft Scrapie Eradication Uniform Methods and Rules. We will consider all comments on Docket 97–093–7 that we receive by September 20, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 97–093–7, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 97–093–7.

You may read any comments that we receive on Docket No. 97–093–7 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

You may request a copy of the draft Scrapie Eradication Uniform Methods and Rules by writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. The document is also available on the Internet at *http://www.aphis.usda.gov/vs/scrapie*, and we may post revised versions to this website for additional comment in the future.

FOR FURTHER INFORMATION CONTACT: Dr. Diane Sutton, National Scrapie Program Coordinator, National Animal Health Programs Staff, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–6954.

SUPPLEMENTARY INFORMATION: Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats. To control the spread of scrapie within the United States, the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, administers regulations at 9 CFR part 79 that restrict the interstate movement of certain sheep and goats. APHIS also has regulations at 9 CFR part 54 that describe a voluntary scrapie control program.

On April 20, 2001, we published a notice in the **Federal Register** (66 FR 20231, Docket No. 97–093–7) soliciting comments on the draft Scrapie Eradication Uniform Methods and Rules (UM&R). The UM&R is a set of proposed cooperative procedures and standards to aid in the control and eradication of scrapie. The legal requirements for interstate movement of sheep and goats due to scrapie are contained in title 9 of the Code of Federal Regulations. The Scrapie Eradication UM&R provides guidance to the States regarding the minimum standards necessary for a State to participate in the national eradication program.

Comments on the UM&R were originally required to be received on or before June 19, 2001. On June 27, 2001, we published a notice in the **Federal Register** (66 FR 34143, Docket No. 97–093–8) reopening and extending the comment period until August 20, 2001. We are reopening and extending the comment period on Docket No. 97–093–7 again, until September 20, 2001. This action will allow interested persons additional time to prepare and submit comments.

Comments received before September 20, 2001, will be reviewed and considered before another draft is put out for review by States, industry, and the public. APHIS will continue to accept comments on the UM&R on an ongoing basis and will open it for revision at least annually, as indicated in the introduction to the UM&R. Additional input may be provided directly to the national scrapie program coordinator at any time, at the address

given above under ''For Further Information Contact:''.

Authority: 21 U.S.C. 111–113, 114, 114a, 115, 117, 120, 121, 123–126, and 134a–134h; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 24th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–21927 Filed 8–29–01; 8:45 am]

BILLING CODE 3410–34–U

ARCTIC RESEARCH COMMISSION

Arctic Research Commission Meeting

August 20, 2001.

Notice is hereby given that the U.S. Arctic Research Commission will hold its 62nd Meeting in Anchorage, AK on September 10 and 11, 2001. The Business Session open to the public will convene at 9 a.m. Monday, September 10, in the Agenda items include:

(1) Call to order and approval of the Agenda.

(2) Approval of the Minutes of the 61st Meeting.

(3) Reports from Congressional Liaisons.

(4) Agency Reports.

The focus of the Meeting will be reports and updates on programs and research projects affecting the U.S. Arctic. Presentations include a review of the research needs for civil infrastructure in Alaska.

The Business Session will reconvene at 9 a.m. Tuesday, September 10. An Executive Session will follow adjournment of the Business Session.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters must inform the Commission in advance of those needs.

Contact Person for More Information: Dr. Garrett W. Brass, Executive Director, Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

Garrett W. Brass,

Executive Director.

[FR Doc. 01–21881 Filed 8–29–01; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Annual Trade Report.

Form Number(s): SA–42, SA–42A.

Agency Approval Number: 0607–0195.

Type of Request: Revision of a currently approved collection.

Burden: 2,364 hours.

Number of Respondents: 6,000.

Avg. Hours Per Response: 24 minutes.

Needs and Uses: The Annual Trade Survey (ATS) is the official source of annual sales, inventory, inventory valuation methods, purchases, cost of goods sold, and gross margin estimates for merchant wholesalers in the United States. The ATS provides annual wholesale data needed to improve the accuracy of personal consumption estimates and inventory adjustments in the gross domestic product (GDP) accounts and for benchmarking results of the Monthly Wholesale Trade Survey. The ATS has fulfilled these important and recurring data needs since its inception in 1978. The estimates compiled from this survey provide valuable information for economic policy decisions by the government and are widely used by private businesses, trade organizations, professional associations, and other business research and analysis organizations. This request is for the clearance of two similar report forms, the SA–42 and SA–42A, used to collect data in this survey using the North American Industry Classification System (NAICS). Previously, these report forms were numbered B–450 and B–451 on the old Standard Industrial Classification (SIC) basis. The move to NAICS represents a change in classification to some companies, but not a change in the questions asked on our forms. Both forms request similar data items but different forms are needed to accommodate both large and small firms. The survey report forms are used to collect both total and e-commerce sales, purchases, year-end inventory, inventory valuation methods, and legal form of organization from merchant wholesale firms.

Affected Public: Businesses or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 182, 224, and 225.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 24, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–21885 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[I.D. 082701A]

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: Billfish Certificate of Eligibility.

Form Number(s): None.

OMB Approval Number: 064–0216.

Type of Request: Regular submission.

Burden Hours: 43.

Number of Respondents: 350.

Average Hours Per Response :20 minutes to complete a certificate, 2 minutes for recordkeeping.

Needs and Uses: Persons are the first receivers of billfish are required to complete a Certificate of Eligibility as a condition for domestic trade of fresh or frozen billfish. Dealers or processors who subsequently receive or possess billfish must retain a copy of the Certificate while processing the billfish. The purpose of the requirement is to ensure that Atlantic billfish are retained as a recreational resources, and that any billfish entering the commercial trade have not been harvested in the Atlantic Ocean management unit.

Affected Public: Business and other for-profit organizations.

Frequency: On occasion.

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: August 23, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–21953 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 082701C]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: 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: Monthly Cold Storage Report.

Form Number(s): NOAA Form 88–16.

OMB Approval Number: 0648–0015.

Type of Request: Regular submission.

Burden Hours: 165.

Number of Respondents: 103.

Average Hours Per Response: 8 minutes.

Needs and Uses: Information is collected from cold storage warehouses on a voluntary basis about the quantity of fish and shellfish held in cold storage. The data are used by industry for planning and by Fishery Management Councils and the National Marine Fisheries Service for fishery management and development purposes.

Affected Public: Business or other for-profit organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

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: August 23, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–21956 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082701B]

Proposed Information Collection; Comment Request; Gear-Marking Requirements in Antarctic Waters

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, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before October 29, 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 Robin Tuttle, F/ST3, Room 12643, SSMC–3, 1315 East-West Highway, Silver Spring, MD 20910–3282 (phone 301–713–2282, ext. 199).

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. vessels participating in Antarctic fisheries must mark their fishing gear with the vessel's official identification number, Federal permit or tag number, or another approved form of identification. The information on the gear is used for enforcement of fishery regulations.

II. Method of Collection

Identification information is displayed on fishing gear.

III. Data

OMB Number: 0648–0367.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals.

Estimated Number of Respondents: 1.

Estimated Time Per Response: 5 minutes to mark buoys or floats, 2 minutes to mark traps, pots, or trawl gear.

Estimated Total Annual Burden Hours: 10.

Estimated Total Annual Cost to Public: $300.

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: August 23, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–21954 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082401A]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will

hold meetings of its Snapper Grouper Committee, Habitat Committee, Controlled Access Committee, Scientific and Statistical Selection Committee, Information and Education Committee, Advisory Panel Selection Committee and a joint meeting of the Executive and Finance Committees. Public comment periods will be held during some of the meetings. There will also be a full Council Session.

DATES: The meetings will be held in September 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: These meetings will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: 1–800–334–6660 or 843–571–1000.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366; fax: (843) 769–4520; email: kim.iverson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Meeting Dates

September 17, 2001, from 1:30 p.m. until 5:30 p.m. and September 18, 2001, from 8:30 a.m. until 10:30 a.m., Snapper Grouper Committee Meeting.

The Snapper Grouper Committee will meet to review and comment on the following:

Proposed actions for Amendment 13 to the Snapper Grouper Fishery Management Plan (FMP) including permit transfers, snowy grouper and golden tilefish management, prohibition of the sale of mutton snapper in May and June, review of stock status for speckled hind and warsaw grouper and evaluation of current regulations, spawning site closures and other measures. The Committee will also review recommendations from the Marine Protected Area Committee regarding possible sites for marine protected areas and other recommendations.

September 18, 2001, from 10:30 a.m. until 12 noon, Scientific and Statistical Selection Committee Meeting.

The Scientific and Statistical Selection Committee will meet in a closed session to review candidates for appointment to the Scientific and Statistical Committee and develop recommendations.

September 18, 2001, from 1:30 p.m. until 3:30 p.m., Information and Education Committee Meeting.

The Information and Education Committee will meet to review current materials, projects and activities, develop goals and objectives, and identify needs related to public outreach.

September 18, 2001, from 3:30 p.m. until 5:30 p.m., Habitat Committee Meeting.

The Habitat Committee will meet to review the status of the Sargassum FMP, review recommendations from the Habitat Advisory Panel, evaluate allowing rock shrimp trawling in or near the Oculina Habitat Areas of Particular Concern (HAPC) by vessels with Vessel Monitoring Systems and address Ecosystem FMP issues.

September 19, 2001, from 8:30 a.m. until 12 noon, Controlled Access Committee Meeting.

The Controlled Access Committee will meet to review comments on the Draft Environmental Impact Statement (DEIS) regarding Amendment 5 to the Shrimp FMP addressing controlled access for the rock shrimp fishery. The Committee will review and approve changes to the document and make recommendations for submission to the Secretary of Commerce. The Controlled Access Committee will also review the Qualitative Vessel Capacity Report from NMFS.

September 19, 2001, from 1:30 p.m. until 3:30 p.m., Advisory Panel Selection Committee Meeting.

The Advisory Panel Selection Committee will meet in a closed session to review membership applications and develop recommendations.

September 19, 2001, from 3:30 p.m. until 5:30 p.m., Joint Executive Committee and Finance Committee Meeting.

The Executive and Finance Committees will meet to review and approve the Council's Calendar Year (CY) 2001 activities schedule, budget and Operations Plan. In addition, the Committees will discuss the Council's Atlantic Coast Cooperative Statistic Program (ACCSP) funding request and review the status of the Magnuson-Stevens Fishery Conservation and Management Act reauthorization.

September 20, 2001, from 8:30 a.m. until 6:00 p.m., Council Session.

From 8:30 a.m. – 8:45 a.m., the Council will have a Call to Order, introductions and roll call adoption of the agenda, and approval of the June 2001 meeting minutes.

From 8:45 a.m. – 9:45 a.m., the Council will hold a Public Scoping Meeting on: (1) Coral framework action to establish additional HAPC and (2) development of a comprehensive FMP amendment addressing permit renewal timeframes, operator permits, a consolidated controlled access system and the Atlantic Coast Cooperative Statistics Program's permits and reporting. Documents regarding these issues are available from the Council office (see **ADDRESSES**).

From 9:45 a.m. – 10:45 a.m., Beginning at 9:45 a.m., the Council will hold a Public Comment Meeting on Amendment 5 to the Shrimp FMP (rock shrimp limited access). Following the public comment period, the Council will hear a report from the Controlled Access Committee and approve Amendment 5 for submission to the Secretary of Commerce. Documents regarding these issues are available from the Council office (see **ADDRESSES**).

From 10:45 a.m. – 12 noon and 1:30 p.m. – 2:15 p.m., the Council will hear a report from the Marine Protected Area Committee regarding marine protected area sites to be included in an options paper for Amendment 14 to the Snapper Grouper FMP.

From 2:15 p.m. – 2:45 p.m., the Council will hear a report from the Snapper Grouper Committee and approve a list of actions for the Snapper Grouper FMP Amendment 13 draft public hearing document.

From 2:45 p.m.– 3:00 p.m., the Council will hear a report from the Scientific and Statistical Selection Committee and appoint new members to the SSC.

From 3:00 p.m. – 3:15 p.m., the Council will hear a report from the Advisory Panel Selection Committee and appoint new members to the advisory panels.

From 3:15 p.m. – 3:30 p.m., the Council will hear a report from the Information and Education Committee.

From 3:30 p.m. – 3:45 p.m., the Council will hear a report from the Habitat Committee.

From 3:45 p.m. – 4:15 p.m., the Council will hear a report from the joint Executive and Finance Committees and approve the Council's CY 2002 Activities Schedule, Budget and Operations Plan.

From 4:15 p.m. – 4:45 p.m., the Council will hear a report on the status of NMFS Southeast Fisheries Science Center activities.

From 4:45 p.m. – 5:00 p.m., the Council will hear a report on Final Guidelines for Economic Analysis.

From 5:00 p.m. – 5:15 p.m., the Council will hear status reports from NMFS on the Golden Crab Amendment 3, Dolphin Emergency Rule request, the Dolphin Wahoo DEIS, and allowable gear rule change request. The Council will also hear NMFS status reports on landing for Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish mackerel, snowy grouper and

golden tilefish, wreckfish, greater amberjack and south Atlantic octocorals.

From 5:15 p.m. – 6:00 p.m., the Council will hear Agency and Liaison Reports, discuss other business and upcoming meetings.

Copies of documents are available from Kim Iverson (see **FOR FURTHER INFORMATION CONTACT**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 11, 2001.

Dated: August 24, 2001.

Richard W. Surdi,

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

[FR Doc. 01–21955 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–22–S

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 20 September 2001 at the National Building Museum, Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Please note that the design for an addition to the Corcoran Gallery is the first item on the agenda to be presented at 10 am in the first floor auditorium of the National Building Museum. The remainder of the agenda will be reviewed in the Commission's conference room, Suite 312.

Draft agendas are available to the public one week prior to the meeting. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200.

Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 24 August 2001.

Charles H. Atherton,

Secretary.

[FR Doc. 01–21941 Filed 8–29–01; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

August 24, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66972, published on November 8, 2000.

William Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 24, 2001.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 2, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on August 30, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Specific limits	
237	559,607 dozen.
239pt. [2]	2,390,650 kilograms.
331/631	3,638,294 dozen pairs.
334/634	403,906 dozen.
335/635	557,478 dozen.
338	7,398,802 dozen.
339	2,053,762 dozen.
359–C/659–C [3]	2,034,439 kilograms.
638/639	178,701 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William Dulka,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–21884 Filed 8–29–01; 8:45 am]

BILLING CODE 3510–DR–S

CONSUMER PRODUCT SAFETY COMMISSION

Poison Prevention Packaging; Notice of Stay of Enforcement for Lidoderm® Patch

AGENCY: Consumer Product Safety Commission.

ACTION: Stay of enforcement.

SUMMARY: This notice announces the Commission's decision to stay enforcement of special packaging requirements for the orphan drug, Lidoderm®. The Commission will stay enforcement under the conditions stated at the end of this notice.

DATES: The stay will be effective on August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Geri Smith, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0608, extension 1160.

SUPPLEMENTARY INFORMATION:

A. Background

Under the Poison Prevention Packaging Act (''PPPA''), the Commission has the authority to require special packaging for drugs (as well as certain other household products) if it finds that child resistant (''CR'') packaging is necessary to protect children from serious personal injury or illness from handling using or ingesting the drug and that CR packaging is technically feasible, practicable and appropriate. 15 U.S.C. 1472(a). In 1995, the Commission issued a rule requiring CR packaging for lidocaine products with more than 5 milligrams (mg) of lidocaine in a single package. 16 CFR 1700.14 (a)(23).

Lidoderm® is a dermal patch that contains lidocaine. Each Lidoderm® patch contains 700 mg lidocaine. Lidoderm® is marketed in the form of five patches inside a non-CR resealable foil envelope to maintain the integrity of the product. One non-CR carton of Lidoderm® contains six envelopes (each envelope contains five patches) for a total of 30 patches per carton.

In May 1999, Commission staff discovered that Lidoderm® was being packaged in non-CR packaging and notified the distributor, Endo Pharmaceuticals Inc. (''Endo'') of the special packaging requirement for lidocaine products. To comply with the PPPA, the immediate container for a product that requires special packaging must be CR. Thus, for Lidoderm® patches, each patch must be packaged in an individual CR pouch or a single resealable CR pouch must contain all of the patches (i.e., no carton and no foil envelope, only a resealable CR pouch). At Endo's request, the Commission granted Endo a temporary stay of enforcement on May 15, 2000, on the condition that Endo provide pharmacists with an outer CR package to dispense the product while it was developing a plan and timeline to package each patch in a CR pouch.

On August 14, 2000, Endo petitioned the Commission for a partial exemption for Lidoderm® from special packaging requirements stating that ''it is not practicable to market each Lidoderm® patch in a child-resistant envelope.'' The petitioner argues that to do so is cost prohibitive and would force it to discontinue production of Lidoderm®. Endo asks for an exemption so that it may replace the non-CR carton with the CR pouch so that the six envelopes (5 patches per envelope) are marketed in the CR pouch, not in the non-CR carton.

B. The Product

Lidoderm® is a lidocaine-containing dermal patch available only by prescription. It is manufactured by Teikoku Seiyaku, Co., Ltd., a Japanese company, and the only manufacturer the Food and Drug Administration (''FDA'') has approved to manufacture Lidoderm®. Endo is the only distributor the FDA has approved for Lidoderm®. The FDA designated Lidoderm® as an orphan drug on October 24, 1995 and approved it for marketing on March 19, 1999. Endo started marketing Lidoderm® on September 15, 1999. Orphan drugs are intended for rare diseases affecting less than 200,000 people or affecting more than 200,000, but for which there is no expectation that the costs of drug development will be recovered from sales. The Orphan Drug Act encourages the development of orphan drugs, through economic incentives such as tax credits for clinical research and seven years of marketing exclusivity.

Lidoderm® is prescribed to treat post-herpetic neuralgia (''PHN''), a rare, chronic condition that results from nerve injury caused by shingles. Shingles occurs following reactivation of the herpes zoster virus (the same virus responsible for chickenpox) and is characterized by painful fluid-filled skin blisters. PHN is more common in the elderly. Approximately 10% of all patients with shingles develop PHN. Endo estimates that about 200,000 Americans have PHN. There is no cure for PHN, and treatment is aimed at controlling the pain by various methods including drug therapy (e.g., analgesics, antidepressants, topical anesthetics, and anticonvulsants), acupuncture, and nerve block.

Each carton of Lidoderm® contains 30 patches packaged in six resealable foil envelopes with five patches per envelope. Neither the carton nor the individual envelopes are CR. Currently, Endo is including a CR reclosable pouch large enough for the six envelopes in each carton. Each Lidoderm® patch is 22 square inches (10 cm x 14 cm) and contains 700 mg of lidocaine. The amount of lidocaine systemically absorbed from Lidoderm® depends on both the duration of exposure and the surface area of skin covered. The recommended dose is up to three patches at one time only once for up to 12 hours in a 24-hour period. Patches may be cut into smaller sizes prior to removal of the release liner. The petitioner did not provide data related to the stability of the lidocaine in a cut or used patch, but instructions on the product envelope advise that the patch adhesive contains water and will dry out if the package is left open.

According to the petition, Lidoderm® is unlike other patch systems in that the lidocaine in Lidoderm® is not contained in a reservoir, but is embedded in the patch adhesive. Therefore, the patch releases a low level of lidocaine into the skin over a long time period ensuring that it produces analgesia (pain reduction) rather than anesthesia (numbness). Since only a small percentage (3% ± 2%) of lidocaine is absorbed dermally from the Lidoderm® patch when used therapeutically, about 95% of the lidocaine will remain in a used patch. Endo states that the lidocaine is less accessible from this patch system than from other formulations (such as, creams and liquids) and that a child would need to chew or suck on the patch for some time before any lidocaine would be absorbed through the mouth or swallowed. However, there are no oral absorption data indicating the extent of oral exposure necessary for a child to absorb a toxic dose. Endo provides a warning with the product to store and dispose of Lidoderm® out of the reach of children and pets.

C. Endo's Request

In its petition, Endo asks essentially that the temporary stay of enforcement granted by the Commission on May 15, 2000, be made a permanent exemption from special packaging requirements. Endo argues that full compliance with the PPPA, which requires that the immediate container of a lidocaine-containing drug be CR, would be cost-prohibitive. Endo maintains that the costs of new equipment, plant re-engineering, and testing for FDA approval are prohibitive and would

force them to discontinue marketing Lidoderm®. Teikoku estimates a large total cost for the changes required to place each patch in a CR pouch. This includes the cost of: (1) New envelope processing machines; (2) producing three FDA submission batches; (3) extended specification compliance testing on all three batches; (4) accelerated stability testing; and (5) real-time stability testing. The petitioner maintains that ''manufacturing and packaging one patch per envelope would result in a significant increase in the cost of manufacturing Lidoderm® because there would be significant increases in the amount of labor and materials.''

Endo also argues that it would take much longer than the current packaging method to produce an equivalent amount of Lidoderm® in individual CR pouches. Endo states that this change in the production schedule for Lidoderm® is an ''undue burden'' for Teikoku because it would affect Teikoku's production of other products. Teikoku is unwilling to allow another manufacturer to take over production because the manufacturing process for Lidoderm® is proprietary. CPSC has not been able to verify the accuracy of Endo's cost estimates. However, Endo maintains that it will discontinue production of Lidoderm® if forced to place each patch in CR packaging. If that were to happen, Lidoderm® would no longer be a therapeutic option for PHN patients.

D. PPPA Requirements for an Exemption

The Commission's regulations provide for a company or other interested persons to submit a petition requesting an exemption from PPPA requirements. 16 CFR part 1702. Those rules require a petitioner to provide a justification for the exemption based on one or more of the following grounds: (1) Special packaging is not necessary to protect children from serious injury or illness from the substance; (2) special packaging is not technologically feasible, practicable, or appropriate for the substance; and/or (3) special packaging is incompatible with the substance. 16 CFR 1702.7. Similarly, the Commission's rules provide that if the Commission finds that a petitioner has presented ''reasonable grounds'' for an exemption, it shall publish a proposed amendment exempting that substance from special packaging requirements.

''Reasonable grounds'' are:

Information and data sufficient to support the conclusion that:

(a) The degree or nature of the hazard to children in the availability of the substance, by reason of its packaging, is such that special packaging is not required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting the substance, or

(b) Special packaging is not technically feasible, practicable, or appropriate for the substance, or

(c) Special packaging is incompatible with the particular substance.

16 CFR 1702.17.

In its petition, Endo states as its justification that ''it is not practicable to market each Lidoderm® patch in a child-resistant envelope.'' Endo argues that the high cost and practicable difficulties, discussed above, of packaging each individual Lidoderm® patch in a CR container justify an exemption.

Endo states that there have been no reports of adverse events or accidental exposures of Lidoderm® to children. Although Endo states that Lidoderm® does not present the same degree of poisoning risk to children as other lidocaine products, Endo does not argue and does not provide any data indicating that the lidocaine in Lidoderm® patches is not toxic to children. Thus, Endo does not seem to be relying on lack of toxicity to children as a justification for an exemption.

Legislative history of the PPPA indicates that the term ''practicability'' means that ''special packaging meeting the standard would be susceptible to modern mass-production and assembly-line techniques.'' S. Rep. 845 91st Cong., 2d Sess 10 (1970). Endo does not argue that Lidoderm® cannot be produced with CR packaging that complies with the PPPA. Rather, Endo asserts that such packaging would be so costly that it could not continue to market Lidoderm®. Thus, the Commission cannot make the requisite finding that CR packaging would not be practicable for Lidoderm® that would justify an exemption under the Commission's regulations.

E. Stay of Enforcement

Endo has, however, presented information indicating the need for the orphan drug Lidoderm®, the prohibitive cost involved in CR packaging for each Lidoderm® patch, the limited market for the product, and the protection for children that would be provided by packaging Lidoderm® patches in an outer CR package. The Commission finds that these circumstances justify the stay of enforcement. The stay will be issued with the following conditions:

1. Endo Pharmaceuticals must, as stated in section IV of the petition, ''replace the outer carton for Lidoderm® with a CR reclosable pouch containing six resealable foil envelopes (5 patches per envelope)'' with instructions to pharmacists that they must dispense Lidoderm® envelopes in the outer pouch. Moreover, additional outer CR pouches must be provided to pharmacists upon request in order to accommodate prescriptions of less than a full package of 30 patches.

2. The outer CR package must bear a prominent and conspicuous label stating the following:

''**WARNING:**

New and used patches could harm small children if chewed or swallowed. Envelopes in this package are NOT child resistant. You MUST keep envelopes inside this child-resistant package with the zipper closed.

Keep new and used patches out of the reach of children.''

3. The envelopes containing the five Lidoderm® patches (the immediate packaging) must continue to bear the warning label ''Package not child resistant. Keep used and unused patches out of the reach of children.''

4. Lidoderm® must remain designated by the FDA as an orphan drug indicated solely for the treatment of PHN. If Endo obtains orphan drug status for Lidoderm® for the treatment of any other condition, Endo shall direct to the Commission's Office of Compliance, a request for a determination of whether the terms of this stay shall apply to the product.

5. Lidoderm® must be manufactured only by Teikoku Seiyaku Co., Ltd, at its present location in Japan under the current material operating conditions and procedures described in Section V of the petition. Any questions related to changes in such operating conditions or procedures can be directed to the Commission's Office of Compliance.

6. Endo Pharmaceuticals must (1) notify the Commission's Directorate for Health Sciences within five business days of becoming aware of any poisonings or other exposures (i.e., physical contact) to the patches by children under 5 years old; and (2) purchase American Association of Poison Control Center data for Lidoderm® once a year and submit it to the Commission's Directorate for Health Sciences.

7. Endo must report annually to the Office of Compliance confirming that the conditions upon which the stay has been granted remain in effect. Additionally, Endo must notify the Office of Compliance 30 days in advance of any change that materially affects its compliance with any provision of the stay.

Dated: August 24, 2001.

Todd Stevenson,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 01–21880 Filed 8–29–01; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Grants To Support the Martin Luther King, Jr. Service Day Initiative; Correction

AGENCY: Corporation for National and Community Service.

ACTION: Notice; correction.

SUMMARY: The Corporation for National and Community Service published a document in the **Federal Register** of August 7, 2001, concerning grants to support service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. on January 21, 2002. The document contained an incorrect telephone number.

FOR FURTHER INFORMATION CONTACT: For further information, contact Rhonda Taylor, (202) 606–5000, ext. 282. You may request this notice in an alternative format for the visually impaired by calling (202) 606–5000, ext. 262. The Corporation's T.D.D. number is (202) 565–2799 and is operational between the hours of 9 a.m. and 5 p.m. local time in Washington, DC.

Correction

In the **Federal Register** of August 7, 2001, in FR Doc. 01–19682, on page 41207, correct the telephone number for the Corporation's office in North Carolina to read ''(919) 856–4731''.

Dated: August 24, 2001.

Rhonda Taylor,

Associate Director, Office of Public Liaison, Coordinator of National Service Programs.

[FR Doc. 01–21903 Filed 8–29–01; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0024]

Federal Acquisition Regulation; Submission for OMB Review; Buy American Act—Balance of Payments Program Certificate

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0024).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Buy American Certificate. A request for public comments was published at 66 FR 37215, July 17, 2001. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 1, 2001.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Acquisition Policy Division, GSA (202) 219–0202.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Buy American Act requires that only domestic end products be acquired for public use unless specifically authorized by statute or regulation, provided that the cost of the domestic products is reasonable. The Balance of Payments Program, unless specifically exempted by statute or regulation, the Government gives preferences to the acquisition of domestic end products or services, provided that the cost of the domestic items is reasonable. The Balance of Payments Program differs from the Buy American Act in that it applies to acquisitions for use outside the United States.

The Buy American Act—Balance of Payments Program Certificate collects data for both the Buy American Act and Balance of Payments Program. At one time, there was a separate certificate to collect information on the Balance of Payments Program (9000–0023) and the Buy American Act (9000–0024). Since the last renewal, the two certificates have been combined to collect the data for both. Therefore, two separate information collections (9000–0023 and 9000–0024) are no longer needed. Information collection 9000–0023, expires on September 30, 2001, and will not be renewed. Information collection 9000–0024 collects data for both the Buy American Act and the Balance of Payments Program.

B. Annual Reporting Burden

Respondents: 3,906.

Responses Per Respondent: 15.

Total Responses: 58,590.

Hours Per Response: .167.

Total Burden Hours: 9,785.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0024, Buy American Act—Balance of Payments Program Certificate, in all correspondence.

Dated: August 24, 2001.

Gloria Sochon,

Acting Director, Acquisition Policy Division.

[FR Doc. 01–21913 Filed 8–29–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before October 1, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Crystal Thomas, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New

Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address CAThomas@omb.eop.gov.

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

Dated: August 24, 2001.

John Tressler,

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

Office of Student Financial Assistance Programs

Type of Review: Extension.

Title: Lender's Request for Payment of Interest and Special Allowance.

Frequency: Quarterly, Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 17,200

Burden Hours: 41,925

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*, 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_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–21901 Filed 8–29–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before October 1, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Crystal Thomas, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address CAThomas@omb.eop.gov.

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

Dated: August 24, 2001.

John Tressler,

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

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Federal PLUS Loan Program Application Documents.

Frequency: On Occasion.

Affected Public: Businesses or other for-profit; Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 100,000.

Burden Hours: 50,000.

Abstract: This application form and promissory note is the means by which a parent borrower applies for a Federal PLUS Loan and promises to repay the loan, and a school, lender, and guaranty agency certifies the parent borrower's eligibility to receive a PLUS loan.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, 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_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–21902 Filed 8–29–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Site Recommendation Consideration; Suggested Topics for Public Comment Process

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of suggested topics for public comment.

SUMMARY: The Department of Energy (the Department) provides suggested topics for public consideration regarding the possible recommendation by the Secretary of Energy to the President of the Yucca Mountain Site in Nevada for development as a spent nuclear fuel and high-level nuclear waste geologic repository, pursuant to Section 114(a)(1) of the Nuclear Waste Policy Act of 1982, as amended (NWPA).

DATES: As announced previously in the **Federal Register** (66 FR 43850–43851), written comments on the Secretary's consideration of Yucca Mountain for a potential site recommendation to the President will be accepted for consideration if received by September 20, 2001. Comments received after September 20, 2001, will be considered to the extent practicable.

ADDRESSES: Written comments should be addressed to Carol Hanlon, U.S. Department of Energy, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, or provided by electronic mail to *YMP_SR@ymp.gov*. Written comments should be identified on the outside of the envelope, and on the comments themselves, with the designation: A Possible Site Recommendation for Yucca Mountain. Comments can also be submitted by facsimile to 1–800–967–0739.

Copies of any written comments, and documents referenced in this notice may be inspected and photocopied in the Department's Freedom of Information Act Reading Room located at the Yucca Mountain Science Center, 4101B Meadows Lane, Las Vegas, Nevada, (702) 295–1312, between the hours of 10:00 a.m. and 6:00 p.m. Tuesday through Friday, and 10:00 a.m. and 4:00 p.m. on Saturday, except for Federal holidays. Documents referenced in this notice may be found on the Internet at *http://www.ymp.gov* and at *http://www.rw.doe.gov.*

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, 1–800–967–3477.

SUPPLEMENTARY INFORMATION: On May 7, 2001, the Department announced in the **Federal Register** (66 FR 23013–23016) the initiation of a public comment period on the Secretary's consideration of the Yucca Mountain site for recommendation as a spent nuclear fuel and high-level waste repository. In conjunction with the initiation of the comment period, the Department issued a report, the Yucca Mountain Science and Engineering Report (YMS&ER), summarizing the scientific and technical information compiled by the Department to date outlining the preliminary design and performance attributes of a potential geologic repository at the Yucca Mountain site. This report was provided to inform the public and facilitate public comment and review on the technical and scientific information and analyses forming the basis for the Department's consideration of a possible site recommendation.

On August 21, 2001, the Department announced in the **Federal Register** (66 FR 43850–43851) the issuance of another report, the Preliminary Site Suitability Evaluation (PSSE), that also is intended to inform the public and facilitate public review and comment on a possible site recommendation. The PSSE contains a preliminary evaluation of the suitability of the Yucca Mountain site for development as a geologic repository based on the Department's proposed site suitability regulations, to be codified as 10 CFR part 963. The preliminary evaluation described in the PSSE is based on information contained in the YMS&ER, supplemented by the most recent available technical information. The Department also announced in that notice the scheduling of public hearings, pursuant to Section 114 (a)(1) of the NWPA, and the date for the closure of the public comment period (September 20, 2001).

Over the next several months, the Secretary will carefully consider a large body of scientific documents, as well as the views of the public, in determining whether to recommend to the President that the Yucca Mountain site be developed as a repository for spent nuclear fuel and high level radioactive waste. In order to encourage and facilitate public participation in that process, the Department has sent the attached letter to a list of governmental officials and members of the public whose interest in commenting the Department has anticipated. The letter contains a list of suggested topics for public comment. The list is not intended to be comprehensive. Nor is it intended to inhibit the public from commenting on any other relevant technical, policy or other issue related to a possible recommendation of the site. The Department is publishing the attached letter today so that members of the public who do not receive an actual copy will have the opportunity to add their comments in response to the suggested topics.

Issued in Washington, D.C. on August 27, 2001.

Ronald A. Milner,

Chief Operating Officer, Office of Civilian Radioactive Waste Management.

Attachment

Dear _____

Over the next several months the Secretary of Energy will carefully consider a large body of scientific documents, as well as the views of the public, and decide whether or not to recommend to the President that Yucca Mountain be developed to serve as our repository for spent nuclear fuel and high level radioactive waste. As you probably know, on August 21, 2001, the Department of Energy (Department) published a **Federal Register** notice (66 FR 43850) which scheduled public hearings and announced a closing date of September 20, 2001 for public comments on this possible recommendation by the Secretary. Your comments in response to this notice would be very much appreciated.

The Nuclear Waste Policy Act, as amended (the Act), establishes the Federal responsibility for the final disposition of spent nuclear fuel and high level radioactive waste in the United States. This responsibility includes 50 years of defense legacy wastes that have resulted from the development of nuclear weapons, spent fuel that has provided power for the United States Navy, spent fuel from the Nation's university research reactors, and spent fuel from the Nation's civilian reactors, which provide approximately twenty percent of our domestic electricity supply.

The Department has spent 20 years and over $6.7 billion studying various means to fulfill the Federal responsibility. Since 1987, at the direction of the Act, the Department has been required to focus exclusively on the Yucca Mountain site. The result of this effort is contained within the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) and other scientific documents produced by the Department. The PSSE and these other supporting technical documents are available on the Internet (*http://ymp.gov*), or may be requested by telephone (1–800–967–3477).

The Secretary's recommendation regarding the Yucca Mountain site is an important intermediate step in the decades-long process for siting and developing a repository. If the Secretary determines that the scientific evaluation of the site indicates the site is suitable for development of a repository, he may then submit a recommendation for site development to the President. If the

President accepts the Secretary's positive recommendation, he would recommend the site as qualified for application for a construction license from the Nuclear Regulatory Commission (NRC). The State of Nevada would then have the opportunity to submit a disapproval notice. If it does so, Congress would have to pass a law approving the President's recommendation in order for it to take effect. If the President's recommendation does take effect, the Department would then prepare and submit a construction license application to NRC.

It is important to note that, following a possible Presidential recommendation and prior to either the construction of or use of a repository, numerous additional steps must be satisfied. These steps include consideration of the Presidential recommendation by the State of Nevada and possibly the United States Congress. In addition, construction of a facility and receipt of waste requires the issuance of a construction license and a license to possess nuclear material, respectively, by the NRC after a rigorous review process with public involvement.

In providing comments to the Department, there are a number of topics regarding which your views and comments would be appreciated. An outline of these topics is attached for your use. The Department also values any other comments you believe would be relevant to its consideration. Your participation on this critical issue is important and helpful. Thank you for your assistance.

Sincerely,

Lake H. Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

Suggested Topics for Public Comment on Yucca Mountain

- Please provide your views concerning whether the Yucca Mountain Preliminary Site Suitability Evaluation (PSSE) and other scientific documents produced by the Department provide an adequate basis for finding that the Yucca Mountain site is suitable for development of a repository. If you believe that certain aspects of the PSSE are inadequate, please detail the basis for this belief and indicate how the documentation might be made adequate with respect to these aspects.
- If the Secretary determines that the scientific analysis indicates that the Yucca Mountain site is likely to meet the applicable radiation protection standards established by the Environmental Protection Agency and Nuclear Regulatory Commission, do you believe that the Secretary should proceed to recommend the site to the President at this time? If not, please explain.
- Are there any reasons that you believe should prevent the President from concluding that the Yucca Mountain site is qualified for the preparation and submission of a construction license application to the Nuclear Regulatory Commission?
- If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what mechanism should be utilized to meet the Department's legal obligation to begin accepting spent nuclear fuel and high level radioactive waste?
- If you believe that the Secretary should not proceed with a recommendation to develop a repository at Yucca Mountain, what measures should the Nation consider for assuring safe disposal of spent nuclear fuel and high level radioactive waste?
- Please provide any other comments concerning any relevant aspect of the Yucca Mountain site for use as a repository, or that are otherwise relevant to the consideration of a possible recommendation by the Secretary.

[FR Doc. 01–21961 Filed 8–27–01; 4:47 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 01–29: Division of Nuclear Physics Outstanding Junior Investigator Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of Nuclear Physics of the Office of Science (SC), U.S. Department of Energy, invites grant applications for support under the Outstanding Junior Investigator Program in nuclear physics. The purpose of this program is to support the development of individual research programs of outstanding scientists early in their careers. Applications should be from tenure-track faculty who are currently involved in experimental or theoretical nuclear physics research, and should be submitted through a U.S. academic institution.

DATES: To permit timely consideration of awards in fiscal year 2002, formal applications submitted in response to this notice should be received by November 13, 2001.

ADDRESSES: Applications referencing Program Notice 01–29 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 01–29. The above address must be used when submitting applications by U.S. Postal Service Express Mail, any other commercial mail delivery service, or when hand carried by the applicant. An original and seven copies of the application must be submitted. Although it is not required, it would be helpful for each applicant to submit twelve copies of their application, due to the anticipated number of reviewers.

FOR FURTHER INFORMATION CONTACT: Dr. Dennis G. Kovar, Director, Division of Nuclear Physics, SC–23, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–3613. Fax: (301) 903–3833. E-Mail: dennis.kovar@science.doe.gov

SUPPLEMENTARY INFORMATION: This is the third year of an Outstanding Junior Investigator Program in Nuclear Physics. A principal goal of this program is to identify exceptionally talented nuclear physicists early in their careers and to facilitate the development of their research programs. The proposed research is expected to make an important contribution to the vigor of the U.S. Nuclear Physics program.

The DOE expects to make several awards in FY 2002; four awards were made in FY 2001. The actual number of awards will be determined by the number of excellent applications and the total amount of funds available for this program. It is anticipated that a total of up to $250,000 will be available in FY 2002 for funding the program, subject to availability of appropriated funds, and that awards would be for three to five year terms. At the end of the initial term these grants may be renewed, subject to appropriate external peer review at the time of renewal, as long as the recipient's tenure status is unchanged.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following criteria, listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources;
4. Reasonableness and appropriateness of the proposed budget.

Additional criteria which will be considered: future promise of the investigator, and the resources and interest of the sponsoring institution.

General information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to the latest version of SC's Application Guide is possible via the Internet at the following web site address: *http://www.sc.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, D.C. on August 21, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–21916 Filed 8–29–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 01–30: Outstanding Junior Investigator Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of High Energy Physics of the Office of Science (SC), U.S. Department of Energy, hereby announces its interest in receiving grant applications for support under its Outstanding Junior Investigator (OJI) Program. Applications should be from tenure-track faculty investigators who are currently involved in experimental or theoretical high energy physics or accelerator physics research, and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of individual research programs of outstanding scientists early in their careers. Awards made under this program will help to maintain the vitality of university research and assure continued excellence in the teaching of physics.

DATES: To permit timely consideration for award in Fiscal Year 2002, formal applications submitted in response to this notice should be received before November 1, 2001.

ADDRESSES: Completed formal applications referencing Program Notice 01–30 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 01–30. The above address must also be used when submitting applications by U.S. Postal Service Express Mail, any other commercial mail delivery service, or when hand carried by the applicant. An original and seven copies of the application must be submitted. Due to the anticipated number of reviewers, it would be helpful for each applicant to submit an additional four copies of the application.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Mandula, Division of High Energy Physics, SC–221 (GTN), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–4829. E-Mail: jeffrey.mandula@science.doe.gov.

SUPPLEMENTARY INFORMATION: The Outstanding Junior Investigator program was started in 1978 by the Department of Energy's Office of Energy Research. A principal goal of this program is to identify exceptionally talented new high energy physicists early in their careers and assist and facilitate the development of their research programs. Eligibility for awards under this notice is therefore restricted to non-tenured investigators who are conducting experimental or theoretical high energy physics or accelerator physics research. Since its debut, the program has initiated support for between five and ten new Outstanding Junior Investigators each year. The program has been very successful and contributes importantly to the vigor of the U.S. High Energy Physics program. Applicants should request support under this notice for normal research project costs as required to conduct their proposed research activities. The full range of activities currently supported by the Division of High Energy Physics is eligible for support under this program.

The DOE expects to make five to ten grant awards in Fiscal Year 2002, to meet the objectives of this program. It is anticipated that approximately $500,000 will be available in Fiscal Year 2002, subject to availability of appropriated funds. In the past, awards have averaged $50,000 per year, with the number of awards determined by the number of excellent applications and the total funds available for this program. Multiple year funding of grant awards is expected, including renewal beyond the initial project period, as long as the recipient's tenure status is unchanged. Funding will be provided on an annual basis subject to availability of funds.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR 605.10(d):

1. Scientific and/or technical merit of the project;

2. Appropriateness of the proposed method or approach;

3. Competency of applicant's personnel and adequacy of proposed resources; and

4. Reasonableness and appropriateness of the proposed budget.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. Electronic access to the application guide and required forms is available on the World Wide Web at: *http://www.science.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC on August 22, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–21917 Filed 8–29–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Petroleum Industry of the Future

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of Availability of Solicitation.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, is seeking applications for cost shared research and development of technologies which will reduce energy consumption, reduce environmental impacts and enhance economic competitiveness of the domestic petroleum industry. The research is to address priorities identified by the petroleum refining industry in the Technology Roadmap for the Petroleum Industry (URL: *http://www.oit.doe.gov/petroleum/pdfs/petroleumroadmap.pdf).*

DATES: The deadline for receipt of applications is 5:00 p.m. EST on October 31, 2001.

ADDRESSES: The formal solicitation document will be disseminated electronically as Solicitation Number DE–PS07–01ID14211, Petroleum Industry of the Future, through the Industry Interactive Procurement System (IIPS) located at the following URL: *http://e-center.doe.gov.* IIPS provides the medium for disseminating solicitations, receiving financial

assistance applications and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to enter their company into a legally binding contract/agreement and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system. An IIPS ''User Guide for Contractors'' can be obtained by going to the IIPS Homepage at the following URL: *http://e-center.doe.gov* and then clicking on the ''Help'' button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS—HelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Carol Van Lente, Contract Specialist, at *vanlencl@id.doe.gov.*

SUPPLEMENTARY INFORMATION: The statutory authority for this program is the Federal Non-Nuclear Energy Research & Development Act of 1974 (P.L. 93–577). Approximately $1,000,000 in federal funds is expected to be available to totally fund the first year of selected research efforts. DOE anticipates making at least two awards each with a duration of three years or less.

Issued in Idaho Falls on August 22, 2001.

R. J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–21918 Filed 8–29–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–281–000, et al.]

Fremont Energy Center LLC, et al.; Electric Rate and Corporate Regulation Filings

August 22, 2001.

Take notice that the following filings have been made with the Commission:

1. Fremont Energy Center LLC

[Docket No. EG01–281–000]

Take notice that on August 17, 2001, Fremont Energy Center, LLC (Fremont) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Fremont, a Delaware limited liability company, proposes to own and operate a 554 MW natural gas-fired, combined cycle, power generation facility, located in Fremont, Ohio. Fremont will sell the output at wholesale to Calpine Energy Services, L.P., and other purchasers.

Comment date: September 12, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. PJM Interconnection, L.L.C.

[Docket No. ER01–1936–002]

Take notice that on August 17, 2001, PJM Interconnection, L.L.C. (PJM) supplemented its July 27, 2001 compliance filing in order to replace Third Revised Sheet No. 207A with Substitute Third Revised Sheet No. 207A to the PJM Open Access Transmission Tariff in order to correct a typographical error.

Copies of this filing have been served on all parties, as well as on all PJM Members, and the state electric regulatory commissions in the PJM control area.

Comment date: September 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Edison Company

[Docket No. ER01–2864–000]

Take notice that on August 17, 2001, Commonwealth Edison Company (ComEd) submitted for filing four Short-Term Firm Point-To-Point Transmission Service Agreements between ComEd and Ameren Energy, Inc. on behalf of Union Electric Company d/b/a AmerenUE, Ameren Energy Marketing Company and Ameren Energy Generating Company (Ameren), Exelon Generation Company, LLC (Exelon), AES NewEnergy, Inc. (AES NewEnergy), and Coral Power, L.L.C. (Coral), three Non-Firm Point-To-Point Transmission Service Agreements between ComEd and Ameren, Exelon and AES NewEnergy, and one executed Network Service Agreement and associated Network Operating Agreement between ComEd and AES NewEnergy under the terms of ComEd's Open Access Transmission Tariff (OATT). ComEd asks that the executed Short-Term Firm Point-To-Point Transmission Service Agreement between ComEd and Coral supersede and be substituted for the unexecuted Short-Term Firm Point-To-Point Transmission Service Agreement with Coral that was previously filed on July 17, 1998 in Docket No. ER98–3779–000 and accepted for filing by the Commission on May 28, 1998.

ComEd also submitted for filing an updated Index of Customers reflecting the name change for current customer Axia Energy, LP renamed Entergy-Koch Trading, L.P. (Entergy-Koch). A copy of this filing has been sent to Ameren, Exelon, AES NewEnergy, Coral and Entergy-Koch.

ComEd requests an effective date of July 19, 2001, and accordingly requests waiver of the Commission's notice requirements.

Comment date: September 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Southwest Power Pool, Inc.

[Docket No. ER01–2867–000]

Take notice that on August 17, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing two service agreements for Firm Point-to-Point Transmission Service and Loss Compensation Service with Higginsville Municipal Utilities (Transmission Customer). SPP requests an effective date of August 9, 2001 for these service agreements.

A copy of this filing was served on the Transmission Customer.

Comment date: September 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER01–2885–000]

Take notice that on August 16, 2001, Public Service Company of New Mexico (PNM) submitted for filing two executed service agreements with PPL EnergyPlus, LLC, under the terms of PNM's Open Access Transmission Tariff. One agreement is for non-firm point-to-point transmission service and one agreement is for short-term firm point-to-point transmission service. PNM requests the date of execution as the effective date for the agreements. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to PPL EnergyPlus, LLC, and to the New Mexico Public Regulation Commission.

Comment date: September 6, 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, 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 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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–21896 Filed 8–29–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–141–000, et al.]

Progress Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 24, 2001.

Take notice that the following filings have been made with the Commission:

1. Progress Energy, Inc.

[Docket No. EC01–141–000]

Take notice that on August 16, 2001, Progress Energy, Inc., on behalf of Carolina Power & Light Company, Progress Genco Ventures, LLC, Progress Energy Ventures, Inc., Richmond County Power, LLC, Monroe Power Company, Effingham County Power, LLC, MPC Generating, LLC, Newco, and Rowan County Power, LLC (collectively, Applicants) tendered for filing an application requesting all necessary authorizations under Section 203 of the Federal Power Act, 16 U.S.C. 824b (1996), to engage in a corporate reorganization.

Comment date: September 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Maine Electric Power Company

[Docket No. ER01–2889–000]

Please take notice that on August 21, 2001, Maine Electric Power Company (MEPCO) tendered for filing the assignment of a service agreement for Long-Term Firm Point-to-Point transmission service, originally entered into with FPL Energy Power Marketing, Inc., to Aroostook Valley Electric Company. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented, Original Service Agreement No. 201.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Ameren Energy, Inc. on behalf of Union Electric Company d/b/a AmerenUE, Ameren Energy Marketing Company and Ameren Energy Generating Company

[Docket No. ER01–2890–000]

Take notice that on August 21, 2001, Ameren Energy, Inc. (Ameren Energy), on behalf of Union Electric Company d/b/a AmerenUE, Ameren Energy Market Company, and Ameren Energy Generating Company (collectively, the Ameren Parties), pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d, and the market rate authority granted to the Ameren Parties, submitted for filing umbrella power sales service agreements under the Ameren Parties' market rate authorizations. Ameren Energy seeks Commission acceptance of these service agreements effective July 22, 2001.

Copies of this filing were served on the public utilities commissions of Illinois and Missouri.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Unitil Power Corp.

[Docket No. ER01–2892–000]

Take notice that on August 21, 2001, Unitil Power Corp. (UPC) tendered for filing a service agreement between UPC and Reading Municipal Lighting Department for service under UPC's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2460–000. UPC requests an effective date of August 10, 2001 for the service agreement with Reading Municipal Lighting Department

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. El Paso Electric Company

[Docket No. ER01–2893–000]

Take notice that on August 21, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Conoco Inc. for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. El Paso states that this filing is in accordance with Part 35 of the Commission's regulations, 18 CFR 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. El Paso Electric Company

[Docket No. ER01–2894–000]

Take notice that on August 21, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Conoco Inc. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. El Paso states that this filing is in accordance with Part 35 of the Commission's regulations, 18 CFR 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Energy Corporation

[Docket No. ER01–2896–000]

Take notice that on August 21, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Coral Power, L.L.C. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER01–2897–000]

Take notice that on August 21, 2001 Commonwealth Edison Company (ComEd) submitted for filing a Firm Point-To-Point Transmission Service Agreement (Service Agreement) between ComEd and Exelon Generation Company, LLC (Exelon) under the terms of ComEd's Open Access Transmission Tariff (OATT). A copy of this filing was served on Exelon.

ComEd requests an effective date of July 1, 2001 to coincide with the first day of service to Exelon under this Service Agreement.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Pennsylvania Electric Company

[Docket No. ER01–2898–000]

Take notice that on August 21, 2001, Pennsylvania Electric Company (doing business as GPU Energy) submitted for filing a Generation Facility Interconnection Agreement between Pennsylvania Electric Company d/b/a GPU Energy and Northern Tier Solid Waste Authority.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Energy Corporation

[Docket No. ER01–2899–000]

Take notice that on August 21, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Conectiv Energy Supply, Inc. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER01–2900–000]

Take notice that Northeast Utilities Service Company (NUSCO) on August 21, 2001, tendered for filing, Service Agreement to provide Firm Point-To-Point Transmission Service to Pontook Operating Limited Partnership under the NU System Companies' Open Access Transmission Service Tariff No. 9. NUSCO state that a copy has been mailed to Pontook Operating Limited Partnership.

NUSCO requests that the Service Agreement become effective September 15, 2001.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Consumers Energy Company

[Docket No. ER01–2901–000]

Take notice that on August 21, 2001 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with DTE Energy Trading, Inc. (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of August 3, 2001. Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Brownsville Power I, L.L.C., Caledonia Power I, L.L.C., Cinergy Capital & Trading, Inc., CinCapPIC, LLC, CinPeak Resources, LLC, Littlebrook Funding, L.L.C.

[Docket No. EC01–143–000]

Take notice that on August 20, 2001, Cinergy Capital & Trading, Inc., Brownsville Power I, L.L.C., Caledonia Power I, L.L.C., CinCapPIC, LLC, CinPeak Resources, LLC, and Littlebrook Funding, L.L.C. (collectively, Applicants) tendered for filing an application requesting all necessary authorizations under Section 203 of the Federal Power Act, for a transfer of jurisdictional facilities to facilitate financing and investment arrangements.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Calpine Construction Finance Company, L.P. South Point Energy Center, LLC

[Docket No. EC01–144–000]

Take notice that on August 20, 2001, Calpine Construction Finance Company, L.P. and South Point Energy Center, LLC filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities in connection with a sale and lease financing transaction involving the South Point Energy Center, a 530-MW natural gas-fired, combined cycle generating facility being constructed near Bullhead City, Arizona. The jurisdictional facilities being transferred include the 230 kV interconnection facilities and a long-term power marketing agreement. The application includes a request for privileged treatment of information.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Energy Corporation

[Docket No. ER01–2895–000]

Take notice that on August 21, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Western Resources, Inc. for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on July 21, 2001. Duke states that this filing is in accordance with Part 35 of the Commission's Regulations, 18 CFR Part 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: September 11, 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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–21922 Filed 8–29–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–142–000, et al.]

UtiliCorp United Inc., et al. Electric Rate and Corporate Regulation Filings

August 23, 2001.

Take notice that the following filings have been made with the Commission:

1. UtiliCorp United Inc.

[Docket No. EC01–142–000]

Take notice that on August 20, 2001, UtiliCorp United Inc. (UtiliCorp) filed with the Federal Energy Regulatory Commission (Commission) an application for approval of the transfer of operational control over the transmission facilities of its Missouri

Public Service, St. Joseph Light and Power and WestPlains Energy-Kansas divisions to the Midwest Independent System Operator, Inc. pursuant to section 203 of the Federal Power Act and section 33 of the Commission's regulations.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Idaho Power Company

[Docket No. ER01–1771–004]

Take notice that on August 20, 2001, Idaho Power Company (Idaho Power) tendered for filing a Refund Report detailing the calculation of the refund credited on June 10, 2001 by Idaho Power to the City of Oakland, California, acting by and through its Board of Port Commissioners (Port of Oakland), for revenues collected under a Power Sales Agreement between Idaho Power and Port of Oakland, dated December 28, 2000, for the period January 1, 2001 through June 10, 2001.

Comment date: September 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Summersville Hydroelectric Project

[Docket No. ER01–2438–000]

Take notice that on August 20, 2001, Gauley River Power Partners, L.P., on behalf of itself, the City of Summersville, West Virginia and Noah Corp. have filed the entire revised Rate Schedule No. 1 of the Summersville Hydroelectric Project in compliance with the Commission's August 8, 2001 order in this proceeding.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Tampa Electric Company

[Docket Nos. ER01–2831–000]

Take notice that on August 13, 2001, Tampa Electric Company (Tampa Electric) filed a notice of cancellation of its service agreement with NP Energy Inc. (NP Energy) for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric amended its filing on August 23, 2001.

Tampa Electric proposes that the cancellation of the service agreement be made effective on August 13, 2001, and therefore requests waiver of the Commission's notice requirement.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

[Docket No. ER01–2863–000]

Take notice that on August 20, 2001, Southern Company Services, Inc. (SCS), on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies), tendered for filing a Notice of Cancellation of rate schedules.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER01–2865–000]

Take notice that on August 20, 2001, Idaho Power Company filed a Generation Interconnection and Operating Agreement, between Idaho Power Company and Watts United Power LLC, under its open access transmission tariff in the above-captioned proceeding.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Central Maine Power Company

[Docket No. ER01–2866–000]

Take notice that on August 20, 2001, Central Maine Power Company (CMP) tendered for filing a service agreement for Umbrella Non-Firm Point-to-Point Transmission Service entered into with Boralex Stratton Energy, Inc. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated as CMP—FERC Electric Tariff, Fifth Revised, Volume No. 3, Original Service Agreement No. 200.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company Kentucky Utilities Company

[Docket No. ER01–2868–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Calpine Energy Services, LP. (Calpine) This agreement allows Calpine to take firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas And Electric Company Kentucky Utilities Company

[Docket No. ER01–2869–000

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Exelon Generation Company, LLC (Exelon) This agreement allows Exelon to take non-firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas And Electric Company; Kentucky Utilities Company

[Docket No. ER01–2870–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Exelon Generation Company LLC. (Exelon) This agreement allows Exelon to take firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas And Electric Company; Kentucky Utilities Company

[Docket No. ER01–2871–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed transmission service agreement with Calpine Energy Services, LP. (Calpine) This agreement allows Calpine to take non-firm point-to-point transmission service from LG&E/KU.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas And Electric Company; Kentucky Utilities Company

[Docket No. ER01–2872–000]

Take notice that on August 20, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an executed unilateral Service Sales Agreement between Companies and Calpine Energy Services, LP under the Companies' Rate Schedule MBSS.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER01–2873–000]

Take notice that on August 20, 2001, Entergy Services, Inc., on behalf of Entergy Mississippi, Inc., tendered for filing an amended and restated Interconnection and Operating Agreement with Duke Energy Southaven (Duke Southaven), and an updated Generator Imbalance Agreement with Duke Southaven.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. El Paso Electric Company

[Docket No. ER01–2874–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with the City of Burbank for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. El Paso Electric Company

[Docket No. ER01–2875–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Calpine Energy Services, L.P. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. El Paso Electric Company

[Docket No. ER01–2876–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with PPL EnergyPlus, LLC for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. El Paso Electric Company

[Docket No. ER01–2877–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Morgan Stanley Capital Group, Inc. for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. El Paso Electric Company

[Docket No. ER01–2878–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Morgan Stanley Capital Group, Inc. for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. El Paso Electric Company

[Docket No. ER01–2879–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with Calpine Energy Services, L.P. for Non-Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. El Paso Electric Company

[Docket No. ER01–2880–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with PPL EnergyPlus, LLC for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. El Paso Electric Company

[Docket No. ER01–2881–000]

Take notice that on August 20, 2001, El Paso Electric Company (El Paso) tendered for filing a Service Agreement with the City of Burbank for Firm Transmission Service under El Paso's Open Access Transmission Tariff. El Paso requests that the proposed Service Agreement be permitted to become effective on July 20, 2001. El Paso states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the Texas Public Utility Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Connecticut Light and Power Company

[Docket No. ER01–2882–000]

Take notice that on August 20, 2001 Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company (CL&P), filed an executed Interconnection Agreement between CL&P and Capitol District Energy Center Cogeneration Associates (CDECCA) that establishes the terms for the continued interconnection of CDECCA's 56 MW generating facility located in Hartford, Connecticut to CL&P.

NUSCO states that a copy of this filing has been mailed to Capitol District Energy Center Cogeneration Associates.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. West Texas Utilities Company

[Docket No. ER01–2883–000]

Take notice that on August 20, 2001, West Texas Utilities Company (WTU) submitted for filing a service agreements establishing Taylor Electric Cooperative, Inc. (Taylor) as a customer under WTU's Coordination Sales and Reassignment of Transmission Rights Tariff, FERC Electric Tariff, First Revised Volume No. 8. WTU has requested an effective date of July 20, 2001 for the agreement with Taylor and, accordingly, seeks waiver of the Commission's notice requirements.

WTU has served a copy of the filing on Taylor and on the Public Utilities Commission of Texas.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Virginia Electric and Power Company

[Docket No. ER01–2884–000]

Take notice that on August 20, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing Notices of Termination of Service Agreements with Michigan Companies (Consumers Power Company and The Detroit Edison Company) for Non-Firm Point-To-Point and (Consumers Energy Company and The Detroit Edison Company for Firm Point-To-Point Transmission Service designated respectively as First Revised Service Nos. 46 and 184 under FERC Electric Tariff, Second Revised Volume No. 5. Dominion Virginia Power respectfully requests an effective date of October 19, 2001.

Copies of the filing were served upon Consumers Energy Company, Detroit Edison, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. California Independent System Operator Corporation

[Docket No. ER01–2886–000]

Take notice that on August 20, 2001, the California Independent System Operator Corporation (ISO) tendered for filing a Letter Agreement between the ISO and Bonneville Power Administration (BPA) in the above-captioned docket. The purpose of the Letter Agreement is to provide the terms for mutually beneficial power exchanges between the ISO and BPA.

The ISO states that this filing has been served on BPA and the California Public Utilities Commission.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. South Point Energy Center, LLC

[Docket No. ER01–2887–000]

Take notice that on August 20, 2001, South Point Energy Center, LLC, (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. Applicant proposes to lease and operate a 560-megawatt electric generation facility located in Mojave County, Arizona.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Jersey Central Power and Light Company

[Docket No. ER01–2888–000]

Take notice that on August 20, 2001, Jersey Central Power and Light Company (doing business and referred to as GPU Energy) submitted for filing a Generation Facility Transmission Interconnection Agreement between GPU Energy and Ocean Peaking Power, L.P.

Comment date: September 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Entergy Services, Inc.

[Docket No. ER01–2891–000]

Take notice that on August 21, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a short-term Firm Point-To-Point Transmission Service Agreement between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Minnesota Power.

Comment date: September 10, 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, 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 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 this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (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 under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–21921 Filed 8–29–01; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Management Official Interlocks.

OMB Number: 3064–0118.

Annual Burden: Estimated annual number of respondents: 5; Estimated time per response: 4 hours; Total annual burden hours: 20 hours.

Expiration Date of OMB Clearance: October 31, 2001.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before October 1, 2001 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The collection is associated with the FDIC's Management Official Interlocks regulation, 12 CFR part 348, which implements the Depository Institution Management Interlocks Act (DIMIA).

DIMIA generally prohibits bank management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies but allows the FDIC to grant exemptions in appropriate circumstances.

Dated: August 23, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–21945 Filed 8–29–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 200063–022.

Title: NYSA–ILA Tonnage Assessment Agreement.

Parties: New York Shipping Association, Inc.

International Longshoremen's Association, AFL–CIO.

Synopsis: The amendment reduces certain assessment rates in the Puerto Rican trade.

Agreement No.: 201068–002.

Title: Marine Terminal Operators of New Orleans Discussion Agreement.

Parties: Ceres Gulf, Inc.

Empire Stevedoring (Louisiana), Inc.

P&O Ports Louisiana, Inc.

Stevedoring Services of America, Inc.

Universal Maritime Service Corp.

Synopsis: The amendment adds Coastal Cargo Co., Inc., and Pacorini USA, Inc., as agreement parties.

Agreement No.: 201110–003.

Title: Oakland/Hanjin Non-Exclusive Preferential Assignment Agreement.

Parties: Port of Oakland

Hanjin Shipping Company, Ltd.

Synopsis: The amendment provides for, among other things, the purchase of certain equipment by the port, further modifications to facility improvements, and the fixing of the ''Term Commencement Date'' of the basic agreement.

By Order of the Federal Maritime Commission.

Dated: August 24, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–21864 Filed 8–29–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 4428F.

Name: A A Shipping LLC.

Address: 15675 South Hawthorne Blvd., #A, Lawndale, CA 90260.

Date Revoked: July 15, 2001.

Reason: Failed to maintain a valid bond.

License Number: 13733N.

Name: All-Connections Express (U.S.A.) Inc.

Address: 463 Littlefield Avenue, S. San Francisco, CA 94080.

Date Revoked: July 21, 2001.

Reason: Failed to maintain a valid bond.

License Number: 15980N.

Name: American Gateway, Inc.

Address: 1850 NW 84th Avenue, Suite 108, Miami, FL 33126.

Date Revoked: July 4, 2001.

Reason: Failed to maintain a valid bond.

License Number: 6082N.

Name: Brennan International Transport, Incorporated.

Address: 2665 E. Del Amo Blvd., Rancho Dominguez, CA 90221.

Date Revoked: July 11, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16125N.

Name: Bulk Connection, Inc.

Address: 15 Allen Street, Mystic, CT 06355.

Date Revoked: June 22, 2001.

Reason: Failed to maintain a valid bond.

License Number: 14140N.

Name: Cargo Network International, Inc.

Address: One Cross Island Plaza, Suite 103, Rosedale, NY 11422.

Date Revoked: July 13, 2001.

Reason: Failed to maintain a valid bond.

License Number: 17101N.

Name: Cargocare Logistics, Ltd.

Address: 34 Harvest Lane, Stonebridge, Burlington, NJ 08016.

Date Revoked: July 27, 2001.

Reason: Surrendered license voluntarily.

License Number: 3994F and 3994N.

Name: Corexport Corporation dba Core Marine Carriers.

Address: 7031 Albert Pick Road, Suite 102, Greensboro, NC 27409.

Date Revoked: February 18, 2001 and April 20, 2001.

Reason: Failed to maintain valid bonds.

License Number: 4561NF.

Name: Crossbar, Inc.

Address: 2012 E. Phelps, Suite A1, Springfield, MO 65802.

Date Revoked: June 16, 2001.

Reason: Failed to maintain valid bonds.

License Number: 14995N.

Name: Daniel Hyung Keun Cho dba Transtech Worldwide Line.

Address: 1487 W. 178th Street, 3rd FL., Gardena, CA 90248.

Date Revoked: June 21, 2001.

Reason: Failed to maintain a valid bond.

License Number: 14642N.

Name: Freight IFS, Inc.

Address: 335 Richert Drive, Wood Dale, IL 60191.

Date Revoked: July 4, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16441NF.

Name: Freightex, Inc. dba Freightex Marine.

Address: 1404 North Belt East, Suite 130, Houston, TX 77032.

Date Revoked: July 13, 2001.

Reason: Failed to maintain valid bonds.

License Number: 17056NF.

Name: From2.Com, Inc.

Address: 8100 Oak Lane, Suite 200, Miami Lakes, FL 33016.

Date Revoked: July 25, 2001.

Reason: Failed to maintain valid bonds.

License Number: 3731F.

Name: Global Freight Inc.

Address: 147–27 175th Street, Jamaica, NY 11434.

Date Revoked: July 12, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16049F.

Name: International Cargo Transporters, Inc.

Address: 2550 72nd Avenue, Suite 109, Miami, FL 33122.

Date Revoked: June 21, 2001.

Reason: Failed to maintain a valid bond.

License Number: 4055N.
Name: International Cargo Services, Inc.
Address: 139 Mitchell Avenue, Suite 107, So. San Francisco, CA 94080.
Date Revoked: June 28, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16061F.
Name: Jo-yu A. Wu dba Opus One USA.
Address: 1754 40th Avenue, San Francisco, CA 94122.
Date Revoked: June 18, 2001.
Reason: Surrendered license voluntarily.

License Number: 3413N and 3413F.
Name: Lift Forwarders, Inc.
Address: 19480 Southwest 118th Avenue, Tualatin, OR 97062–8008.
Date Revoked: June 1, 2001 and July 25, 2001.
Reason: Failed to maintain valid bonds.

License Number: 1868F.
Name: Marcelo V. Castro dba Universal Forwarders.
Address: 113 W. Grand Avenue, El Segundo, CA 90245.
Date Revoked: July 5, 2001.
Reason: Failed to maintain a valid bond.

License Number: 11179N.
Name: Mercator Shipping, Ltd. dba Flamingo Line.
Address: 11825 NW 100th Road, Suite 5, Miami, FL 33178.
Date Revoked: June 14, 2001.
Reason: Failed to maintain a valid bond.

License Number: 17270N.
Name: Neutral Line (U.S.A.) Inc.
Address: 8600 NW 53rd Terrace, Suite 123, Miami, FL 33166.
Date Revoked: July 8, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4105F.
Name: Overseas Mahanm Inc.
Address: 24 Lillian Lane, Plainview, NY 11803–5613.
Date Revoked: July 14, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4196NF.
Name: Pan Atlantic Carriers Services, Inc.
Address: 2150 NW 70th Avenue, Miami, FL 33122.
Date Revoked: June 20, 2001.
Reason: Failed to maintain valid bonds.

License Number: 17146N.
Name: Relotrans International, Inc.
Address: 16 Bonnievale Drive, Bedford, MA 01730.
Date Revoked: July 27, 2001.
Reason: Failed to maintain a valid bond.

License Number: 12256N.
Name: Single Source Transportation, Inc.
Address: 26986 Trolley Industrial Drive, P.O. Box 130, Taylor, MI 48180.
Date Revoked: July 23, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16987F.
Name: TAT International, Inc.
Address: 41–79 Main Street, Flushing, NY 11355.
Date Revoked: June 14, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4577F.
Name: Transtar Shipping, Inc.
Address: 405 Victory Avenue, Suite D, So. San Francisco, CA 94080.
Date Revoked: July 27, 2001.
Reason: Failed to maintain a valid bond.

License Number: 14698N.
Name: Trivex Inc. dba Luxor Ocean Line.
Address: 167–43 148th Avenue, Jamaica, NY 11434.
Date Revoked: May 29, 2001.
Reason: Surrendered license voluntarily.

License Number: 16633N.
Name: Uniship, Inc.
Address: 320 Pine Avenue, Suite 400, Long Beach, CA 90802.
Date Revoked: July 4, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4195F.
Name: Westrans Air Express (USA) Inc.
Address: 220 W. Ivy Avenue, Inglewood, CA 90302.
Date Revoked: July 3, 2001.
Reason: Failed to maintain a valid bond.

License Number: 4052F.
Name: Xonex International, Inc. dba Xonex International.
Address: 20 E. Commons Boulevard, New Castle, DE 19720.
Date Revoked: June 22, 2001.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–21867 Filed 8–29–01; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

CTM International, Inc., 145–43 226th Street, Springfield Gardens, NY 11413. Officers: Teresa Serkes, President (Qualifying Individual)

Yicheng Jet-Sea Logistics Inc., 1641 W. Main Street, Suite 420, Alhambra, CA 91801. Officers: Julie Ho, Vice President (Qualifying Individual), Zhou Ya Qing, President

Atlantic Cargo Line dba A.C.L., 10101 SW 8th Terrace, Miami, FL 33174. Officer: Eduardo Prado, President (Qualifying Individual)

Sino-America Express, Inc., 13523 Tobinn Manor Drive (P.O. BOX 1495), Cypress, TX 77429. Officers: Chen Ling, Vice President (Qualifying Individual), Hao Hui Hu, Director/President

E-Trans Logistic Services, Inc., 11222 S. La Cienega Blvd., Suite 268, Inglewood, CA 90304. Officers: Wei Po Wang, President/CEO (Qualifying Individual), Tai Hung Yang, Vice President

Universal Shipping, Inc., 675 Brea Canyon Road, Suite 12A, Walnut, CA 91789. Officers: Karim Suleiman, Chairman/CFO (Qualifying Individual), Sherley Eddy Hans, President

Alpa International Group, Inc., 11701 NW, 102nd Road, Suite 9, Medley, FL 33178. Officers: Reinaldo Rodriguez, Director (Qualifying Individual), Patricia Craig, President

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Monetti Distributors, Inc., 6806 N.W. 84th Avenue, Miami, FL 33126. Officer: Francesco Monetti, President (Qualifying Individual)

Quantum Logistics, Inc., 14509 E. 33rd Place Suite H, Aurora, CO 80011. Officers: Peter J. Michalczyk, Import Manager (Qualifying Individual), Chris Munson, CAO

Impex of Doral Logistics, Inc., 7275 N.W. 87th Avenue, Miami, FL 33166.

Officers: Carmen Kattan, Secretary (Qualifying Individual), Joseph M. Simko, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Trans Global Logistics, Inc., 100 Eagle Ridge Road, Midland City, AL 36350. Officers: Jeffrey F. Coleman, President (Qualifying Individual), William L. Brakefield, Director

A.L.S. Cargo Inc. dba Above & Beyond Cargo, 136 W. 73rd Street, Suite 3, New York, NY 10023. Officer: Elvis Soler, President (Qualifying Individual)

Dated: August 24, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–21866 Filed 8–29–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
4594F	Paramount Transportation Systems, Inc., 1350 Grand Avenue, San Marcos, CA 92069	June 16, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–21865 Filed 8–29–01; 8:45 am]

BILLING CODE 6730–01–P

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 September 13, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. J. Vernon Johnson, Kaplan, Louisiana; to retain voting shares of Coastal Commerce Bancshares, Inc., Kaplan, Louisiana, and thereby indirectly retain voting shares of Kaplan State Bank, Kaplan, Louisiana.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Warren A. Armstrong, La Grange, Texas; Ted L. Bellmont, Houston, Texas; Max Baranowski, La Grange, Texas; Harvey R. Bohot, La Grange, Texas; Alfred H. Cordes, Jr., Houston, Texas; Charline Cordes, Houston, Texas; Fritz E. Finke and Aliene Maria Finke, Round Top, Texas; Aliene Maria Finke, Round Top, Texas; Leerie R. Giese, La Grange, Texas; William M. McBroom, M.D., La Grange, Texas; Joe Alfred Mihatsch, Jr., La Grange, Texas; Joseph Alfred Mihatsch, III, La Grange, Texas; Linda Ann Mihatsch, La Grange, Texas; Robert J. Svrcek and Carol J. Svrcek, La Grange, Texas; Jay Dee Tobias, La Grange, Texas; James E. Zapalac, La Grange, Texas; James E. Zapalac and Sheron A. Zapalac, La Grange, Texas; all acting in concert, to retain voting shares and to acquire additional voting shares of La Grange Bancshares, Inc., LaGrange, Texas, and thereby indirectly control voting shares of Colorado Valley Bank, LaGrange, Texas.

Board of Governors of the Federal Reserve System, August 24, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–21874 Filed 8–29–01; 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 September 24, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. United Bancshares, Inc., New Orleans, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of United Bank and Trust, New Orleans, Louisiana.

Board of Governors of the Federal Reserve System, August 24, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–21875 Filed 8–29–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 9 a.m., September 10, 2001.

PLACE: National Finance Center, TANO Building, Conference Room 7, 13800 Old Gentilly Road, New Orleans, Louisiana.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the August 13, 2001, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of FY 2001 budget and projected expenditures, approval of FY 2002 proposed budget, and review of FY 2003 budget estimate.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: August 28, 2001.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 01–22021 Filed 8–28–01; 2:47 pm]

BILLING CODE 6760–01–M

GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of a Standard Form by the Office of Personnel Management (OPM)

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) cancelled SF SF 1150A, Transfer of Leave Records for Leave Recipient Covered by the Voluntary Leave Transfer Program since they no longer prescribe any standard data elements when a current leave recipient transfers to another employing agency without a break in service. Each agency needs to set their own policy on how this process is handled. OPM developed their own form which they are happy to share with you but is NOT for mandatory use. You can obtain a copy of this form from the internet (Address: *http://www.opm.gov/forms*).

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective August 30, 2001.

Dated: August 23, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–21914 Filed 8–29–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–58]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of the Graduate Certificate Program—New—National Center for HIV, STD, and TB Prevention (NCHSTP), the Centers for Disease Control and Prevention (CDC). The National Center for HIV, STD and TB, CDC proposes to collect data to evaluate the Graduate Certificate Program (GCP). From July 1997 through January 2001, NCHSTP Prevention Support Office administered the GCP which funded 130 CDC public health professionals and 130 state and local public health professionals to attend a distance learning program that consisted of approximately one-half of the requirements of a graduate-level degree. The purpose of the proposed project is to evaluate the process, impact, and outcome measures of the GCP that were described in the original Request for Proposal (RFP). CDC is looking to establish perceived or measurable benefits of the program, as well as to evaluate the effectiveness of the distance-based education approach.

The data collected will be used to determine the effectiveness of the distance-based training approach, and to provide recommendations for developing similar training strategies in the future.

Data will be collected through an attitudinal survey that will be available in both paper and electronic copies. The survey will be administered to 520 respondents (approximately 260 state and local public health professionals (130 participants and 130 nonparticipants) and 260 supervisors (130 supervisors of participants and 130 supervisors of nonparticipants). It is estimated that it will take respondents approximately 20 minutes to complete the survey. There are no costs to respondents.

Respondents	No. of respondents	No. of responses per respondent	Average burden/response (in hours)	Total burden (in hours)
State and Local Public Health Professionals	520	1	20/60	173
Total				173

Dated: August 21, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–21741 Filed 8–29–01; 8:45am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Public Meeting to Review and Re-evaluate Safe Airborne Exposure Limits (AELs) of Chemical Agent Sulfur Mustard (HD).

Time and Dates: 8 am–5 pm, September 11, 2001. 8 am–12 pm, September 12, 2001.

Place: Sheraton Colony Square Hotel, 188 14th Street NE at Peachtree Street, Atlanta, Georgia, 30361, Tel: (404) 892–6000 or (800) 422–7895.

Status: Open to the public, limited only by space available. The meeting room accommodates approximately 50 people.

Background: The chemical warfare material agent HD is no longer manufactured in the United States; however, it is currently stored at seven locations in the continental United States by the Department of Defense (DOD). Public Law 99–145 (50 U.S.C. 1521) mandates that these stockpiled lethal chemical agents be destroyed. In 1970, Public Law 91–121 and Pubic Law 91–441 (50 U.S.C. 1521) mandated that the Department of Health and Human Services must review DOD plans for disposing of the munitions and make recommendations to protect human health. In 1987, CDC requested public comment on recommendations for protecting human health and the environment against potential adverse effects of long-term exposure to low doses of agents G, GB, VX, mustard (H, HD, T) and lewisite (L). CDC incorporated the public comments and in 1988 recommended control limits for airborne exposures to agents G, GB, VX, H, HD, T and L for protection of workers involved in the demilitarization process and for the general public living in areas adjacent to demilitarization facilities. The U.S. Army adopted these control limits into policy in 1990. CDC held a public meeting in August, 2000 to re-evaluate the limits for agents G, GB, and VX based on newly developed risk models and any updated scientific data. CDC will soon publish its final recommendations for these levels in the **Federal Register**. As a follow-up to the August, 2000 public meeting, CDC will host a meeting this September to discuss how to conduct a similar re-evaluation of the exposure limits for agent HD in a demilitarization operational setting.

Purpose: The purpose of this meeting is to review the AELs set for HD, based on CDC's 1988 recommendations and to determine any modifications required to update these limits to reflect current findings. Based on newly available scientific studies and data, CDC will engage HD agent experts and the public in an evaluation of the current limits and recommend updated limits based on the public comments. To facilitate the public dialogue, CDC will provide a forum for general public interaction and serve as a vehicle for members of the public to provide their individual concerns.

Matters to be Discussed: Agenda items include (1) presentation of newly available scientific studies and data, (2) panel discussion by HD agent specialists, (3) recommended modifications to existing levels based on panel comments, and (4) collect public comments. There will be time for public input, questions, and comments.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Sascha Beck, Chemical Demilitarization Branch, Division of Emergency and Environmental Health Services, NCEH, CDC, 4770 Buford Highway, NE (F–16), Atlanta, Georgia, 30341–3724, telephone 770/488–4078, fax 770/488–4127.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 23, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–21910 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, Centers for Disease Control and Prevention (CDC) Announces the Following Meetings

Name: Regional Meetings on STD and HIV Prevention Needs of Men Who Have Sex With Men (MSM).

Times and Dates:

8:30 a.m.–5:30 p.m., September 24, 2001
8:30 a.m.–5:30 p.m., September 25, 2001

Place: Southern Region Meeting, Radisson Hotel New Orleans, New Orleans, LA, 1500 Canal Street, New Orleans, LA 70112, Phone: 504–522–4500

Times and Dates:

8:30 a.m.–5:30 p.m., October 30, 2001
8:30 a.m.–5:30 p.m., October 31, 2001

Place: Midwestern Region Meeting, Holiday Inn Chicago City Centre, 300 East Ohio Street, Chicago, IL 60611, Phone: 312–787–6100

Times and Dates:

8:30 a.m.–5:30 p.m., November 26, 2001
8:30 a.m.–5:30 p.m., November 27, 2001

Place: Western Region Meeting, University of Southern California, Davidson Executive Conference Center, Los Angeles, CA 90089, Phone: 213–740–5956

Times and Dates:

8:30 a.m.–5:30 p.m., December 11, 2001
8:30 a.m.–5:30 p.m., December 12, 2001

Place: Eastern Region Meeting, New York Marriott Brooklyn, 333 Adams Street, Brooklyn, NY 11201, Phone: 718–246–7000 ext. 6519

Status: Open to the public, but limited by the space available. The meeting rooms accommodate approximately 200 people. Registration is free, but required. Forms can be obtained by emailing *cmotamed@aed.org.* Reservations can be made directly with the hotel. There is a not a specific conference room block. For information on hotels in Los Angeles, CA, contact cmotamed@aed.org.

Purpose: To bring representatives from state and local government,

community based STD and HIV prevention programs and MSM community members together to review epidemiological STD, HIV, and Hepatitis A and B trends among MSM populations, review effective behavioral interventions for MSM populations and to strategize on how to address the future STD and HIV prevention needs of MSM.

Matters To Be Discussed: Agenda items include plenary presentations, interactive small group breakout sessions, and discussion groups in which participants will learn new information, acquire skills, and work together to develop action plans for their jurisdictions.

CONTACT PERSON FOR MORE INFORMATION: Charles Collins, National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, 1600 Clifton Rd., NE, M/S E–40, Atlanta, GA 30333, telephone 404–639–0966.

Cathy Motamed, AED Center for Community-Based Health Strategies, 1825 Connecticut Ave., NW, Washington, DC 20009, telephone 202–884–8929, email *cmotamed@aed.org.*

The Director, Management and Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 24, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21907 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.–3:00 p.m., September 21, 2001.

Place: The Washington Court, 525 New Jersey Avenue, NW, Washington, DC 20001–1527.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The BSC, NIOSH is charged with providing advice to the Director, NIOSH on NIOSH research programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings, and disseminating results.

Matters To Be Discussed: Agenda items include a report from the Acting Director of NIOSH; Report from the BSC Beryllium Subcommittee; Update on NIOSH Health Care Worker Activities; Update on NIOSH Surveillance Efforts; Closing Report.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Roger Rosa, Ph.D., Executive Secretary, BSC, NIOSH, Centers for Disease Control and Prevention, 200 Independence Avenue, SW., Room 715H, Washington, DC 20201, telephone: 202/205–7856, fax: 202/260–4464, e-mail: rrr2@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: August 24, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21908 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

Times and Dates:

8:30 a.m.–4:45 p.m., September 20, 2001.

8:30 a.m.–12 noon, September 21, 2001.

Place: Radisson Hotel Charleston, 170 Lockwood Drive, Charleston, South Carolina 29403, telephone (843) 723–3000, fax (843) 723–0276.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include an update from the National

Institute for Occupational Safety and Health (NIOSH); a presentation on toxicity of heavy metals and radionuclides; an update on screening methods for Savannah River Site production workers; and status reports from the SRSHES working groups on Epidemiologic Data, Scenario Screening, and Phase II—Community Summary.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Paul G. Renard, Executive Secretary, SRSHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, N.E. (E–39), Atlanta, GA 30333, telephone 404/498–1800, fax 404/498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: August 21, 2001.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–21909 Filed 8–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10043]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Evaluation of the BadgerCare Medicaid Demonstration; *Form No.:* CMS–10043 (OMB# 0938–NEW); *Use:* The subject surveys are components of the CMS evaluation of the Wisconsin BadgerCare Section 1115 Medicaid demonstration and Title XXI (SCHIP) program. The goals of the evaluation are to assess the effectiveness of BadgerCare in reducing the number of Wisconsin residents who lack health insurance, increasing participation of eligible children in the SCHIP program, and supporting families making transitions from welfare to work. Other specific features of BadgerCare will be examined as well, including the State's outreach efforts and policy of charging premiums to selected families. Findings from the study will help to inform CMS policy regarding Medicaid demonstrations and SCHIP, and will help states in designing similar health insurance programs; *Frequency:* Other: One time; *Affected Public:* Individuals or Households; *Number of Respondents:* 5,680; *Total Annual Responses:* 5,680; *Total Annual Hours:* 1,914.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: August 14, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–21942 Filed 8–29–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–224]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Collection of Managed Care Data Using the Uniform Institutional Providers Form (CMS–1450/UB–92) and Supporting Statute Section 1853(a)(3) of the Balanced Budget Act of 1997; *Form No.:* CMS–R–224 (OMB No. 0938–0711); *Use:* Section 1853(a)(3) of the Balanced Budget Act (BBA) requires Medicare+Choice organizations, as well as eligible organizations with risk-sharing contracts under section 1876, to submit encounter data. Data regarding inpatient hospital services are required for periods beginning on or after July 1, 1997. These data may be collected starting January 1, 1998. Other data (as the Secretary deems necessary) may be required beginning July 1, 1998.

The BBA also requires the Secretary to implement a risk adjustment methodology that accounts for variation in per capita costs based on health status. This payment method must be implemented no later than January 1, 2000. The encounter data are necessary to implement a risk adjustment methodology.

CMS continues to require hospital inpatient encounter data from Medicare+Choice organizations to

develop and implement a risk adjustment payment methodology as required by the Balanced Budget Act of 1997.

Frequency: Monthly; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and Federal government; *Number of Respondents:* 211; *Total Annual Responses:* 1,353,500; *Total Annual Hours:* 6,533.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 1, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–21943 Filed 8–29–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: September 5, 2001.

Time: 1:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eric H. Brown, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6075 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6018, Bethesda, MD 20892–7965, 301–435–0815, browne@ncrr.nih.gov.

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 Center for Research Resources Special Emphasis Panel, Science Education Partnership Award.

Date: September 19, 2001.

Time: 3:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sybil A. Wellstood, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Centre, Room 6018, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, (301) 435–0814, wellstoods@ncrr.nih.gov.

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; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21900 Filed 8–29–01; 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.

Date: October 10, 2001.

Time: 1:00 PM to 2:30 PM.

Agenda: To review and evaluate contract proposals.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khan, PhD, 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.

(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, HHD)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21897 Filed 8–29–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed 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 Environmental Health Sciences Special

Emphasis Panel, Review of Conference Grants (R13s).

Date: October 3, 2001.

Time: 10:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Conference Grants (R13s).

Date: October 3, 2001.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, 79 T W Alexander Dr., Bldg. 4401, Rm EC–122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, National Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21898 Filed 8–29–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of 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 a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The 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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council.

Date: September 24–25, 2001.

Open: September 24, 2001, 8:30 AM to 3 PM.

Agenda: Clinical Research Discussion.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 10, Bethesda, MD 20892.

Closed: September 25, 2001, 9:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 10, Bethesda, MD 20892.

Contact Person: Dushanka V. Kleinman, DDS, Deputy Director, National Institute of Dental & Craniofacial Res., National Institutes of Health, 9000 Rockville Pike, 31/2C39, Bethesda, MD 20892, (301) 496–9469.

Information is also available on the Institute's/Center's home page: www.nidcr.nih.gov/discover/nadrc/index.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 23, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–21899 Filed 8–29–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–63]

Notice of Submission of Proposed Information Collection to OMB; An Assessment of Third-Party Economic Development Loans Funded Through HUD's Community Planning and Development Programs

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:* October 1, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments 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 members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number 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: An assessment of Third-Party Economic Development Loans Funded Through HUD's Community Planning and Development Programs.

OMB Approval Number: 2528–XXXX.

Form Numbers: None.

Description of the Need For The Information and Its Proposed Use: This study will assess the third-party loans under all the CPD programs directed toward economic development: the Community Development Block Grant program, Section 108; and the Economic Development Initiative. The programs will be described; the size and quality of their loan portfolios will be assessed; and their success measured by a variety of criteria. Special attention will be given to the local use of the Section 108 program; reasons for its use; their experience; and the results of Section 108 projects.

Respondents: Business or other for-profit, State, Local or Tribal Government.

Frequency of Submission: One time only.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	1,595		1		0.41		661

Total Estimated Burden Hours: 661.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 23, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–21876 Filed 8–29–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Application Notice Describing the Areas of Interest and Establishing the Closing Date for Receipt for Applications Under the Education Component of the National Cooperative Geologic Mapping Program (EDMAP) for Fiscal Year 2002

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Applications are invited for research projects under EDMAP. This program is a component of the National Geologic Mapping Program which is designed to produce information on areas of scientific, social or economic welfare in the United States. Funding is to support Masters and Doctoral Students during geological field mapping. Cooperative agreement awards will be on an equal cost-sharing basis; matched with funds from non-Federal sources.

Application may be submitted by colleges and universities with accredited masters and doctoral programs in Geoscience or related departments only.

ADDRESSES: The program announcement is expected to be available on or about August 27, 2001. You may obtain a copy of Announcement No. 20HQPA0004 from the USGS Contracts and Grant Information Site at *http://www.usgs.gov/contracts/EDMPAS/index.html* or by writing to Sherri Newman, U.S. Geological Survey, Office of Acquisition and Grants—Mail Stop 205G, 12201 Sunrise Valley Drive, Reston, Virginia 20192, or by fax (703) 648–7901.

DATES: The closing date for receipt of applications will be on or about October 23, 2001. The actual closing date will be specified in Announcement No. 02HQPQ0004.

FOR FURTHER INFORMATION CONTACT: Peter Lyttle, Educational Component of the National Cooperative Geologic Mapping Program—U.S. Geological Survey, Mail Stop 908, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Telephone (703) 648–6943.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in the National Geologic Mapping Reauthorization Act of 1999, Public Law 106–148. The Office of Management and Budget Catalog of Federal Domestic Assistance Number is 15.810.

Dated: August 16, 2001.

Patricia P. Dunham,

Acting Chief, Office of Administrative Policy and Services.

[FR Doc. 01–21862 Filed 8–29–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 910–01–1430–HN LRTN]

Notice of Availability and Protest Period for the Proposed Planning Analysis To Acquire Land In Fairfax County, Virginia by the Bureau of Land Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability and Protest Period for the Proposed Planning Analysis to acquire land; correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** on Monday, August 6, 2001, concerning Notice of Availability and Protest Period for the Proposed Planning Analysis to acquire land on Meadowood Farm in Fairfax County, Virginia. This correction amends the Notice of Availability to specify September 6, 2001, as the deadline for filing protests.

FOR FURTHER INFORMATION CONTACT: Horace Traylor at (703) 440–1509.

Correction: In the **Federal Register** of August 6, 2001, in FR Doc. 01–19549, appearing on page 41033, in the third column, correct the second paragraph to read:

DATES: The Proposed Plan, EA, and FONSI can be reviewed Mondays through Fridays, from 8 a.m. to 4 p.m., at the BLM's Eastern States Office, 7450 Boston Boulevard in Springfield, Virginia 22153, or by visiting the website at *www.es.blm.gov.* Protests to the Proposed Plan must be postmarked on or before September 6, 2001.

Dated: August 9, 2001.

Walt Rewinski,

Acting State Director, BLM, Eastern States.

[FR Doc. 01–21960 Filed 8–29–01; 8:45 am]

BILLING CODE 4310–GJ–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–921 (Final)]

Folding Gift Boxes From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–921 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of folding gift boxes, covered by statistical reporting numbers 4819.20.00.40 and 4819.50.40.60 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: August 6, 2001.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON-LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of folding gift boxes from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on February 20, 2001, by counsel on behalf of Simkins Industries, Inc., New Haven, CT, and Field Container Company, L.P., Elk Grove Village, IL (the Commission was subsequently notified that the producer is Harvard Folding Box Company, Inc., Lynn, MA, not Simkins).

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on October 31, 2001, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on November 15, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 7, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 9, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules.

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as folding gift boxes. Folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. The boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. Excluded from the scope of this investigation are folding gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. Also excluded are folding gift boxes for which no side of the box, when assembled, is at least 9 inches in length. Folding gift boxes are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The term folding gift boxes includes folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separate pieces. Folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The subject merchandise also excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as ''not-for-resale'' gift boxes or ''give-away'' gift boxes and may be provided by department and specialty stores at no charge to their retail customers). Also excluded are folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard. Imports of the subject folding gift boxes are covered by statistical reporting numbers 4819.20.00.40 and 4819.50.40.60 of the Harmonized Tariff Schedule of the United States.

Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 7, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is November 23, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 23, 2001. On December 7, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 11, 2001, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: August 23, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–21863 Filed 8–29–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''BLS Occupational Safety and Health Statistics Federal/State Cooperative Agreement Application Package.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before October 29, 2001.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has delegated to the BLS the authority to collect, compile, and analyze statistical data on work-related injuries and illnesses. The Cooperative Agreement is designed to allow the BLS to ensure conformance with program objectives. The BLS has full authority over the financial operations of the statistical program. The BLS requires financial reporting that will produce the information that is needed to monitor the financial activities of the BLS Occupational Safety and Health Statistics grantees.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

Continued collection of grantee financial information is necessary to maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics, as authorized by the Occupational Safety and Health Act of 1970 (Pub. L. 91–596). The burden estimates are based on actual experience of grantees completing the forms.

Public comments on the accuracy of the burden estimates, as well as suggestions for reducing the burden, are encouraged. Signatures that certify the authenticity of the information will continue to be required.

Type of review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: BLS/OSHS Federal/State Cooperative Agreement (Application Package).

OMB Number: 1220–0149.

Affected Public: State Governments.

Form	Total respondents	Frequency	Average burden		Estimated total burden (hours)
			Per response (hours)	Annually (hours)	
BLS–OSHS1	57	Annually	2	2	114
BLS–OSHS2	57	Quarterly	1	4	228
Totals	57		3	6	342

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 13th day of August, 2001.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 01–21904 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Census of Fatal Occupational Injuries.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before October 29, 2001.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics (BLS) was delegated responsibility by the Secretary of Labor for implementing Section 24(a) of the Occupational Safety and Health Act of 1970. This section states that ''the Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses * * *''

Prior to the implementation of the Census of Fatal Occupational Injuries (CFOI), the BLS generated estimates of occupational fatalities for private sector employers from a sample survey of about 280,000 establishments. Studies showed that occupational fatalities were underreported in those estimates as well as those compiled by regulatory, vital statistics, and workers' compensation systems. Estimates varied widely between 3,000 and 10,000 annually. In addition, information needed to develop prevention strategies were often missing from these earlier programs.

In the late 1980s, the National Academy of Sciences study, *Counting Injuries and Illnesses in the Workplace,* and the report, *Keystone National Policy Dialogue on Work-Related Illness and Injury Recordkeeping,* emphasized the need for the BLS to compile a complete roster of work-related fatalities because of concern over the accuracy of using a sample survey to estimate the incidence of occupational fatalities. These studies also recommended the use of all available data sources to compile detailed information for fatality prevention efforts.

The BLS tested the feasibility of collecting fatality data in this manner in 1989 and 1990. The resulting CFOI was implemented in 32 States in 1991. National data covering all 50 States and the District of Columbia were compiled and published for 1992–2000, approximately eight months after each calendar year.

The CFOI compiles comprehensive, accurate, and timely information on work-injury fatalities needed to develop effective prevention strategies. The system collects information concerning the incident, demographic information on the deceased, and characteristics of the employer.

Data are used to:

—develop employee safety training programs;

—develop and assess the effectiveness of safety standards;

—conduct research for developing prevention strategies; and

—compare fatalities between States.

In addition, States use the data to publish State reports, to identify State-specific hazards, to allocate resources for promoting safety in the workplace, and to evaluate the quality of work life in the State.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses.

III. Current Action

In 2000, 5,915 workers lost their lives as a result of injuries received on the job. This official systematic, verifiable count mutes controversy over the various counts from different sources. The CFOI count has been adopted by the National Safety Council and other organizations as the sole source of a comprehensive count of fatal work injuries for the U.S. If this information were not collected, the confusion over the number and patterns in fatal occupational injuries would continue, thus hampering prevention efforts. By providing timely occupational fatality data, the CFOI program provides safety and health managers the information necessary to respond to emerging workplace hazards.

In 2000, the BLS Washington staff responded to over 600 requests for CFOI data from various organizations. (This figure excludes requests received by the States for State-specific data.) In addition, the BLS Website averaged about 1,900 users per month.

Washington staff also responded to numerous requests from safety organizations for staff members to participate in safety conferences and seminars. The CFOI research file, made available to safety and health groups, is being used by 40 organizations to conduct studies on specific topics, such as protective equipment use, forklift injuries, tractor-trailer tipovers, powerline electrocutions, homicides, construction industry falls, highway construction, and logging and forestry fatalities. (A current list of research articles and reports that include CFOI data can be found in the BLS Report 954, dated August 2001, Appendix G. Copies of this report are available upon request.)

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Census of Fatal Occupational Injuries.

OMB Number: 1220–0133.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Frequency: On occasion.

Form	Total respondents	Total responses	Estimated time per response (minutes)	Estimated total burden hours
BLS CFOI–1	2,500	2,500	20	833
Source Documents	165	25,000	10	4,167
Totals	2,665	27,500	11	5,000

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 24th day of August 2001.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 01–21905 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0241 (2001)]

Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its request to decrease the total burden-hour estimate for, and to extend OMB approval of, the collection-of-information requirements specified by regulations on ''Steel Erection.'' These regulations contain information-collection requirements that: Notify designated parties, especially steel erectors, that building materials, components, steel structures, and fall-protection equipment are safe for specific uses; and ensure that employees exposed to fall hazards receive specified training in the recognition and control of fall hazards. Based on its assessment of the paperwork requirements contained in the regulations, the Agency estimates that the total burden hours decreased compared to its previous burden-hour estimate. Under this Notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to decrease the burden hours imposed by the existing paperwork requirements.

DATES: Submit written comments on or before October 29, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0241 (2001), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Martinez, Directorate of Policy, Office of Regulatory Analysis, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone (202) 693–1953. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by 29 CFR part 1926, subpart R is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at http://www.osha.gov/comp-links.html and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The following provisions of 29 CFR part 1926, subpart R (the ''Subpart'') contain paperwork requirements:

§§ 1926.752(a)(1) and (a)(2); 1926.753(c)(5) and (e)(2); 1926.757(a)(4), (a)(7), (a)(9), and (e)(4)(i); 1926.758(g); 1926.760(e) and (e)(1); 1926.761; and paragraph (c)(4)(ii) of Appendix G. These provisions ensure that: Designated parties, especially steel erectors, receive notice that building materials, components, steel structures, and fall-protection equipment are safe for specific uses; and employees exposed to fall hazards receive the required training in the recognition and control of fall hazards. These paperwork requirements provide a direct and efficient means for controlling contractors and steel erectors to inform others (e.g., employees) of steel-erection hazards and their control, thereby preventing death and serious injury by ensuring that structural steel members remain stable and that employees use fall protection correctly.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection -transmission techniques.

III. Proposed Actions

OSHA is requesting a decrease in the existing burden-hour estimate for, as well as an extension of OMB approval of, the paperwork requirements specified by the Subpart. In this regard, the Agency is requesting to reduce the current burden-hour estimate from 79,228 hours to 30,786 hours, a total decrease of 48,442 hours. This decrease occurred largely because OSHA removed the burden hours for employers to develop a certification record of the pre-shift inspection of hoisting equipment; this requirement is not in the final subpart. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirement.

Title: 29 CFR part 1926, subpart R (''Steel Erection'').

OMB Number: 1218–0241.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 20,781 [1].

Frequency of Response: Varies from one occurrence per project for most of the paperwork requirements, to 10 occurrences per project for an employer to have a qualified rigger determine that it is safer to hoist and place purlins and single joists using deactivated safety latches on hooks than allowing the latches to remain activated.

Average Time per Response: Varies from one minute for a controlling contractor to inform a steel erector to leave fall protection at the jobsite, to three hours for controlling contractors to obtain approval from the project structural engineer of record before modifying anchor bolts.

Estimated Total Burden Hours: 30,786.

Estimated Cost (Operation and Maintenance): $0.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC on August 27, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–21958 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–26–M

[1] OSHA assumes one controlling contractor and one steel erector per project.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0067(2001)]

Underground Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its request to increase the total burden-hour estimate for, and to extend OMB approval of, the collection-of-information requirements specified by the Underground Construction Standard (§ 1926.800).[1] This standard contains information-collection requirements for posting warning signs and notices, certifying inspection records for hoists, and developing and maintaining records for air-quality tests.

DATES: Submit written comments on or before October 29, 2001.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0067(2001), OSHA, U.S. Department of labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Martinez, Directorate of Policy, Office of Regulatory Analysis, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1953. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by the Underground Construction Standard is available for inspection and copying in the Docket Office, or by requesting a copy from Todd Owen at (202) 693–2444. For electronic copies of the ICR contact OSHA on the Internet at *http://www.osha.gov/comp-links.html* and select ''Information Collection Requests.''

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are understandable, and

[1] Based on its assessment of the paperwork requirements contained in this standard, the Agency estimates that the total burden hours increased compared to its previous burden-hour estimate. Under this Notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to increase the burden hours imposed by the existing paperwork requirements.

OSHA's estimate of the information-collection burden is correct.

Posting warning signs or notices. Seven paragraphs in the Underground Construction Standard (''the Standard'') require employers to post warning signs or notices during underground construction; these paragraphs are (b)(3), (i)(3), (j)(1)(vi)(A), (m)(2)(ii), (o)(2), (q)(11), and (t)(1)(iv)(B). The warning signs and notices required by these paragraphs enable employers to effectively alert employees to the presence of hazards or potential hazards at the job site, thereby preventing employee exposure to hazards or potential hazards associated with underground construction that could kill or seriously injure them.

Certifying inspection records for hoists. Paragraph (t)(xxi) of the Standard requires employers to inspect and load test hoists when they install them, and at least annually thereafter, they must also inspect and load test a hoist after making any repairs or alterations to it that affect its structural integrity, and after tripping a safety device on the hoist. Employers must also prepare a certification record of each inspection and load test that includes specified information, and maintain the most recent certification record until they complete the construction project.

Establishing and maintaining a written record of the most recent inspection and load test alerts equipment mechanics to problems identified during the inspection. Prior to returning the equipment to service, employers can review the records to ensure that the mechanics performed the necessary repairs and maintenance. Accordingly, by using only equipment that is in safe working order, employers will prevent severe injury and death to the equipment operators and other employees who work near the equipment. In addition, these records provide the most efficient means for OSHA compliance officers to determine that an employer performed the required inspections and load tests, thereby assuring that the equipment is safe to operate.

Developing and maintaining records for air-quality tests. Paragraph (j)(3) of the Standard mandates that employers develop records for air-quality tests performed under paragraph (j), including air-quality tests required by paragraphs (j)(1)(ii)(A) through (j)(1)(iii)(A), (j)(1)(iii)(B), (j)(1)(iii)(C), (j)(1)(iii)(D), (j)(1)(iv), (j)(1)(v)(A), (j)(1)(v)(B), and (j)(2)(i) through (j)(2)(v). Paragraph (j) also requires that air-quality records include specified information, and that employers maintain the records until the underground-construction project is complete; they must also make the records available to OSHA compliance officers on request.

Maintaining records of air-quality tests allows employers to document atmospheric hazards, and to ascertain the effectiveness of controls (especially ventilation) and implement additional controls if necessary. Accordingly, these requirements prevent serious injury and death to employees who work on underground-construction projects. In addition, these records provide an efficient means for employees to evaluate the accuracy and effectiveness of an employer's exposure-reduction program, and for OSHA compliance officers to determine that employers performed the required tests and implemented appropriate controls.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

In addition, the Agency is seeking comments addressing similar issues with regard to the paperwork requirements contained in the paragraphs listed below; OSHA plans to include the paperwork requirements specified by these paragraphs in the final ICR for § 1926.800. Accordingly, the Agency requests comments on the following issues for each of these paragraphs: Whether the paperwork requirement specified by the paragraph is necessary for the proper performance of the Agency's functions, including whether the information is useful; estimates of the burden (time and costs) of the paperwork requirement; the quality, utility, and clarity of the information collected; and ways to minimize the burden on employers who must comply (for example, by using automated or other technological information-collection and -transmission techniques).

- (c)—Maintain a check-in/check-out procedure.
- (d)—Instruct employees to recognize and avoid hazards.
- (e)(1)—Inform oncoming shifts of hazards.
- (e)(2)—Employers must establish and maintain direct communications with other employers.
- (j)(1)(v)(C)—Inform employees when hydrogen sulfide concentrations exceed 10 ppm.
- (q)(6)—Warn employees on jumbo decks whenever drilling is about to begin.
- (t)(iii)—Assign load and speed ratings to hoists used for both personnel and material hoisting.

III. Proposed Actions

OSHA is requesting an increase in the existing burden-hour estimate for, as well as an extension of OMB approval of, the paperwork requirements specified by the Standard. In this regard, the Agency is requesting to increase the current burden-hour estimate from 8,357 hours to 57,479 hours, a total increase of 49,122 hours. This increase largely occurred because OSHA increased the estimated number of air-quality tests conducted and the frequency for calibrating air-quality testing monitors. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend its approval of these information-collection requirements.

Type of Review: Extension of currently approved information-collection requirement.

Title: Underground Construction.

OMB Number: 1218–0067.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 323.

Frequency of Response: Varies from recording air-quality tests twice per shift to posting a warning sign or notice once every two years.

Average Time per Response: Varies from 30 seconds to read and record air-quality test results to one hour to inspect, load test, and complete and maintain a certification record for a hoist.

Estimated Total Burden Hours: 57,479.

Estimated Cost (Operation and Maintenance): $117,000.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of

Labor's Order No. 3–2000 (65 FR 50017).

Signed at Washington, DC, on August 27, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–21959 Filed 8–29–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–100]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing on a nonexclusive basis.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: John Kusmiss, Patent Counsel, NASA Management Office—JPL, 4800 Oak Grove Drive, Mail Stop 180801, Pasadena, CA 91109; telephone (818) 354–7770.

U.S. Patent No. 5,850,538: Priority Queues for Computer Simulations;

U.S. Patent No. 5,794,005: Synchronous Parallel Emulation and Discrete Event Simulation System With Self-Contained Simulation Objects and Active Event Objects;

U.S. Patent No. 5,781,762: Parallel Proximity Detection for Computer Simulations;

U.S. Patent No. 5,652,871: Parallel Proximity Detection for Computer Simulation;

NASA Case No. NPO–18414–4–CU: Synchronous Parallel System for Emulation and Discrete Event Simulation.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21868 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–101]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: James McGroary, Patent Counsel, Marshall Space Flight Center, Code LS01, Huntsville, AL 35812; telephone (256) 544–0013, fax (256) 544–0258.

NASA Case No. MFS–31464–1: Multi-Layer Identification Label Using Stacked Identification Symbols

NASA Case No. MFS–31546–1: High Precision Grids For Neutron, Hard X-Ray, And Gamma-Ray Imaging Systems

NASA Case No. MFS–31565–1: Phase Modulator With Terahertz Optical Bandwidth Formed By Multi-Layered Dielectric Stack

NASA Case No. MFS–31584–1: Hypergolic Ignitor Assembly;

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21869 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–102]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Edward Fein, Patent Counsel, Johnson Space Center, Mail Code HA, Houston, TX 77058–3696; telephone (281) 483–4871, fax (281) 244–8452.

NASA Case No. MSC–22839–1: Locating Concealed Objects Using Special Signatures;

NASA Case No. MSC–22953–2: Method And Apparatus For Reducing The Vulnerability Of Latches To Single Event Upsets;

NASA Case No. MSC–22953–3: Method And Apparatus For Reducing The Vulnerability Of Latches To Single Event Upsets;

NASA Case No. MSC–22970–2: Solar Powered Refrigeration System;

NASA Case No. MSC–22970–3: Solar Powered Refrigeration System;

NASA Case No. MSC–23092–1: Advanced, Large Volume, Highly Loaded, Hybrid Inflatable Pressure Vessel;

NASA Case No. MSC–23228–1: Distributed Antenna System And Method;

NASA Case No. MSC–23314–1: Flexshield;

NASA Case No. MSC–23320–1: Patial Light Modulators For Full Cross-Connections In Optical Networks.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21870 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–103]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: John Kusmiss, Patent Counsel, NASA Management Office-JPL, 4800 Oak Grove Drive, Mail Stop 180-801, Pasadena, CA 91109; telephone (818) 354–7770.

NASA Case No. NPO–19855–1: Carbon Dioxide Absorption Heat Pump;

NASA Case No. NPO–20148–2: Protective Fullerene (C60) Packaging System For Microelectromechanical Systems Applications;

NASA Case No. SSC–00124–1: Radiant Temperature Nulling Radiometer.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21871 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–104]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The invention listed below is assigned to the National Aeronautics and Space Administration, has been filed in the United States Patent and Trademark Office, and is available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Diana Cox, Patent Counsel, Goddard Space Flight Center, Mail Code 710.1, Greenbelt, MD 20771; telephone (301) 286–7351, fax (301) 286–9512.

NASA Case No. GSC–14305–1: Method For Implementation Of Recursive Hierarchical Segmentation On Parallel Computers.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21872 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–105]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: August 30, 2001.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Patent Counsel, Glenn Research Center at Lewis Field, Mail Code 500–118, Cleveland, Ohio 44135; telephone (216) 433–8855, fax (216) 433–6790.

NASA Case No. LEW–16636–2: Reduced Toxicity Fuel Satellite Propulsion System Including Catalytic Decomposing Element With Hydrogen Peroxide;

NASA Case No. LEW–16636–3: Reduced Toxicity Fuel Satellite Propulsion System Including Fuel Cell Reformer With Alcohols;

NASA Case No. LEW–16636–4: Reduced Toxicity Fuel Satellite Propulsion System Including Plasmatron;

NASA Case No. LEW–16636–5: Reduced Toxicity Fuel Satellite Propulsion System Including Axial Thruster And ACS Thruster Combination;

NASA Case No. LEW–16988–1: Magnetohydrodynamic Power Extraction And Flow Conditioning In A Gas Turbine Inlet;

NASA Case No. LEW–17111–1: Planar Particle Imaging And Doppler Velocimetry (PPIDV);

NASA Case No. LEW–17133–1: High Performance Polymers From The Diels-Alder Trapping Of Photochemically Generated Intermediates.

Dated: August 22, 2001.

Edward A. Frankle,

General Counsel.

[FR Doc. 01–21873 Filed 8–29–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 15, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and

whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Office of the Inspector General (N1–16–00–3, 20 items, 18 temporary items). Case files and related records pertaining to investigations, audits and evaluations, and inspections. Also included are electronic copies of records created using electronic mail and word processing. Recordkeeping copies of significant investigative case files and audit/evaluation final reports are proposed for permanent retention.

2. Department of Agriculture, Farm Service Agency (N1–145–00–1, 10 items, 8 temporary items). Records relating to audits and to investigations of alleged fraud, abuse, irregularities, or violations of law, including reports, working papers, correspondence, and electronic copies of documents created using electronic mail and word processing. Recordkeeping copies of significant investigation case files and audits are proposed for permanent retention.

3. Department of the Army, Agency-wide (N1–AU–00–13, 14 items, 14 temporary items). Records relating to the management of the Army National Guard and Army Reserve, training, and the use of military forces during natural disasters and other domestic emergencies. Included are records relating to such matters as reserve unit attendance, ROTC scholarship applications, class schedules, training plans and reports, and reports on domestic emergency operations. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

4. Department of the Army, Agency-wide (N1–AU–00–27, 51 items, 51 temporary items). Records relating to climatic, hydrologic, and topographic services, environmental quality, real estate, construction, engineering and design, and Corps of Engineer activities involving such matters as project operations, regulatory functions, water resource policies, and contracting. Included are such records as meteorological observations, map indices and corrections, real estate record cards, construction bid abstracts, community shelter progress reports, reservoir use permits, plant rate computations, civilian uniform records, non-action construction permits, wreck and obstruction files, flood plain management studies, sales contract registers, and wage rate pre-determinations. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

5. Department of the Army, Agency-wide (N1–AU–00–28, 38 items, 38 temporary items). Records relating to the management of medical services and to nuclear and chemical weapons and materiel. Included are such records as patient property slips, hospital menus, pharmacy issues, hospital inspection reports, dental worksheets, bed availability files, medical statistics and feeder reports, and veterinary clinic reports. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

6. Department of the Army, Agency-wide (N1–AU–00–41, 18 items, 18 temporary items). Records relating to administrative matters, including planning and budgeting, legislative liaison, and inspections. Included are such records as office personnel registers, duty rosters, lower echelon operating budgets, comments on proposed legislation made by offices not having chief responsibility for providing agency comments, and inspection files. Also included are test procedures and plans relating to the U.S. Army Joint Interface Test Force Joint Interoperability for Tactical Command and Control. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

7. Department of the Army, Agency-wide (N1–AU–01–22, 31 items, 31 temporary items). Records relating to research, development, and acquisition, including such matters as new equipment training, R&D procurement, field experiment controls, test schedules, unfunded study files, and industry-to-industry briefings. Also included are electronic copies of documents created using electronic mail and word processing. This schedule allows the agency to expedite disposal of these records, which were previously approved for disposal. It also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

8. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–5, 11 items, 11 temporary items). Electronic input files, scanned images, data files, and electronic copies of records created using electronic mail and word processing. Records are created by scanning and retrieval systems in connection with the initial processing of patent applications. The recordkeeping copies of these records are maintained in paper form in patent case files, which were previously approved for permanent retention.

9. Department of Commerce, U.S. Patent and Trademark Office (N1–241–01–8, 10 items, 10 temporary items). Electronic copies of records created using electronic mail and word processing that relate to case files maintained by the Office of Enrollment and Discipline. Files pertain to such matters as registered attorneys, data sheets on registrants, closed complaints, and unsuccessful applications. This schedule also increases the retention period for the recordkeeping copies of complaint files, which were previously approved for disposal.

10. Department of Education, Child Care Subsidy Program (N1–441–01–2, 4 items, 4 temporary items). Records used for determining eligibility for government-subsidized childcare, including financial and income data, acceptance letters, denial letters,

verification forms, and electronic copies of documents created using electronic mail and word processing.

11. Department of the Navy, Agency-wide (N1–NU–01–2, 2 items, 2 temporary items). Incident reports and incident complaint reports received by the Naval Criminal Investigative Service. This schedule reduces the retention period for records predating 1988, which were previously approved for disposal.

12. Department of State, Bureau of Human Resources (N1–59–00–15, 9 items, 9 temporary items). Subject files relating to Foreign and Civil Service employee grievance policies and procedures, individual Foreign Service grievance case files, administrative subject files, and an electronic system used to track grievance case files. Also included are electronic copies of documents created using electronic mail and word processing.

13. Department of State, Bureau of Human Resources (N1–59–00–16, 18 items, 18 temporary items). Records relating to the retirement of Foreign Service Officers and Civil Service employees, including case files, subject files, and lists of retirees. Also included are electronic copies of documents created using electronic mail and word processing.

14. Department of State, Under Secretary for Arms Control and International Security (N1–59–01–7, 15 items, 9 temporary items). Appointment books, calendars, and logs. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of subject, country, and chronological files as well as speeches and testimony, periodic reports, and advisory board files.

15. Department of State, Bureau of Arms Control (N1–59–01–11, 24 items, 15 temporary items). Periodic reports, chronological files, and official outgoing correspondence maintained by lower level offices, non-substantive subject files, files of interagency committees for which the bureau is not the chair or secretariat, and extra copies of information reports. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as periodic reports, chronological files, and official outgoing correspondence files maintained at high bureau levels, files relating to treaty negotiation and implementation, and files of interagency committees for which the bureau is chair or serves as the secretariat.

16. Department of the Treasury, Bureau of the Public Debt (N1–53–01–8, 8 items, 8 temporary items). Records of the Director's Office, Division of Program Administration, relating to the processing and servicing of bearer, registered, and other bond payments. Files consist of an electronic database and the related outputs and documentation.

17. Environmental Protection Agency, Office of Research and Development (N1–412–01–1, 8 items, 5 temporary items). Records associated with the Integrated Risk Information System (IRIS), which provides health assessment information on chemical substances tested and verified by the agency. Included are background materials, public submissions, confidential business information, and electronic copies of documents created using electronic mail and word processing. Records proposed for permanent retention include recordkeeping copies of IRIS case files, master data files, and the related documentation.

18. Federal Labor Relations Authority, Office of the Executive Director (N1–480–01–2, 6 items, 5 temporary items). Records of the 1997 Customer Survey including completed questionnaires and subject files dealing with the development and administration of the survey. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention is the recordkeeping copy of the final report and the executive summary.

19. Maritime Administration, Associate Administrator for Shipbuilding and Ship Operations (N1–357–01–1, 3 items, 3 temporary items). Ship Managers Operations Claims Files, also known as Seamen's Claims, which consist of information obtained from claimants seeking compensation for death, injury, or illness suffered while employed on vessels under contract with the United States. Records include medical information, financial records, statements of witnesses, correspondence, and exhibits. Also included are electronic copies of documents created using electronic mail and word processing.

20. National Credit Union Administration, Office of Public and Congressional Affairs (N1–413–01–2, 17 items, 9 temporary items). Uncaptioned photographic prints, negatives, contact sheets, and slides, agency telephone directories, and publication planning files. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as Congressional testimony, captioned photographic prints and negatives documenting significant agency events, posters, news releases, biographical files of high-level agency officials, and agency publications.

21. National Credit Union Administration, Office of Corporate Credit Unions (N1–413–01–3, 17 items, 15 temporary items). General correspondence, examination reports and related work papers, audit reports, records relating to requests by credit unions for expanded authorities, reading files, and Century Date Conversion (Y2K) files. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of Credit Union History Files and agency training materials and course manuals.

22. National Credit Union Administration, Office of the Executive Director (N1–413–01–4, 2 items, 2 temporary items). Monthly reports detailing office operations and activities at headquarters and in regional offices. Also included are electronic copies of documents created using electronic mail and word processing.

23. National Credit Union Administration, Office of Credit Union Development (N1–413–01–5, 2 items, 1 temporary item). Electronic copies of records created using electronic mail and word processing that relate to the Community Development Revolving Loan Fund. Recordkeeping copies of these files are proposed for permanent retention.

24. Tennessee Valley Authority, Education, Training, and Diversity (N1–142–00–2, 4 items, 3 temporary items). Administrative records relating to strategic performance business meetings and conferences. Records relate to such matters as conference arrangements, room reservations, and procurement of refreshments. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of meeting minutes, agendas, presentations, and statistical summaries.

25. Tennessee Valley Authority, Education, Training, and Diversity (N1–142–01–1, 4 items, 3 temporary items). Routine administrative records relating to equal opportunity, diversity, and minority economic development. Included are records relating to conference arrangements, procurement contracts, travel records, and reference and background materials. Also included are electronic copies of documents created using electronic mail

and word processing. Proposed for permanent retention are recordkeeping copies of correspondence of the vice-president for minority affairs.

26. Tennessee Valley Authority, Power Resources and Operations Planning (N1–142–01–2, 10 items, 7 temporary items). Records relating to not-for-profit electric cooperatives and to planning for the generation of environmentally sound energy. Included are publications background materials and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of publications and project case files.

Dated: August 24, 2001.

Michael J. Kurtz,

Assistant Archivist for Records Services, Washington, DC.

[FR Doc. 01–21923 Filed 8–29–01; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

Amergen Energy Company, LLC; Three Mile Island Nuclear Station, Unit 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an exemption from 10 CFR Part 50, Appendix G, and 10 CFR 50.61, for Facility Operating License No. DPR–50, issued to AmerGen Energy Company, LLC (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1), located in Dauphin County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from application of specific requirements of 10 CFR part 50, Appendix G, for TMI–1 and allow instead the use of American Society of Mechanical Engineers (ASME) Code Cases N–588 and N–640. In addition, the proposal would exempt the licensee from application of specific requirements of 10 CFR 50.61 for TMI–1 and allow instead the use of the master curve approach for determining the initial reference temperature value for weld metal WF–70.

The proposed action is in accordance with the licensee's application dated March 29, 2001, as supplemented by letters dated June 27 and July 24, 2001.

The Need for the Proposed Action

The proposed action is needed in order to address the use of alternative methods used in the development of amendments to the TMI–1 Technical Specification reactor pressure vessel pressure-temperature (P-T) limit curves. These alternative methods include (1) Code Case N–588, which permits the use of circumferentially oriented flaws in circumferential welds for development of the P-T limits; (2) Code Case N–640, which permits application of the lower bound static initiation fracture toughness value equation as the basis for establishing the P-T curves in lieu of using the lower bound crack arrest fracture toughness value equation; and (3) the master curve approach, which is an alternative to Paragraph NB–2331 of the ASME Code (used in 10 CFR 50.61(a)(5)) to define $RT_{NDT(U)}$, the reference temperature for unirradiated reactor vessel material.

The staff has determined that, pursuant to 10 CFR 50.12.(a)(2)(ii), the underlying purpose of the regulation to protect the integrity of the reactor coolant pressure boundary will continue to be served with the implementation of the Code Cases.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes, as set forth below, that there are no significant environmental impacts associated with the use of the alternative analysis methods to support the revision of the reactor pressure vessel P-T limit curves.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, 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.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for TMI–1 dated December 1972.

Agencies and Persons Consulted

On August 1, 2001, the staff consulted with the Pennsylvania State official 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 March 29, 2001, as supplemented by letters dated June 27 and July 24, 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. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). 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, or 301–415–4737, or by e-mail at pdr@nrc.gov.

Dated at Rockville, Maryland, this 24th day of August 2001.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–21939 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–369 and 50–370]

Duke Energy Corporation; McGuire Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Duke Energy Corporation (DEC), for operation of the McGuire Nuclear Station, Units 1 and 2, Facility Operating License (FOLs) Nos. NPF–9 and NPF–17, respectively, located in Mecklenberg County, North Carolina. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of Proposed Action

The proposed action would amend the Facility Operating Licenses for McGuire Nuclear Station, Units 1 and 2, by (a) deleting the license conditions that have been fulfilled by actions that have been completed or are imposed by other regulatory requirements, (b) changing the license conditions that have been superseded by the current plant status, and (c) incorporating other administrative changes. This includes the following license conditions; for Unit 1: 1.H Environmental Protection Plan, 2.C(1) Maximum Power Level, 2.C(3) Initial Test Program, 2.C(4) Fire Protection Program, 2.C(5) Compliance with Regulatory Guide 1.97, 2.C(6) Steam Generator Inspection, 2.C(7) Environmental Qualification, 2.C(8) Radioactive Waste Treatment System, 2.C(9) Piping System Reanalysis, 2.C(10) Category I Masonry Walls, 2.C(11) NUREG–0737 Conditions for ''Fuel Loading and Low Power Testing'', ''Full Power Requirements'', ''NRC Actions'' and ''Dated Requirements'', 2.C(12) Steam Generator Design Modification, 2.C(13) Additional Conditions, 2.D Exemptions from Appendix G to 10 CFR part 50, 2.E Security and Safeguards Plans, 2.F Deleted by prior amendment, 2.G Reporting of Violations, 2.H Notification of Accident, Appendix C: Additional Conditions. For Unit 2: 1.H Environmental Protection Plan, 2.C(1) Maximum Power Level, 2.C(4) Thermal Sleeves, 2.C(5) Model D–3 Steam Generator, 2.C(6) Environmental Qualification, 2.C(7) Fire Protection, 2.C(8) Heavy Loads, 2.C(9) Initial Test Program, 2.C(10) NUREG–0737 Conditions, items (a)–(f), 2.C(11) Protection of the Environment, 2.C(12) Reactor Trip breakers, 2.C(13) Additional Conditions, Table 1: Reactor Trip Breakers and Reactor Trip Bypass Breakers, 2.D Exemptions from Appendix G to 10 CFR Part 50, 2.E Security and Safeguards Plans, 2.F Reporting of Violations, 2.G Notification of Accident, 2.J Storage of Oconee spent fuel assemblies, Attachment 1: Pre-operational Tests, Appendix D: Additional Conditions.

The proposed action is in accordance with DEC's application for an amendment dated June 13, 2000.

The Need for the Proposed Action

When the FOLs, NPF–9 and NPF–17, were issued to the licensee, the NRC staff deemed certain issues essential to safety and/or essential to meeting certain regulatory interests. These issues were imposed as license conditions in the FOLs. Since the units were licensed to operate in the 1980s, most of these license conditions have been fulfilled. For the license conditions that have been fulfilled, DEC proposes to have them deleted from the FOLs.

The licensee also proposed to make changes to correct administrative errors such as words inadvertently omitted, documents erroneously cited, etc.

The proposed amendments involve administrative changes to the FOLs only. No actual plant equipment, regulatory requirements, operating practices, or analyses are affected by these proposed amendments. This would eliminate unnecessary license conditions from the Facility Operating Licenses.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the amendments are granted. No changes will be made to the design and licensing bases, and applicable procedures at the two units at McGuire Nuclear Station will remain the same. Other than the administrative changes, no other changes will be made to the FOLs, including the Technical Specifications.

The staff has concluded that the proposed action will not 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. Accordingly, the NRC 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 have a potential to affect any historic sites. The proposed action does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the NRC concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the McGuire Nuclear Station, Units 1 and 2, dated April 1976 and Addendum dated January 1981.

Agencies and Persons Contacted

In accordance with its stated policy, on January 10, 2001, the staff consulted with the North Carolina State official, Jonny James of the Bureau of Radiological Health, North Carolina Department of Health and Environmental Control, regarding the environmental impact of the proposed amendments. 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 amendments.

For further details with respect to the proposed action, see the licensee's letter dated June 13, 2000. 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. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). 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, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 23rd day of August 2001.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–21937 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–237]

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of 10 CFR 50.55a(g)(6)(ii)(B), ''Expedited Examination of Containment,'' for Facility Operating License No. DPR–19, issued to Exelon Generation Company, LLC (Exelon, or the licensee) for operation of the Dresden Nuclear Power Station, Unit 2, located in Grundy County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The licensee has requested a schedular exemption for Dresden Nuclear Power Station (DNPS), Unit 2, for implementation of inservice examinations of the containment prior to September 9, 2001, as required by 10 CFR 50.55a(g)(6)(ii)(B), ''Expedited Examination of Containment.'' This schedular exemption is requested to extend the implementation date by a maximum of 90 days to allow completion of first period examinations during the next refueling outage for Unit 2, D2R17, currently scheduled to begin in October 2001.

The proposed action is in accordance with the licensee's application dated December 8, 2000, as supplemented by letter dated February 2, 2001.

The Need for the Proposed Action

The proposed schedular exemption is needed to prevent a forced shutdown of Dresden Nuclear Power Station, Unit 2. 10 CFR 50.55a(g)(6)(ii)(B) requires that licensees of all operating nuclear power plants shall implement the inservice examinations for the first period of the first inspection interval specified in ASME Subsection IWE of the 1992 Edition with the 1992 Addenda in conjunction with the modifications specified in 10 CFR 50.55a(b)(2)(ix) by September 9, 2001. The last opportunity to complete the first period containment examinations was during the last refueling outage, D2R16, completed on October 27, 1999. During that outage, the licensee made good faith efforts to complete the necessary inservice examinations. However, the licensee has subsequently determined that a number of examinations must be re-performed. Without the requested schedular exemption, the licensee would be forced to shut down the facility in order to complete the inservice examinations required by regulation.

Areas accessible for inspection during normal operation will be completed by September 9, 2001. However, the next available opportunity to perform all the remaining containment examinations is the next refueling outage, which is scheduled to begin in October 2001. Previous Unit 2 containment inspections have not identified any areas of containment degradation that could impact the structural integrity of containment. A general visual examination of accessible surface areas was performed during the D2R16 refueling outage. The general visual examination was preformed in accordance with the ASME B&PV Code Section XI, 1992 Edition with 1992 Addenda and included accessible surface areas of the containment structure and containment penetrations. The requested 90-day extension is of relatively short duration that would not permit a significant increase in any degradation that has developed since the previous general visual examination performed during D2R16.

If a separate outage were required to perform containment inspections in accordance with the current inspection implementation date, DNPS, Unit 2, would be subject to undue hardships or other costs that result from lost generation. Therefore, an extension of the September 9, 2001, implementation date is requested.

10 CFR 50.12 permits the Nuclear Regulatory Commission to grant exemptions which are authorized by law, will not present undue risk to the health and safety of the public, and are consistent with the common defense and security, provided that special circumstances are present. Pursuant to 10 CFR 51.12 (a)(2), the Commission believes that special circumstances exist in that the requested schedular extension is required to prevent the forced shutdown of DNPS, Unit 2. Preparations for a refueling outage are proceeding based on a scheduled shutdown in October 2001. A separate outage would present undue hardship and costs due to lost generation and increased radiological exposure to DNPS personnel. The requested exemption will only provide temporary relief from the applicable regulation and does not jeopardize the health and safety of the public.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there are no significant adverse environmental impacts associated with the proposed action.

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. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological environmental impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Dresden Nuclear Power Station, Units 2 and 3, dated November 1973.

Agencies and Persons Consulted

On July 24, 2001, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of

Nuclear Safety, 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 Commission 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 8, 2000, as supplemented by letter dated February 2, 2001. Documents may be examined, and/or copied for a fee, a the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). 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, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 22nd day of August 2001.

For the Nuclear Regulatory Commission.

S. Singh Bajwa,

Project Director, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–21936 Filed 8–29–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27433]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

August 24, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 18, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 18, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Energy East Corporation, et al. (70–9875)

Energy East Corporation (''Energy East''), a registered holding company, and its public utility subsidiary, New York State Electric & Gas Company (''NYSEG''), both located in Albany, New York 12212–2904 (together, ''Applicants''), have filed a declaration under section 12(d) and rules 44 and 54 of the Act.

Applicants propose that NYSEG sell its eighteen percent interest in the Nine Mile Point Unit No. 2 nuclear generating station (''NPM2'') (''Assets''),[1] located in Scriba, New York, to Constellation Nuclear, LLC (''CNLLC''), a subsidiary of Constellation Energy Group, Inc. (''CEGI''), a nonaffiliate. Upon closing, CNLLC will transfer the Assets to Nine Mile Point Nuclear Station, LLC (''NMPNS''), a wholly owned subsidiary company of CNLLC.[2] NYSEG is divesting all of its generating assets in accordance with the New York state electric restructuring law.

NYSEG is a regulated public utility company engaged in transmitting and distributing electricity and transporting, storing and distributing natural gas. NYSEG generates electricity from its eighteen percent share of NMP2 and from its several hydroelectric stations. NYSEG provides delivery services to approximately 824,000 electricity customers and 248,000 natural gas customers. NYSEG's service territory is in the central, eastern and western parts of New York, has an area of approximately 20,000 square miles and a population of 2,500,000.

CEGI is a diversified energy company and an exempt holding company under section 3(a)(1) of the act by rule 2 of the Act. CNLLC is a direct, wholly owned subsidiary of CEGI. CNLLC, which is the parent of NMPNS, is the party to each of the other transaction documents. CNLLC will transfer its rights and obligations under some or all of the transaction documents to NMPNS prior to purchasing the Assets. NMPNS will own the Assets upon closing.

NYSEG's interest in NMP2 will be sold for a total of approximately $128 million under an asset purchase agreement (''APA'') entered into by NYSEG and CNLLC on December 11, 2000. Under the APA, CNLLC will pay fifty percent of the purchase price to NYSEG at closing and the remaining balance annually for five years in equal installments. The sale price and the purchaser of the Assets were determined by an auction process managed by J.P. Morgan and Navigant Consulting, Inc. As part of the APA, NYSEG and CNLLC also entered into a power purchase agreement (''PPA'') and a revenue sharing agreement (''RSA'') on December 11, 2000.

The PPA provides that NYSEG will purchase 16.2 percent of the capacity and energy from NMP2 at certain prices set forth in the PPA. The PPA's terms take effect on the closing date of the transaction and continue for ten years. After completion of the PPA's ten-year term, NMPNS, as CNLLC's assignee, will pay NYSEG eighty percent of the amount by which actual market prices exceed a schedule of floor prices as set forth in the RSA. To the extent floor prices exceed actual prices, eighty percent of the negative differences will be credited against future payment obligations under the RSA. Under no circumstances will NYSEG be required to make payments under the RSA.

[1] Assets include: (a) Real property, buildings and improvements; (b) all spent nuclear fuel, high-level waste, low-level waste, source and by product material at the site, and fuel-related inventory; (c) all machinery, equipment, such as computer hardware and software and communications equipment, vehicles, tools, spare parts, fixtures, furniture and furnishings and other personal property relating to or used in the ordinary course of business to operate the facilities, other than property used primarily as part of the transmission assets, or that is otherwise excluded from the sale; (d) the material agreements, listed on schedules to the APA and other non-material contracts; (e) all transferable permits; (f) all books, operating records and other documents relating to the facilities (subject to the right of NYSEG to retain copies of same for its use) other than general ledger accounting records; and (g) all unexpired, transferable warranties and guarantees from third parties with respect to any item of real property or personal property constituting part of the purchased assets.

[2] NMPNS was formed by CNLLC to hold the Assets.

GPU, Inc. et al. (70–9885)

GPU, Inc. (''GPU''), a registered public-utility holding company, 300 Madison Avenue, Morristown, New Jersey 07960, and Jersey Central Power & Light Company (''JCP&L''), a public-utility subsidiary of GPU, 2800 Pottsville Pike, Reading, Pennsylvania 19605, have filed an application-declaration with the Commission under sections 6(a), 7, 9(a), 10, 12(f), and 13(b) of the Act and rules 54, 90 and 91 under the Act.

New Jersey's Electric Discount and Energy Competition Act, P.L. 1999, c. 23 (N.J.S.A. 48:3–49 *et seq.*) (''Competition Act'') introduced competition into the New Jersey electric generation market. Under the Competition Act, utilities were required to submit restructing plans to the New Jersey Board of Public Utilities (''BPU'') that included their claims of stranded costs. In July of 1997, JCP&L filed its restructing plan with the Board. The restructuring plan was the subject of extensive hearings and negotiations, and a settlement was reached and approved by the BPU by a summary order dated May 24, 1999 and a detailed final decision and order dated March 7, 2001 (collectively, ''BPU Orders''). In the BPU Orders, the BPU identified up to $400 million in recoverable JCP&L stranded costs and $20 million in associated transaction costs (collectively, ''Stranded Costs''). The Competition Act facilitates restructuring by empowering the BPU to authorize a requesting utility to issue transition bonds, directly or indirectly, to recover and/or finance a portion of its stranded costs and to assist in achieving compliance with the rate reduction requirements of the Competition Act.[3] The Stranded Costs identified and approved by the BPU will be recovered from distribution utility customers, through a non-bypassable market transition charge.

Applicants request authority for GPU and JCP&L to acquire, indirectly and directly, respectively, all of the common equity interests in a new company (''SPE'') to be organized for the sole purpose of issuing and selling transition bonds. JCP&L will capitalize the SPE through direct contribution of capital in an amount equal to at least .5% of the total principal amount of the transition bonds.

Applicants also request authority for the SPE to issue and sell up to an aggregate amount of $420 million in transition bonds through December 31, 2002 (''Authorization Period''). The transition bonds would be debt securities of the SPE, not of the State of New Jersey or JCP&L. The interest rate on the proposed bonds would not exceed 300 basis points over the applicable U.S. mid-market swap benchmark, and all of the bonds would mature within seventeen years.

Applicants request authority for the SPE to, through the Authorization Period, enter into interest rate swaps or other derivative products (collectively, ''Derivative Transactions'').[4] Derivative Transactions would be used to convert all or a portion of the transition bonds bearing a floating interest rate (''Floating Rate Transition Bonds'') to fixed rate obligations. The SPE would enter into Derivative Transactions with counterparties whose senior debt ratings, or the senior debt ratings of the parent companies of the counterparties, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors Service, Inc., or Fitch IBCA, Duff & Phelps (''Authorized Counterparties''). The notional amount of the swaps and the expected average life of the swaps would not exceed that of the underlying Floating Rate Transition Bonds.

Applicants also request authority for JCP&L to enter into hedging transactions through the Authorization Period with respect to anticipatory debt issuances (''Anticipatory Hedges''), including: (1) A forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap (''Forward Sale''); (2) a purchase of put options on U.S. Treasury Obligations (''Put Options Purchase''); (3) a Put Options Purchase in combination with a sale of call options on U.S. Treasury obligations (''Zero Cost Collars''); (4) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations; or (5) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges. JCP&L would enter into Anticipatory Hedges with Authorized Counterparties. Anticipatory Hedges would be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade, the opening of over-the-counter positions with one or more counterparties (''Off-Exchange Trades''), or a combination of On-Exchange Trades and Off-Exchange Trades. All open positions under Anticipatory Hedges would be closed on or prior to the date of the issuance of the transition bonds. JCP&L would comply with existing and future financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions, and all Anticipatory Hedges would qualify for hedge accounting treatment under generally accepted accounting principles.

Further, Applicants request authority for JCP&L to enter into a service agreement (''Service Agreement'') with the SPE that may not comply with the at-cost requirements of section 13(b) of the Act and rules 90 and 91 under the Act. The Service Agreement provides for the utility to service the transition bonds revenue stream by, among other things, billing customers and making collections on behalf of the SPE, and obtaining from the BPU periodic adjustments to the TBC that allow for payment of all debt service and full recovery of the authorized amounts.[5] For its services, JCP&L will receive a fee and be reimbursed for certain of its expenses. The fee, set an amount equal to a fixed percentage of the initial principal amount of the transition bonds, is approximately $400,000 per year. Applicants state that the proposed fee—which approximates the fee that the SPE would have had to pay a nonaffiliate to provide these services—is designed to enhance the credit rating of the transition bonds and strengthens their position that the SPE is a ''bankruptcy remote'' assignee.

Applicants state that none of the proposed transactions will affect the pending merger of GPU and FirstEnergy Corp., a public utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21887 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[3] The Competition Act required electric utilities to reduce their rates by at least ten percent by July 31, 2002, as compared to rates in effect on April 30, 1997.

[4] Derivative Transactions would include interest rate caps, interest rate floors and interest rate collars.

[5] Applicants expect that the Servicing Agreement will remain in effect until the legal final maturity of the transition bonds, which will be no later than seventeen years after the date they are issued.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–25137; 812–11764]

Salomon Smith Barney Inc., et al.; Notice of Application

August 24, 2001.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'')

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants Salmon Smith Barney Inc. (the ''Sponsor''), The Country Fund Opportunity Trust (the ''CountryFund Trust'') and unit investment trusts ''UITs'') organized in the future and sponsored by the Sponsor (together with the CountryFund Trust, The ''Trusts,'' and series of the Trusts, ''Trust Series'') request an order (a) under section 12(d)(1)(J) of the Act to permit Trust Series to offer and sell to the public units (''Units'') with a sales load that exceeds the limit in section 12(d)(1)(F)(ii) of the Act; (b) under sections 6(c) and 17(b) from section 17(a) of the Act to permit the Trust Series to invest in affiliated registered investment companies within the limits of section 12(d)(1)(F) of the Act; and (c) under section 6(c) of the Act from sections 14(a) and 19(b) of the Act to permit Units to be publicly offered without requiring the Sponsor to take for its own account or place with others $100,000 worth of Units, and to permit the Trusts to distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt.

FILING DATES: The application was filed on August 27, 1999 and amended on August 20, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC ordres a hearing Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 18, 2001 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington DC, 20549–0609; Applicants, c/o Salomon Smith Barney Inc., 7 World Trades Center, 40th Floor, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Julia Kim Gilmer, Senior Counsel, at (202) 942–0528 or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NY., Washington, DC, 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. The Country Fund is registered under the Act as UIT. The Sponsor, a borker-dealer registered under the Securities Exchange Act of 1934, is the sponsor for the Trust Series. Each Trust Seriess will be organized under a trust indenture among thee Sponor, a banking insitution or trust company as trust (the ''Trustee'') and an evaluator. Pursuant to the trust indenture, the Sponsor will deposit into each Trust Series shares of existing registered investment companies (''Funds''), or contracts and monies for the purchase of sharesss of the Funds. Each of the Funds will be a closed-end investment company, an open-end investment company or a UIT.

2. The purpose of each Trust Series is to provide retail investors an investment with a professionally selected asset allocation model or investment theme based upon the Sponsor's assessment of the overall economic climate and financial markets, and the opportunity for income and/or capital appreciation through a diversified fixed portfolio of Funds professionally selected by the Sponsor from the total population of available Funds within the various market sectors of the Sponsor's asset allocation model or consistent with the enunciated investment theme. Applicants anticipate that certain of the Funds selected may be advised and/or distributed by the Sponsor or one of its affiliates (''Affiliated Funds''). Applicants anticipate that most of the Funds selected will be unaffiliated with the Sponsor (''Unaffiliated Funds''). Applicants state that the Trusts' investments in Affiliated Funds and Unaffiliated Funds will comply with section 12(d)(1)(F) in all respects except for the sales load restriction of section 12(d)(1)(F)(ii).

3. The only Funds that will be eligible for inclusion in a Trust Series are either no load Funds or Funds which, although they offer shares with a front-end sales charge, agree to waive any otherwise applicable front-end sales load with respect to all shares sold or deposited in any Trust Series. Shares of each of the Funds (except closed-end Funds), therefore, will be sold for deposit into any Trust Series at net asset value. Shares of closed-ends Funds will be purchased by a Trust Series at market prices. Investors in the Trust Series (''Unitholders'') will pay a specified sales load to the Sponsor in connection with the purchase of their Units.

4. No evaluation fee will be charged with respect to determining the value of the Fund's shares that comprise the Trusts' portfolio. The Trustee will receive service fees under a rule 12b–1 plan from the Funds to compensate it for providing servicing and sub-accounting functions with respect to Fund shares held by a Trust Series. The Trustee will reduce its regular fee to a Trust directly by the fees it receives from the Funds and rebate any excess fees it receives to the Trusts. Any fees so rebated will be utilized by the Trusts to absorb other bona fide trust expenses. To the extent that these fees exceed the total Trust expenses, the excess will be distributed along with other income earned by the Trusts.

Applicants' Legal Analysis

Section 12(d)(1) of the Act

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if those securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if the securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets.

2. Section 12(d)(1)(F) of the Act provides that section 12(d)(1) does not apply to an acquiring company if the company and its affiliates own no more than 3% of an acquired company's total outstanding securities, provided that the acquiring company does not impose a sales load of more than 1.5%. In addition, the section provides that no acquired company may be obligated to honor any acquiring company redemption request in excess of 1% of the acquired company's securities during any period of less than 30 days, and the acquiring company must vote its acquired company shares either in accordance with instructions from its shareholders or in the same proportion as all other shareholders of the acquired company.

3. The Trust Series will invest in Affiliated and Unaffiliated Funds in reliance on section 12(d)(1)(F) of the Act. If the requested relief is granted, the Trust Series will offer Units to the public with a sales load that exceeds the 1.5% limit in section 12(d)(1)(F)(ii).

4. Section 12(d)(1)(J) of the Act provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors.

5. Applicants have agreed, as a condition to the requested relief, that any sales charges and/or service fees with respect to Units of a Trust Series will not exceed the limits set forth in rule 2830 of the NASD Conduct Rules applicable to a fund of funds. Applicants believe that it is appropriate to apply the NASD's rule to the proposed arrangement instead of the sales load limitation in section 12(d)(1)(F) because the proposed limit would cap the aggregate sales charges of the Units and the Funds. Applicants assert that the NASD's rule more accurately reflect today's regulatory environment with respect to the methods by which investment companies finance sales expenses.

6. Applicants state that, with respect to shares of closed-end Funds held by a Trust Series, no front-end sales load, contingent deferred sales charges, rule 12b-1 fees, or other distribution fees or redemption fees will be charged. Applicants state that although the Trust Series likely will incur brokerage commissions in connection with its market purchases of shares of closed-end Funds, these commissions will not differ from commissions otherwise incurred in connection with the purchase of sale of comparable portfolio securities.

7. Applicants also agree, as a condition to the requested relief, that no Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

Section 17(a) of the Act

1. With regard to the Trust Series' investments in Affiliated Funds, applicants request relief from section 17(a) of the Act under sections 6(c) and 17(b). Section 17(a) of the Act generally prohibits an affiliated person, or an affiliated person of an affiliated person, of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company. Applicants submit that the Trust Series and Affiliated Funds may be deemed to be affiliated persons of one another by virtue of being under common control of the Sponsor. Applicants state that purchases and redemptions of shares of the Affiliated Funds by a Trust Series could be deemed to be principal transactions between affiliated persons under section 17(a).

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act provides that the SEC will exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Applicants state that shares of Affiliated Funds will be sold to the Trusts at net asset value, or, in the case of closed-end Funds, at market prices. As a result, applicants believe that the proposed terms and conditions of the Trusts' transactions in Affiliated Fund shares, including the consideration to be paid or received, will be reasonable and fair and will not involve overreaching on the part of any person involved. Furthermore, applicants believe that the proposed transactions will be consistent with the policies of the Trusts as recited in their registration statements.

Section 14(a) of the Act

1. Section 14(a) of the Act requires in substance that an investment company have $100,000 of net worth prior to making a public offering. Applicants believe that each Trust Series will comply with this requirement because the Sponsor will deposit substantially more than $100,000 of Fund shares in each Trust Series. Applicants assert, however, that a Trust Series would not satisfy section 14(a) because of the Sponsor's intention to sell all of the Units.

2. Rule 14a–3 under the Act exempts UITs from section 14(a) if certain conditions are met, one of which is that the UIT invest only in ''eligible trust securities,'' as defined in the rule. Applicants submit that the Trusts cannot rely on the rule because Fund shares are not eligible trust securities. Consequently, applicants seek an exemption under section 6(c) from the net worth requirement of section 14(a). Applicants state that the Trusts and the Sponsor will comply in all respects with the requirements of rule 14a–3, except that the Trusts will not restrict their portfolio investments to ''eligible trust securities.''

Section 19(b) of the Act

1. Section 19(b) of the Act and rule 19b–1 under the Act provide that, except under limited circumstances, no registered investment company may distribute long-term gains more than once every twelve months. Rule 19b–1(c), under certain circumstances, excepts a UIT investing in ''eligible trust securities'' (as defined in rule 14a–3) from the requirements of rule 19b–1. Because the Trusts do not limit their investments to ''eligible trust securities,'' the Trusts do not qualify for the exemption in paragraph (c) of rule 19b–1. Therefore, applicants request an exemption under section 6(c) from section 19(b) and rule 19b–1 to the extent necessary to permit capital gains earned in connection with the redemption and sale of Fund shares to be distributed to Unitholders along with the Trusts' regular distributions. Applicants state that, in all other respects, the Trusts will comply with section 19(b) and rule 19b–1. Applicants assert that the abuses that section 19(b) and rule 19b–1 were designed to prevent do not arise with regard to the Trusts. Applicants state that any gains from the redemption or sale of Fund shares would be triggered by the need to meet Trust expenses or by requests to redeem Units, events over which the Sponsor and the Trusts have no control.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Each Trust Series will comply with section 12(d)(1)(F) in all respects except for the sales load limitation of section 12(d)(1)(F)(ii).

2. Any sales charges and/or service fees (as those terms are defined in

NASD Conduct Rule 2830) charged with respect to Units of a Trust will not exceed limits set forth in NASD Conduct Rule 2830 applicable to a fund of funds (as defined in NASD Conduct Rule 2830).

3. No Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

4. The Trusts and the Sponsor will comply in all respects with the requirements of rule 14a–3, except that the Trusts will not restrict their portfolio investments to ''eligible trust securities.''

5. No Trust Series will terminate within thirty days of the termination of any other Trust Series that holds shares of one or more common Funds.

6. The prospectus of each Trust Series and any sales literature or advertising that mentions the existence of an in-kind distribution option will disclose that Unitholders who elect to receive Fund shares will incur any applicable rule 12b–1 fees.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21888 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25136; 812–12270]

ARK Funds, et al.; Notice of Application

August 24, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 6(c), 12(d)(1)(J), and 17(b) of the Investment Company Act of 1940 (the ''Act'') for exemptions from sections 12(d)(1)(A) and (B) and 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY: The requested order would permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in affiliated money market funds.

Applicants: The ARK Funds, and each existing and futures registered open-end management investment company for which Allied Investment Advisers (''AIA''), or any existing or future persons controlling, controlled by, or under common control with AIA (together with AIA, the ''Advisers'') serves as an investment adviser (collectively, with ARK Funds, the ''Investment Companies''), all existing and future series of the Investment Companies (the ''Funds''), and the Advisers.

Filing Dates: The application was filed on September 25, 2000 and amended on August 23, 2001.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 18, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Ark Funds, One Freedom Valley Drive, Oaks, PA, 19456. AIA, 100 E. Pratt Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Julia Kim Gilmer, Senior Counsel, at (202) 942–0528, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The ARK Funds, a Massachusetts business trust, is registered under the Act as an open-end management investment company and currently consists of thirty Funds. Nine of the Funds hold themselves out as money market funds and comply with rule 2a–7 under the Act (together with any other funds money market Funds subject to rule 2a–7, ''Money Market Funds'').[1] AIA, a Maryland corporation and a wholly-owned subsidiary of Allfirst Bank, is the investment adviser to each portfolio of the Ark Funds and is registered under the Investment Advisers Act of 1940.[2]

2. Each Fund has, or may have, cash held by its custodian (''Uninvested Cash''). Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities, dividend payments, or money received from investors. Certain funds also may participate in a securities lending program under which the Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans are continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash (''Cash Collateral'' and together with Uninvested Cash, ''Cash Balances'').

3. Applicants request relief to permit each Fund to use Cash Balances to purchase shares of one or more Money Market Funds (such Funds, including Money Market Funds that purchase shares of other Money Market Funds, are referred to as ''Investing Funds''), and the Money Market Funds to sell their shares to, and redeem their shares from, the Investing Funds. Investment of Cash Balances in shares of Money Market Funds will be made only if permitted by the Investment Fund's investment restrictions and to the extent consistent with the investment restrictions and policies set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions will result in ready liquidity, greater returns, increased diversity of holdings and reduce transaction costs, risk of counterparty default, and the market risk associated with direct purchases of short-term obligations.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such

[1] Each existing registered open-end management investment company that currently intends to rely on the order is named as an applicant. Any other existing or future registered open-end management investment company that subsequently relies on the order will do so only in accordance with the terms and conditions of the application.

[2] Applicants also request that the order extend to any entity or entities that result from a reorganization of AIA into another jurisdiction or a change in type of business organization.

securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act authorizes the Commission to exempt any person, security or transaction (or classes thereof) from any provision of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption from the provisions of sections 12(d)(1)(A) and (B) to the extent necessary to permit each Investing Fund to invest Cash Balances in the Money Market Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Money Market Fund through threat of redemption. Applicants also represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. (''NASD'') Conduct Rules) or, if such shares are subject to any such fees in the future, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund. Applicants state that if a Money Market Fund offers more than one class of securities, each Investing Fund will invest only in the class with the lowest expense ration at the time of the investment. Before the next meeting of the Funds' board of trustees (the ''Board'') is held for the purpose of voting on an advisory contract, the Board, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees'') shall consider to what extent, if any, the advisory fees charged to each Investing Fund by the Adviser should be reduced to account for reduced services in a Money Market Fund. Applicants represent that no Money Market Fund whose shares are held by an Investing Fund will acquire securities of an other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(30 of the Act defines an ''affiliated person'' of an investment company to include the investment adviser, any person that owns 5% or more of the outstanding voting securities of that company, and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that the Investing Funds may be deemed to be under common control, and therefore affiliated persons of each other, because the Investing Funds have a common investment adviser or because their investment advisers may be under common control. In addition, applicants submit that the Advisers may hold more than 5% of the outstanding shares of certain Funds and that under these circumstances, the Funds may be deemed to be affiliated persons of one another. Accordingly, applicants state that the sale of Money Market Fund shares to the Investing Funds, and the redemption of such shares, would be prohibited under section 17(a).

5. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policies of each registered investment company involved, and with the general purposes of the Act. Section 6(c) of the Act provides, in part, that the Commission may exempt any person , security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act if, and to the extent that such exemption is necessary or appropriate in the public interest and is consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief to permit the purchase and redemption of Money Market Fund shares by the Investing Funds satisfies the standards in sections 17(b) and 6(c) of the Act. Applicants note that shares of the Money Market Funds will be purchased and redeemed by the Investing Funds at their net asset value, the same consideration paid and received for these shares by any other shareholder in the same class of the Money Market Fund. The Investing Funds will retain their ability to invest their Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies if the Adviser believes that the Investing Funds can obtain a higher rate of return, or for any other reason. Applicants also state that each Money Market Fund will maintain the right to discontinue selling shares to any of the Investing Funds if the Trustees of the Money Market Fund determine that such sales would adversely affect the Money Market Fund's portfolio management and operations.

7. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates, unless the Commission has issued an order authorizing the arrangement. Applicants state that each Investing Fund (by purchasing shares of the Money Market Funds), the Advisers (by managing the assets of the Investing Funds invested in the Money Market Funds), and each Money Market Fund (by selling shares to and redeeming them from the Investing Funds) might be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act.

8. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission will consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicant submit that the proposed transactions meet these standards because the investments by the Investing Funds in shares of the Money Market Funds will be on the same basis and will be indistinguishable from any other shareholder account maintained by the same class of the Money Market Funds, and the transactions will be consistent with the Act.

Applicants' Conditions

Applicant agree that any order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if such shares are subject to any such fee, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Before the next meeting of the Board is held for the purpose of voting on an advisory contract under section 15 of the Act, the Board, including a majority of the Independent Trustees, taking into account all relevant factors, shall consider to what extent, if any, the advisory fee charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in the Money Market Funds. In connection with this consideration, the Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Funds. The minute books of the Investing Fund will record fully the Board's considerations in approving the advisory contract, including the consideration relating to fees referred to above.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment of Uninvested Cash in the Money Market Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information.

5. Each Investing Fund, each Money Market Fund, and any future Fund that may rely on the order shall be advised by an Adviser.

6. No Money Market Fund, the shares of which are held by an Investing Fund, shall acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in the Securities Lending Program, a majority of its Board, including a majority of the Independent Trustees, will approve the Fund's participation in a Securities Lending Program. Such Trustees also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21889 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44745; File No. SR–DTC–2001–03]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to Making Foreign Securities Eligible for Depository Services

August 24, 2001.

On February 23, 2001, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–2001–03) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on May 10, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The purpose of the filing is provide DTC and NSCC participants who are presently using NSCC's clearing services with respect to foreign securities the use, if applicable, of depository services at DTC for these securities. These securities are generally foreign ordinary equities that have been assigned security numbers (CINS) and NASD symbols to automate comparison process. Most trades in foreign ordinary shares that are executed between two U.S. broker-dealers are forwarded to NASD's automated confirmation transaction (ACT) system and are submitted as locked-in trades to NSCC.

Today, through the NSCC's Foreign Securities Comparison and Netting (FSCN) system, foreign securities are compared and netted on a bilateral basis in a standardized and automated fashion processed through NSCC's over-the-counter system. Receive and deliver instructions are automatically generated by NSCC and are distributed to participants on the morning after comparison, which expedites the settlement process for non-U.S. equity transaction. Trades are netted on a participant-to-participant basis reducing the number of deliveries for settlement in the local market. NSCC does not currently and will not under the proposed rule change, guarantee the ultimate settlement of these transactions or the clearance cash adjustment.

Given the increase in activity over the last few years, U.S. broker-dealers have become concerned about the number of potential risk and operational issues the current process creates, such as the lack of straight through processing (''STP'') from the point of trade to settlement. It is DTC's plan to enhance the settlement part of the process and to deliver an automated approach to complete the STP process from trade to settlement. In doing so, many operational issues will be minimized or eliminated.

Today, there is a separation between the physical movement of these securities and the money settlement of the trades (*i.e.,* there is no delivery versus payment (''DVP'') as is true for U.S. trades). The delivery of the securities occurs in the foreign location and then some time later the payment is made in the U.S.

Currently, trades in these foreign securities executed in the U.S. must settle in the local market without the benefit of any DTC's infrasture. Therefore, U.S. based broker-dealer who trade in foreign securities in the U.S. must set up correspondent relationships in the local market. Additionally, each broker-dealers must deal separately with the inherent inefficiencies, such as large time-zone differences, in this structure. Also, the need to set up such correspondent relationships puts smaller broker-dealers at disadvantage because many smaller broker-dealers do not have the resources or trading volumes to justify such relationships and therefore must enlist a large broker-dealer to perform such services for its

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 44260 (May 4, 2001), 66 FR 23956.

clients. As a result, trading costs for the underlying investors are increased.

DTC's plan is to open a custodial account in a local market with an agent bank or central securities depository (''CSD'') (collectively ''custodian'') that will hold shares on DTC's behalf.[3] DTC's participants will be able to communicate with DTC with respect to foreign securities as they do today with respect to currently eligible U.S. securities. Due to differences in local market practice from that in the U.S., the eligibility procedures for foreign securities will likely differ from those currently used by DTC. However, participants will be made aware of this fact and of the eligibility criteria and procedures. These securities will be ''tagged'' in DTC's system in order for DTC participants to readily identify them.

DTC's first such link will be with Citibank N.A., Hong Kong Branch, acting as DTC's custodian. Through the custodian, a participant would move overseas inventory from its current custodian into DTC's account at DTC's foreign custodian. Upon notification from its custodian that the foreign securities are being held in its account, DTC would update the participant's securities position at DTC. Once the position is on DTC's books and records, the participant will be able to move the position by book-entry DVP if desired. In addition, other activity, such as automated customer account transfer services and stock loan, that are currently available for U.S. securities would also be available for foreign securities once they are made DTC eligible.

The DTC Risk Management Committee is responsible for the review and monitoring of this service. The committee will use the same due diligence template for the establishment of custodial arrangements that it uses on all ''outward bound'' links with foreign CSDs.

The principal benefits that will attend DTC's making these foreign securities eligible for certain depository services are: (1) Connecting the delivery to the settlement on a DVP basis; (2) accelerated speed of settlement of cross-border transactions in these foreign securities; (3) eliminating most physical movements of these foreign securities; (4) reducing costs and risks to DTC participants; and (5) making these services available to a large number of U.S. entities (*i.e.,* DTC participants and their clients and customers).

[3] DTC's first custodial account will be with Citibank N.A., Hong Kong Branch. DTC will submit a proposed rule change under Section 19(b)(2) before establishing any new link with any foreign custodian.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in DTC's custody or control or for which it is responsible. The rule change allows DTC and NSCC participants currently using NSCC's FSCN system the use of depository services at DTC for foreign securities. Making foreign securities eligible for depository services enables broker-dealers to move these positions by book-entry movement and thereby eliminates the inefficiencies and risks associated with the physical movement of security positions. DTC's proposal also allows its participants to settle these trades on a DVP basis instead of the more risky method currently in place where the movement of securities and the payment of money is not necessarily closely related in time. Therefore, the Commission finds that the rule change in making available risk reductions and efficiencies to DTC's participants is done so in a manner consistent with DTC's safeguarding obligations and therefore is consistent with section 17(b)(3)(F) of the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2001–03) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21919 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44744; File No. SR–Phlx–2001–80]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Adopting a Monthly Fee for Trading Post Space That Includes a Kiosk

August 24, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. 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 Phlx proposes to amend its schedule of dues, fees, and charges to adopt a fee of $375 per month for trading post space that includes a kiosk,[3] which will be imposed on the users of such kiosks, namely specialists.[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 Phlx 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 Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A kiosk is an open, flat surface that contains computer terminals and allows the specialists to face the trading crowd. Generally, post space is space on the Exchange's trading floor for specialists.

[4] Currently, the fee for trading post space totals $250. According to the Phlx, with respect to specialists at trading posts with a kiosk, the $375 fee would replace the $250 fee for trading post space. Telephone conversation between Edith Hallahan, First Vice President and Deputy General Counsel, Phlx, and Deborah Flynn, Assistant Director, Division of Market Regulation, Commission, on August 23, 2001.

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 Exchange's schedule of dues, fees, and charges to include a fee for trading post space that includes a kiosk.

During the past few years, at a considerable cost to the Exchange, the Exchange has constructed kiosks on its options trading floor to facilitate specialist interaction with the trading crowd by allowing them to directly face the trading crowd.[5] The proposed fee would help to offset the expense incurred in constructing these kiosks.

The proposed fee will be implemented beginning September 1, 2001.[6] In the case of a newly constructed kiosk, the fee will commence in the first full calendar month after construction is completed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, in that it is an equitable allocation of reasonable fees among the Exchange's members because the members who pay the additional amount for the kiosks incur the benefit of using the kiosks.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) thereunder.[10] Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–80 and should be submitted by September 20, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21890 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[5] The decision to construct a kiosk at a particular post is solely within the Exchange's discretion.

[6] This fee is eligible for the monthly credit of up to $1,000 to be applied against certain fees, dues, and charges and other amounts owed to the Exchange by certain members. *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (SR–Phlx–2001–49).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44742; File No. SR–Phlx–2001–77]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Amend Exchange Rule 625, Trading Floor Training, Equity Floor Procedure Advice F–30, and Options Floor Procedure Advice F–30

August 23, 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 August 9, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. 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 Phlx proposes to amend Phlx Rule 625 (''Trading Floor Training''), Equity Floor Procedure Advice F–30, and Options Floor Procedure Advice F–30 (collectively referred to as ''Advice F–30'')[3] to allow the Exchange to require from time to time its members and their respective personnel to attend mandatory training sessions related to conduct, health and safety on the Exchange's equity and options trading floors (collectively referred to as ''trading floor''). The Phlx also proposes to amend the fine schedule in Equity Floor Procedure Advice F–30 so that it is consistent with the fine schedule in the corresponding Options Floor

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Advice F–30 and the accompanying fine schedules are part of the Exchange's minor rule violation and reporting plan (''minor rule plan''). The Exchange's minor rule plan, codified in Phlx Rule 970 (''Floor Procedure Advices: Violations, Penalties, and Procedures'') contains floor procedure advices with accompanying fine schedules such that a minor rule violation and reporting plan citation could be issued. Rule 19d–1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting. 17 CFR 240.19d–1(c)(2). Rule 19d–1(c)(1) under the Act requires prompt filing with the Commission of any final disciplinary actions. 17 CFR 2401.19d–1(c)(1). However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

Procedure Advice.[4] The text of the proposed rule change is available at the Office of the Secretary, the Phlx and 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 Phlx 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 Phlx 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 rule change is to amend Phlx Rule 625 (''Trading Floor Training'') and Advice F–30 to allow the Exchange to require from time to time its members and their respective personnel to attend mandatory training sessions related to conduct, health and safety on the Exchange's trading floor. The Phlx also proposes to amend the fine schedule in Equity Floor Procedure Advice F–30 so that it is consistent with the fine schedule in the corresponding Options Floor Procedure Advice.[5]

In 1999, the Exchange adopted Phlx Rule 625 and Advice F–30, which relate to trading floor training. Phlx Rule 625 and Advice F–30 currently focus primarily on instructing members and their respective personnel on changes in automated systems or new technology that is utilized by the Exchange.

The Phlx believes that the proposed amendment would allow the Exchange also to require its members and their respective personnel to attend mandatory training sessions related to conduct, health and safety on the Exchange's trading floor.

The Phlx believes that conducting training sessions related to conduct, health and safety on the trading floor should promote a safer work environment and inform its members and their respective personnel of important issues related to the Exchange's trading floor. The Phlx is cognizant of the time demands that are placed on its members, and therefore intends to provide notice and schedule such training sessions only as it deems necessary and appropriate.

Additionally, the Phlx proposes to amend the fine schedule for Equity Floor Procedure Advice F–30 to make it consistent with the corresponding fine schedule in Options Floor Procedure Advice F–30.

2. Statutory Basis

The Phlx believes that the proposal is consistent with section 6 of the Act,[6] in general, and section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. In addition, the Phlx believes that the proposal is consistent with section 6(b)(4) of the Act[8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members by conforming the fine schedules that appear in Advice F–30.

Moreover, the Phlx believes that mandatory training for equity and options floor members is consistent with the provisions of section 6(c)(3)(B) of the Act,[9] which makes it the responsibility of an exchange to prescribe standards of training, experience, and competence for persons associated with self-regulatory organization members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate 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

The Phlx has neither solicited nor received written 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 publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change 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 Phlx.

All submissions should refer to File No. SR–Phlx–2001–77 and should be submitted by September 20, 2001.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–21891 Filed 8–29–01; 8:45 am]

BILLING CODE 8010–01–M

[4] The fine schedule applicable to Options Floor Procedure Advice F–30 was recently amended. *See* Securities Exchange Act Release No. 44537 (July 11, 2001), 66 FR 37511 (July 18, 2001) (order approving SR–Phlx–2001–36).

[5] The Phlx Fine Schedule allows for a fine to be implemented on a three-year running calendar basis. The term ''three-year running calendar basis'' means that the Exchange will impose sanctions on a three-year running cycle, by which a violation of the training requirements which occurs within three years of the first violation of the training requirements, will be treated as a second occurrence, and any subsequent violation within three years of the previous violation of the training requirements will be subject to the next highest sanction specified in the Fine Schedule.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(c)(3)(B).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3360]

State of Florida

Martin County and the contiguous counties of Okeechobee, Palm Beach and St. Lucie in the State of Florida constitute a disaster area due to

damages caused by heavy rainfall and flooding from Tropical Storm Barry that began on August 2, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 22, 2001 and for economic injury until the close of business on May 21, 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.

The interest rates are:

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 Injury

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere—4.000%

The number assigned to this disaster for physical damage is 336011 and for economic injury the number assigned is 9M3900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 21, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–21912 Filed 8–29–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Centers Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting at 9 a.m. est on Thursday, Sept. 13, 2001 in the Windsor Room of the Hyatt Regency Hotel, 300 Reunion Boulevard, Dallas, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. Anyone wishing to make an oral presentation to the Board must contact Ellen Thrasher, Designated Federal Officer, in writing by letter or fax no later than September 4, 2001, in order to be put on the agenda. Ellen Thrasher, Deputy Associate Administrator, U.S. Small Business Administration, Office of Small Business Development Centers, 409 Third Street, SW., 4th Floor, Washington, DC 20416 phone (202) 205–6766 fax (202) 205–7727.

Steve Tupper,

SBA Committee Management Officer.

[FR Doc. 01–21911 Filed 8–29–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB): Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, DC 20503.

(SSA): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collection listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. *Statement Regarding Students' School Attendance—0960–0113.* Form SSA–2434 is used by the Social Security Administration to determine student entitlement status of the children of coal miners, children of their widows or the brothers of deceased miners eligible for Black Lung benefits. This form collects information from students about to attain age 18, for the express purpose of evaluating their continuing eligibility for program benefits under the Federal Mine Safety Act of 1977. The respondents are entitled black lung children of coal miner's or their widow, or the brother of deceased black lung coal miners.

Number of Respondents: 50.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 8 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. *Employee Identification Statement—0960–0473.* The information collected on Form SSA–4156 is needed in scrambled earnings situations when two or more individuals have used the same social security number (SSN), or when an employer (or employers) have reported earnings for two or more employees under the same SSN. The information on the form is used to help identify the individual (and the SSN) to whom the earnings belong. The respondents are employers who have reported erroneous wages.

Number of Respondents: 4,750.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 792 hours.

2. *Plan for Achieving Self-Support—0960–0559.* The information on form SSA–545 is collected by SSA when a Supplemental Security Income (SSI) applicant/recipient desires to use available income and resources to obtain education and/or training in order to become self-supportive. The information is used to evaluate the recipient's plan for achieving self-support to determine whether the plan may be approved under the provisions of the SSI program. The respondents are SSI applicants/recipients who are blind or disabled.

Number of Respondents: 7,000.

Frequency of Response: 1.

Average Burden Per Response: 2 hours.

Estimated Average Burden: 14,000 hours.

3. *Electronic Death Registration Survey—0960–0625.* Section 205(r) requires the Social Security Administration (SSA) to enter into

agreements with States to obtain death records. Sections 202(a)(1)–(h)(1) require SSA to terminate Retirement, Survivors and Disability benefits upon the death of the beneficiary. This survey will measure the States' readiness to implement electronic death registration processes, which will result in SSA getting death information more timely and accurately to terminate benefits as required by law. The respondents are State Vital Records Directors.

Number of Respondents: 55.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 28 hours.

4. *Request for a Deceased Individual's Social Security Record, SSA–711; You Can Make Your Payment by Credit Card for a Deceased Individual's Social Security Record, SSA–714—0960–NEW.* Form SSA–711 is used by SSA to fulfill requests from members of the public who apply for a microprint of the SS–5, Application for Social Security Card, for a deceased individual. SSA provides this information in response to a request from an individual conducting genealogical research. The information collected on Form SSA–714 is used by SSA to process credit card payments from members of the public who request a microprint of the SS–5 in conjunction with the service provided by the Agency through the SSA–711. Respondents to the SSA–711 and 714 are members of the public who request a microprint of the SS–5 of a deceased individual for genealogical research.

	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden
SSA–711	320,000	1	7	37,333
SSA–714	50,000	1	7	5,833
Total burden hours				43,166

5. *Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988–TEST; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3987–TEST—0960–NEW.*

Background

The Social Security Act mandates periodic redeterminations of the non-medical factors that relate to the SSI recipients' continuing eligibility for SSI payments. Recent SSA studies have indicated that as many as ⅔ of all scheduled redeterminations completed, with the assistance of a SSA employee, did not result in any change in circumstances that affected payment. Therefore, SSA will conduct a limited test to determine whether a less intrusive and labor intensive redetermination process could result in significant operational savings and a decrease in recipient inconvenience, while timely obtaining the accurate data needed to determine continuing eligibility through the process.

The Collection

A limited test of forms SSA–3988–TEST and SSA–3987–TEST will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988–TEST and SSA–3987–TEST are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The test objectives are to determine the public's ability to understand and accurately complete the test forms. The respondents are recipients of SSI benefits or their representatives.

	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden
SSA–3988–TEST	13,600	1	20	4,533
SSA–3987–TEST	2,400	1	20	800
Total burden hours				5,333

6. *Request for the Correction of Earning Records—0960–0029.* Form SSA–7008 is used by individual wage earners to request SSA's review, and if necessary, correction of the Agency's master record of their earnings. The respondents are individuals who question SSA's record of their earnings.

Number of Respondents: 375,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 62,500 hours.

7. *Statement of Agricultural Employer (Years prior to 1988); Statement of Agricultural Employer (1988 and Later)—0960–0036.* The information on Forms SSA–1002 and SSA–1003 is used by the Social Security Administration (SSA) to resolve discrepancies when farm workers have alleged that their employers did not report their wages or reported them incorrectly. The respondents are agricultural employers.

	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden
SSA–1002	75,000	1	10	12,500

	Respondents	Frequency of response	Average burden per response (min)	Estimated annual burden
SSA–1003	50,000	1	30	25,000
Total burden hours				37,500

Dated: August 24, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–21861 Filed 8–29–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3759]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: School Connectivity Project for Southeast Europe

SUMMARY: The Youth Programs Division, Office of Citizen Exchanges, of the Bureau of Educational and Cultural Affairs announces an open competition for the School Connectivity Project for Southeast Europe. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to expand the educational opportunities available to secondary school students in Southeast Europe by providing access to the Internet and training them in its use for the purpose of generating a cross-border dialogue among youth in Southeast Europe and the United States. The Southeast European countries involved will be Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Macedonia, and Romania. Serbia, Montenegro, and Kosovo may be added at a later date, pending available funding. The initial amount of the award will be $915,000.

Program Information

Overview

The School Connectivity Project for Southeast Europe will promote e-education in this region under the framework of the electronic Southeast Europe (e-SEE) Stability Pact initiative. This initiative aims to develop the digital economy in SEE and focus on creating an enabling Information Technology (IT) environment, promoting greater transparency among governments and fostering the use of IT in education. The project has also been designed to respond to the important need to introduce the youth of this region to a broad range of ideas about civil society while enhancing the use of IT. Secondary school students and teachers need to focus on areas that promote reconciliation and mutual understanding. The Internet can provide a wealth of information about democratic societies and a vital forum for the exchange of views within the region and with students and teachers in the United States. Through this program, secondary schools will be able to incorporate cross-border discussions on several key themes into their curricular offerings and to improve general education with Internet resources and access to information under the guidance of specially trained teachers.

The goals of this program are:

(1) To enhance the use of the Internet in secondary schools while promoting inter-ethnic dialogue among schools in different countries of Southeast Europe through projects exploring a common theme;

(2) To engage American and Southeast European schools in multi-partite linkages to expand the dialogue, promote mutual understanding, and benefit from the expertise of others;

(3) To support youth in their communications with each other and to facilitate their joint project work; and

(4) To generate personal and institutional ties among students, educators, and their schools across borders.

The main components of this program are as follows:

- Recruiting and selecting secondary schools across Southeast Europe (SEE) and in the United States in a competitive, transparent process. Schools without Internet connections and those that are outside the capital cities shall be given priority.
- Selecting U.S. schools for participation in international dialogue.
- Providing access to the Internet to the SEE schools, including making sites suitable for a computer center, installing hardware and cabling, and ensuring connectivity.
- Providing training for faculty in the selected schools on the use of the Internet for research and discussion and on the development of projects on common themes. These faculty members will in turn provide training to teachers and students in their schools.
- Matching students and teachers at SEE with their counterparts within the region, with U.S. schools, and possibly schools from other Western countries.
- Facilitating joint telecurriculum projects among the students on the themes of shared history and culture. Project staff would help teachers and youth select topics, facilitate action planning and evaluative processes for their projects, provide guidance, help them hone research skills, and assist with the development of a final product for widespread dissemination.
- Setting up and maintaining an on-line vehicle for disseminating information and encouraging interaction with the administrator.
- Providing regional seminars for participating youth. Seminars will allow for face-to-face discussion of the project content, will enable them to take a more active role in designing on-line projects for their schools, will further their training in the use of the Internet, and will train teens on peer teaching techniques.

Guidelines

This grant should begin on or about December 1, 2001, subject to availability of funds. The grant period should be 24 months. A general timetable is outlined in the Project Objectives, Goals, and Implementation (POGI) document of this solicitation.

The number of schools that can be included in this project will be depend on the technological capacity of the schools selected through the open competition. Some schools may have quite a few computers available for student use, many with Internet access. Other schools may have few, if any, computers and what they have may need upgrading. Other international donor programs in Southeast Europe have equipped some schools with computers and Internet access; those schools are welcome to participate in the training and telecurriculum projects of this program. This variation in technological capability will affect not only the connectivity phase of the project, but also the on-line discussion and project phase, as faculty and students will vary widely in their technological expertise. Applicants should propose carefully considered

plans for accommodating these differences, in both their proposal narratives and their budgets. Upon request, the Bureau will provide prospective applicants with a May 2001 assessment of telecommunications in each of the participating Southeast European countries.

The grant recipient organization will need to have the capacity to work in countries throughout Southeast Europe through its own network of offices, through partnering organizations or institutions, or through a subgrant to another organization. The Bureau welcomes proposals that present a plan for partnering or for subgrants, though the party responsible for coordination, oversight, and accountability must be clear.

The award will be subject to the availability of FY–2001 SEED funding. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and availability of funds. Please refer to Solicitation Package for further information.

Budget Guidelines

The Bureau expects to provide an initial assistance award of $915,000 to one organization to support the program and administrative costs required to implement this program. Organizations with less than four years of experience in conducting international exchange programs are not eligible for this competition.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets.

Applicants should provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Administrative costs, including indirect rates, should be kept to a minimum and cost-shared as possible. The Bureau encourages applicants to provide maximum levels of cost-sharing and funding from private sources in support of its programs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/PY–02–19.

FOR FURTHER INFORMATION CONTACT: The Youth Programs Division, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone (202) 619–6299; fax (202) 619–5311; e-mail address: clantz@pd.state.gov to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Carolyn Lantz on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download A Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's website at http://exchanges.state.gov/education/RFGPs. Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m., Washington, DC time, on *Wednesday, October 31, 2001*. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be sent to:

U.S. Department of State SA–44 Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/PY–02–19, Program Management, ECA–IIP/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. Applicants may also include a version in Microsoft Word. The Bureau will transmit these files electronically to the Public Affairs section at the U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards resides with the Bureau's Grants Officer.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * * to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests,

developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation. The funding authority for the program is provided through Support for East European Democracy (SEED) legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: August 22, 2001.

Helena Kane Finn,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–21799 Filed 8–29–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Barron and Polk Counties, WI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent to prepare and Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for transportation improvements in the United States Highway (USH) 8 corridor between the junction of State Trunk Highway (STH) 35 north and USH 53, in Polk and Barron Counties, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Garcia, Field Operations Engineer, Federal Highway Administration, 567 D'Onofrio Drive, Madison, Wisconsin, 53719–2814; telephone: (608) 829–7513. You may also contact Ms. Carol Cutshall, Director, Bureau of Environmental, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965; telephone: (608) 266–9626.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Offices' Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register** home page at *http://www.nara.gov/fedreg* and the Government Printing Officers' database at: *http://www.access.gpo.gov/nara*.

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare a Draft Environmental Impact Statement (EIS) on a proposal to study the long term safety, operational and capacity improvements on an approximately 40 mile (65 kilometer) section of USH 8 between the junction of STH 35 north and USH 53, in Polk and Barron Counties, Wisconsin. The EIS will evaluate the social, economic and environmental impacts of alternatives, including: (1) No Build—this alternative assumes the continue use of existing facilities with the maintenance necessary to ensure their use, (2) Improvements Within the Existing Highway Corridor—this alternative would evaluate improve traffic handling capabilities and safety by either geometric improvements and passing lanes or a four-lane facility on the existing corridor, and (3) Improvements on New Location—this alternative would provide corridor alignments that bypass the communities of Range, Turtle Lake, Poskin, Almena and Barron as well as interchanges for bypasses of Turtle Lake and Barron. All alternatives will examine improvements to pedestrian, bicycle, and snowmobile facilities.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private agencies, organizations, and citizens who have expressed, or are known to have an interest in this proposal. A project advisory committee comprised of Federal and State agencies, local officials, environmental, and other community interests will be established to provide input during development and refinement of alternatives and impact evaluation activities. Public meeting and other forms will be held to solicit comments from citizens and interest groups. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. Agencies having an interest in or jurisdiction regarding the proposed action will be contacted through interagency coordination meetings and mailing.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the address provided in the caption **FOR FURTHER INFORMATION CONTACT.**

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Authority: 23 U.S.C. 315; 49 CFR 1.48

Issued on: August 21, 2001.

Peter M. Garcia,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 01–21944 Filed 8–29–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34083]

CSX Transportation, Inc.—Trackage Rights Exemption—Canadian National Railway Company, Grand Trunk Western Railroad Incorporated, and St. Clair Tunnel Company

Canadian National Railway Company (CN) and its subsidiaries, Grand Trunk Western Railroad Incorporated (GTW) and St. Clair Tunnel Company (St. Clair), have agreed to grant trackage rights to CSX Transportation, Inc. (CSXT) as follows: (1) over GTW's Tappen Interlocking, at Port Huron, MI, between milepost 332.3 and milepost 334.20; (2) over St. Clair's tracks between milepost 61.14 and milepost 59.98, via the Sarnia Tunnel; and (3) over CN's tracks between milepost 61.69 and milepost 61.14, in Port Huron, between milepost 59.98 and milepost 58.90, at Sarnia, Ontario, and thence northwesterly over CN's Port Edward

Spur, Sarnia, between milepost 59.20=0.0 and milepost 1.41 to a connection with CSXT's track at Sarnia, a total distance of approximately 6.3 miles.

The transaction is scheduled to be consummated on August 27, 2001. The trackage rights will allow CSXT to achieve greater operating efficiencies by allowing it to reach its lines in Sarnia.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.-Trackage Rights-BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34083 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 Natalie S. Rosenberg, Esq., CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: August 23, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–21947 Filed 8–29–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34085]

Keokuk Junction Railway Co.—Acquisition and Operation Exemption—West End of Toledo, Peoria and Western Railway Corporation

Keokuk Junction Railway Co. (KJRY), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 98 miles of rail line owned by the Toledo, Peoria and Western Railway Corporation (TP&W). The line to be acquired and operated extends between milepost 108.0 near East Peoria, IL, and milepost 206.0L, near Lomax, IL, including trackage rights over (1) Union Pacific Railroad Company between Hollis milepost 119.28 and Iowa Junction milepost 113.9, and (2) the Peoria and Pekin Union Railway Company between Iowa Junction milepost 113.9 and milepost 109.49. KJRY states that it has exercised an option it held with TP&W to buy the assets referenced in this proceeding. KJRY further states that it has also tendered to TP&W a check to satisfy its payment for these assets. Although KJRY has not yet reached a written agreement with TP&W for this transaction, KJRY anticipates that one will ultimately be entered into between it and TP&W. KJRY certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier.

The transaction was scheduled to be consummated on or shortly after August 22, 2001, the effective date of the exemption.

If the notice 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.[1] The filing of a petition to revoke does not automatically stay the transaction.[2]

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34085, 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 William A. Mullins, Esq., Troutman Sanders LLP, 401 Ninth Street, NW, Suite 1000, Washington, DC 20004.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: August 24, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–21946 Filed 8–29–01; 8:45 am]

BILLING CODE 4915–00–P

[1] On August 20, 2001, SF&L Railway, Inc. filed a petition to reject the notice of exemption and TP&W filed a petition to reject and revoke the notice. These petitions will be addressed and resolved in a subsequent decision to be issued by the Board.

[2] TP&W also filed a petition on August 20, 2001, to stay the effectiveness of this exemption pending consideration of its petition to reject or revoke. The petition for stay was denied by the Board in *Keokuk Junction Railway Co.—Acquisition and Operation Exemption—Toledo, Peoria and Western Railway Corporation*, STB Finance Docket No. 34085 (STB served Aug. 23, 2001). That decision indicated that TP&W's petition to stay was filed on August 21, 2001, although it was actually filed on August 20, 2001.

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing efforts to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Market Room within the Department of the Treasury is soliciting comments concerning Revisions to Foreign Currency Forms FC–1 (OMB No. 1505–0012) Weekly Consolidated Foreign Currency Report of Major Market Participants, FC–2 (OMB No. 1505–0010) Monthly Consolidated Foreign Currency Report of Major Market Participants, and FC–3 (OMB No. 1505–0014) Quarterly Consolidated Foreign Currency Report. The reports are mandatory.

DATES: Written comments should be received on or before October 29, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Director, Market Room, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 2405, Washington, DC 20220, Telephone (202) 622–2650.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms(s) and instructions should be directed to Director, Market Room, Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 2405, Washington, DC 20220, Telephone (202) 622–2650, Fax 622–2021.

SUPPLEMENTARY INFORMATION:

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–1.

OMB Number: 1505–0012.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants, Foreign Currency Form FC–2.

OMB Number: 1505–0010.

Title: Quarterly Consolidated Foreign Currency Report, Foreign Currency Form FC–3.

OMB Number: 1505–0014.

Abstract: Foreign Currency Forms FC–1, FC–2, and FC–3 are required by Public Law 93–110 (31 U.S.C. 5313 and 5321 (a)(3)), which directs the Secretary of the Treasury to prescribe regulations reports on foreign currency transactions conducted by a United States person or foreign person controlled by a United States person. The regulations governing forms FC–1, FC–2, and FC–3 are contained in Title 31 part 128 of the Code of Federal Regulations (31 CFR part 128) which were published in the **Federal Register** on November 2, 1993.

Current Actions: The proposed revisions in the forms and instructions are promoted by the replacement of the Germany mark by the hard Euro currency on January 1, 2002.

Type of Review: Revisions.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents:

Foreign Currency Form FC–1: 35 respondents

Foreign Currency Form FC–2: 35 respondents

Foreign Currency Form FC–3: 66 respondents

Estimated Time Per Respondent:

Foreign Currency Form FC–1: One (1) hour per respondent per response.

Foreign Currency Form FC–2: Four (4) hours per respondent per response.

Foreign Currency Form FC–3: Eight (8) hours per respondent per response.

Estimated Total Annual Burden: Hours:

Foreign Currency Form FC–1: 1,820 hours, based on 52 reporting periods per years.

Foreign Currency Form FC–2: 1,680 hours, based on 12 reporting period per year.

Foreign Currency Form FC–3: 2,112 hours, based on 4 reporting periods per year.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (1) Whether Foreign Currency Forms FC–1, FC–2, and FC–3 are necessary for the proper performance of the functions of the Department of the Treasury, including whether the information has practical uses; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Timothy D. DuLaney,

Director, Market Room, U.S. Department of the Treasury.

[FR Doc. 01–21882 Filed 8–29–01; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 24, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before October 1, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1266.

Form Number: IRS Form 8829.

Type of Review: Extension.

Title: Expenses for Business Use of Your Home.

Description: Internal Revenue Code (IRC) section 280A limits the deduction for business use of a home to the gross income from the business use minus certain business deductions. Amounts not allowed due to the limitations can be carried over to the following year. Form 8829 is used to verify that the deduction is properly figured.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeeper: 4,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—52 min.

Learning about the law or the form—8 min.

Preparing the form—1 hr., 16 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually

Estimated Total Reporting/Recordkeeping Burden: 10,400,000 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–21940 Filed 8–29–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Privacy Act of 1974, as Amended

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, The Bureau of Alcohol, Tobacco and Firearms is publishing its inventory of Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the Bureau of Alcohol, Tobacco and Firearms (ATF) has completed a review of its Privacy Act systems of records notices to identify minor changes to those notices.

A purpose(s) statement has been added to the following system notices: ATF .001-Administrative Record System; ATF .002-Correspondence Record System, and ATF .007-Personnel Record System. In addition, language has been added under ''storage'' to ATF .001 and ATF .002-Correspondence Record System to reflect the use of electronic media.

The data elements enumerated under ''categories of records'' in ATF .008-Regulatory Enforcement Record System, and ATF .009-Technical and Scientific Services Record System have been updated to include additional elements which fall within the scope of the existing categories.

Under ''safeguards'' language has been added to each ATF system notices to reflect that records maintained in electronic format are password protected.

Other changes throughout the document are editorial in nature and

consist principally of changes to system locations and system manager addresses.

The following system of records has been removed from ATF's inventory of Privacy Act systems: ATF .005-Freedom of Information Requests (Published December 3, 1999, at 64 FR 67966), and ATF .006-Internal Security Record System (Published December 14, 2000, at 65 FR 78261).

The systems notices are reprinted in their entirety following the Table of Contents.

Systems Covered by This Notice: This notice covers all systems of records adopted by ATF up to June 29, 2001.

Dated: August 20, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

ATF .001—Administrative Record System
ATF .002—Correspondence Record System
ATF .003—Criminal Investigation Report System
ATF .007—Personnel Record System
ATF .008—Regulatory Enforcement Record System
ATF .009—Technical and Scientific Services Record System

Bureau of Alcohol, Tobacco and Firearms (ATF)

Treasury/ATF .001

SYSTEM NAME:

Administrative Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present employees of the Bureau of ATF. (2) Former employees of the Bureau of ATF. (3) Claimants against the Bureau of ATF.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Accident Report—vehicle; (2) Fatality reports; (3) Injury reports; (4) Chief Counsel and District Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Federal Claims Collection Act. (2) Federal Property and Administration Services Act of 1949, as amended. (3) Federal Tort Claims Act. (4) Military Personnel and Civilian Claim Act. (5) Occupational Safety and Health Act of 1970. (6) Small Claims Act. (7) 5 U.S.C. 1302, 3301, 3302.

PURPOSE:

The purpose of this system is to resolve claims submitted to the Bureau of Alcohol, Tobacco and Firearms.

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

A record in this system may be disclosed as a routine use to: (1) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to an administrative matter; (3) appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) unions recognized as exclusive bargaining representatives in accordance with provisions contained in the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (6) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (7) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

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

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records are also stored in electronic media.

RETRIEVABILITY:

Records are retrievable by name of individual.

SAFEGUARDS:

Direct access restricted to personnel in Department of the Treasury in the performance of their duty. Transmitted to routine users on a ''need to know'' basis or where ''a right to access'' is established, and to others upon verification of the substance and propriety of the request. Stored in lockable metal file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules Numbers 1 through 23 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms records control schedules numbers 101 and 201 and disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Management/Chief Financial Officer, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Requests may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

RECORD ACCESS PROCEDURES:

Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

(1) Administrative records. (2) Claimants. (3) Doctors. (4) Employee records. (5) Fiscal records. (6) Former employees of the Bureau of ATF. (7) Former employers. (8) General Services Administration. (9) Individuals who have information relevant to claims. (10) Inspections records. (11) Internal Investigation reports. (12) Police reports. (13) Present employees of the Bureau of ATF. (14) Supervisors. (15) Witnesses. (16) Insurance companies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/ATF .002

SYSTEM NAME:

Correspondence Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who correspond with the Bureau requesting information relating to Bureau personnel. (2) Persons who correspond with the Bureau requesting information relating to Bureau activities. (3) Persons who correspond with the Bureau requesting rulings, interpretations, or technical and scientific matters of a general nature. (4) Persons who correspond with others and whose correspondence is referred to ATF for response. (5) Persons referred to in correspondence with the Bureau. (6) Authors and publishers of technical and scientific matters relating to Bureau activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with individuals who contact the Bureau requesting information relating to Bureau personnel and/or activities, Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Executive Order 11222.

PURPOSE:

The purpose of this system is to respond to inquiries from the public and Congress.

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

A record in this system may be disclosed as a routine use to: (1) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to an administrative, fiscal or personnel matter; (3) appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (6) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

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

STORAGE:

Active records stored in file folders in security filing cabinets. Records are also stored in electronic media.

RETRIEVABILITY:

Records are retrieved by name, subject matter and date of correspondence.

SAFEGUARDS:

Transmitted to routine users on a ''need to know'' basis. Stored in lockable file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 20 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Liaison and Public Information, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Requests may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

RECORD ACCESS PROCEDURES:

Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Requests may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Appeals may be delivered personally to Room 8400, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

Persons who correspond with the Bureau on general, technical or scientific matters.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/ATF .003

SYSTEM NAME:

Criminal Investigation Report System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Criminal offenders or alleged criminal offenders acting alone or in concert with other individuals and suspects who have been or are under investigation for a violation or suspected violation of laws enforced by the Bureau. (2) Criminal offenders or alleged criminal offenders acting alone or in concert with individuals who have been referred to the Bureau of Alcohol, Tobacco and Firearms by other law enforcement agencies, governmental units and the general public. (3) Informants. (4) Persons who come to the attention of the Bureau in the conduct of criminal investigations. (5) Persons who have been convicted of a crime punishable by imprisonment for a term exceeding one year and who have applied for relief from disabilities under Federal law with respect to the

acquisition, receipt, transfer, shipment, or possession of firearms and explosives and whose disability was incurred by reason of such conviction. (6) Victims of crimes. (7) Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; (c) Records containing reports identifiable to an individual compiled at various stages of the process of enforcement of criminal laws from arrest or indictment through release from supervision; (d) Records compiled and maintained by the Bureau as generally described in (a), (b), and (c) above including the following: (1) Abandoned property reports. (2) ATF Criminal Investigation Reports. (3) ATF referrals to foreign, Federal, state, and local law enforcement agencies. (4) Chief and Regional Counsel opinions. (5) Contemporaneous investigative notes. (6) Criminal investigatory correspondence from and to foreign, Federal, state and local law enforcement agencies. (7) Criminal intelligence information on individuals suspected to be violating ATF laws and regulations. (8) Documentary proof of defendant's criminal record, identity, or lack of registration of N.F.A. (as amended) firearm(s). (9) FBI Criminal Record Reports. (10) Fingerprints and palmprints. (11) Fugitive arrest warrants. (12) Handwriting exemplars. (13) Index cards, violation and reputation. (14) Illicit liquor and raw material surveys. (15) Laboratory reports of evidence analysis. (16) Memoranda of expected testimony of witnesses. (17) Organized crime members violating or suspected of violating ATF laws. (18) Parole and pardon reports. (19) Personal histories (address, employment, social security number, financial background, physical description, etc.). (20) Photographs. (21) Purchase of evidence records. (22) Records of electronic surveillance by ATF. (23) Records received in response to summons and subpoenas. (24) Reliefs from disability. (25) Reports of interview with witnesses. (26) Search warrants and affidavits for search warrants. (27) Seized property reports. (28) Significant criminals, armed and dangerous, firearms, explosives and liquor. (29) Special agent's daily activity diary (accessible by date only). (30) State and local law enforcement criminal investigative reports. (31) Statements of defendants. (32) Statements of witnesses. (33) Summons and subpoenas issued pursuant to criminal investigations. (34) Voice prints. (35) Wagering tax suspected violators. (36) Warning and demand letters. (37) Criminal violation reports (a formal report compiling all or portions of the foregoing for prosecutive purposes).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 26 U.S.C. Chapters 35 and 40; (2) 26 U.S.C. Chapters 51 and 52; (3) 26 U.S.C. Chapter 53, as amended; (4) 26 U.S.C. Chapters 61 through 80, as amended; (5) 27 U.S.C. Chapter 8, as amended (Federal Alcohol Administration Act); (6) 18 U.S.C. Chapter 40; (7) 18 U.S.C. Chapter 44; (8) 18 U.S.C. Chapter 59; (9) 18 U.S.C. App. 1201–1203 (Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title III of the Gun Control Act of 1968); (10) 22 U.S.C. section 414, (Mutual Security Act of 1954, as amended); (11) 5 U.S.C. sections 901 and 903, 5 U.S.C. App. (Reorganization Plan of 1950), Treasury Order 221, 5 U.S.C. section 301.

PURPOSE(S):

The purpose of this system is to suppress traffic in illicit untaxpaid distilled spirits; to enforce the Federal laws relating to the illegal possession and use of firearms, destructive devices, explosives, explosive materials; and to assist Federal, state, local and foreign law enforcement agencies in reducing crime and violence.

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

A record in this system may be disclosed as a routine use to: (1) Employees of other government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (3) appropriate Federal, state, local and foreign agencies for the purpose of enforcing and investigating administrative, civil or criminal laws relating to the hiring or retention of an employee; issuance of security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) INTERPOL and similar criminal intelligence gathering organizations for the purpose of identifying and suppressing the activities of international and national criminals and terrorists; (6) appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) insurance companies making determinations regarding claims in cases that the Bureau has conducted or is conducting an arson investigation; (8) a congressional office in response to an inquiry of the individual to whom the record pertains; (9) unions recognized as exclusive bargaining representatives in accordance with provisions contained in the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (10) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

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

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored in electronic media.

RETRIEVABILITY:

Records are retrievable by name, date of birth, social security number, unique identifier, investigation number, serial number of firearm, or a combination of any of these; plus date and geographical location of incident giving rise to investigation.

SAFEGUARDS:

Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a ''need to know'' basis and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 23 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records on tape or on-line mass storage are disposed of by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Firearms Explosive & Arson; Assistant Director, Alcohol and Tobacco; Assistant Director, Field Operations; and Assistant Director, Science & Technology, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

RECORD SOURCE CATEGORIES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(I).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (j)(2). See 31 CFR 1.36.

Treasury/ATF .007

SYSTEM NAME:

Personnel Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present Employees of the Bureau of ATF. (2) Former Employees of the Bureau of ATF. (3) Applicants for employment with ATF.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Allotment and Dues. (2) Annual Tax Reports. (3) Applicants for employment. (4) Applications for reassignment. (5) Awards, honors, and fellowship records. (6) Classification appeal records. (7) Death claim records. (8) Educational history. (9) Employee indebtedness records. (10) Employees qualified as Grievance Examiners. (11) Employee Suggestions. (12) Employee history. (13) Employee relations case file. (14) Equal employment opportunity records. (15) Health maintenance records. (16) Insurance records. (17) Military history. (18) Occupational injuries, disabilities, and Worker's Compensation Records. (19) Official personnel folder. (20) Outside employment and identification numbers, business or professional records. (21) Outside employment. (22) Outside financial interests. (23) Overtime and/or Premium Pay records. (24) Performance evaluation records. (25) Personal history. (26) Position description records. (27) Promotion/Selection Certificates Records. (28) Property custody records. (29) Retirement records. (30) Records of security clearance. (31) Statement of career goals. (32) Supervisory or managerial potential records. (33) Temporary assignments and details. (34) Time application reports and records. (35) Training record. (36) U.S. Savings Bond participation records. (37) Upward mobility applications. (38) Vehicle accidents. (39) Withholding tax records. (40) Work schedule records. (41) Chief Counsel and Regional Counsel memoranda and opinions. (42) Government passport records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. Chapter 29, Subchapter II. (2) 5 U.S.C. Chapters 31 and 33. (3) 5 U.S.C. Chapter 43. (4) 5 U.S.C. Chapter 45. (5) 5 U.S.C. Chapter 51. (6) 5 U.S.C. Chapter 55, subchapter III. (7) 5 U.S.C. Chapter 61. (8) 5 U.S.C. Chapter 75. (9) 5 U.S.C. Chapter 83. (10) 5 U.S.C. Section 301; 31 C.F.R. 2.28; 5 C.F.R. 550.122, 550.183. (11) 5 U.S.C. 4503. (12) 5 U.S.C. Section 5101–5115. (13) 5 U.S.C. Section 7151–7154. (14) 5 U.S.C. Section 7901. (15) Public Law 92–261 (Equal Employment Act of 1972). (16) Public Law 93–579. (Federal Employees Compensation Act). (17) Occupational Safety and Health Act of 1970. (18) Executive Order 10561. (19) Executive Order 11222. (20) Executive Order 11478. (21) Executive Order 11491.

PURPOSE:

The purpose of this system is to provide the basic source of factual data about a person's Federal employment while in the service of the Bureau of Alcohol, Tobacco and Firearms.

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

A record in this system may be disclosed as a routine use to:

(1) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to a personal matter; (3) appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil, or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) unions recognized as exclusive bargaining representatives in accordance with provisions contained in the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (6) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (8) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

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

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored in electronic media.

RETRIEVABILITY:

Records are retrievable by name, date of birth, social security number, employee identification number, or a combination of any of these four.

SAFEGUARDS:

Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a ''need to know'' basis or where ''a right to access'' is established, and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 23 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Science and Technology; Assistant Director, Liaison and Public Information; and Assistant Director, Management/Chief Financial Officer, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

(1) Administrative Records. (2) Applicants for employment with the Bureau. (3) Acquaintances. (4) Business and professional associates. (5) Creditors. (6) Criminal records. (7) Educational Institutions attended. (8) Employee records. (9) Equal Employment Opportunity Commission. (10) Financial institutions. (11) Fiscal records. (12) Former employees. (13) Former employers. (14) Inspection records. (15) Internal investigation reports. (16) Internal Revenue Service. (17) Military records. (18) Outside employers. (19) Physicians. (20) Police reports. (21) Position classification specialists. (22) Psychiatrists. (23) References. (24) Supervisors. (25) Training officers. (26) Unions, accredited. (27) Office of Personnel Management. (28) Witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (k)(5). See 31 CFR 1.36.

Treasury/ATF .008

SYSTEM NAME:

Regulatory Enforcement Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226. Components of this system of records are also geographically dispersed throughout ATF's district and field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Massachusetts Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been issued permits or licenses, have filed applications with ATF, or have registered with ATF including:

(a) Alcohol licensees; (b) Claimants for refund, abatement, credit, allowance or drawback of excise or special occupational taxes; (c) Federal Firearms Licenses (d) Collectors of firearms or ammunition; (e) Importers of firearms or ammunition, and (f) Users of explosive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigative material compiled for law enforcement purposes which may consist of the following: (1) Abstracts of offers in compromise. (2) Administrative law judge decisions. (3) Assessment records: (a) notices of proposed assessments. (b) notices of shortages or losses. (c) notices to IRS to assess taxes. (d) recommendation for assessments. (4) Claim records: (a) claims. (b) letters of claim rejection. (c) sample reports. (d) supporting data. (e) vouchers and schedules of payment. (5) Comments on proposed rulemakings. (6) Complaints from third parties. (7) Correspondence concerning records in this system and related matters. (8) Financial statements. (9) Inspection and investigation reports. (10) Joint demands on principals and sureties for payment of excise tax liabilities. (11) Letters of reprimand. (12) Lists of permittees and licensees. (13) Lists of officers, directors and principal stockholders. (14) Mailing lists and addressograph plates. (15) Notices of delinquent reports. (16) Offers in compromise. (17) Operation records: (a) operating reports. (b) reports of required inventories. (c) reports of thefts or losses of firearms-who maintains records. (d) reports of thefts of explosive materials-who maintains records. (e) transaction records. (f) transaction reports. (18) Orders of revocation, suspension or annulment of permits or licenses. (19) District and Chief Counsel opinions and memoranda. (20) Reports of violations. (21) Permit status records. (22) Qualifying records: (a) access authorizations. (b) advertisement records. (c) applications. (d) bonds. (e) business histories. (f) criminal records. (g) diagrams of premises. (h) educational histories. (I) employment histories. (j) environmental records. (k) financial data. (l) formula approvals. (m) label approvals. (n) licenses. (o) notices. (p) permits. (q) personal references. (r) plant profiles. (s) plant capacities. (t) plats and plans. (u) registrations. (v) sample reports. (w) signature authorities. (x) special permissions and authorizations. (y) statements of process. (23) Show cause orders. (24) Tax records: (a) control cards relating to periodic payment and prepayment of taxes. (b) excise and special tax returns. (c) notices of tax discrepancy or adjustment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 26 U.S.C. 5172. (2) 26 U.S.C. 5271(b)(1). (3) 26 U.S.C. 5356. (4) 26 U.S.C. 5401. (5) 26 U.S.C. 5417. (6) 26 U.S.C. 5502(b). (7) 26 U.S.C. 5511(3). (8) 26 U.S.C. 5521(a). (9) 26 U.S.C. 5179(a). (10) 22 U.S.C. 204(c). (11) 26 U.S.C. 5105. (12) 26 U.S.C. 5275. (13) 26 U.S.C. 5301(b). (14) 26 U.S.C. 5132. (15) 26 U.S.C. 5042(a)(2). (16) 26 U.S.C. 7011. (17) 26 U.S.C. 5712. (18) 18 U.S.C. 923(a). (19) 18 U.S.C. 923(b). (20) 18 U.S.C. 843(a). (21) 22 U.S.C. 414. (22) 26 U.S.C. 4401(a). (23) 26 U.S.C. 6001. (24) 26 U.S.C. 6011(a). (25) 26 U.S.C. 5001. (26) 26 U.S.C. 5021-5023. (27) 26 U.S.C. 5041. (28) 26 U.S.C. 5051. (29) 26 U.S.C. 6201. (30) 26 U.S.C. 5008. (31) 26 U.S.C. 5044. (32) 26 U.S.C. 5056. (33) 26 U.S.C. 5705. (34) 26 U.S.C. 6423(b). (35) 26 U.S.C. 5009(a). (36) 26 U.S.C. 5006(a). (37) 26 U.S.C. 5055. (38) 26 U.S.C. 5062(c). (39) 26 U.S.C. 5106. (40) 26 U.S.C. 5131(c). (41) 26 U.S.C. 5064. (42) 26 U.S.C. 7122. (43) 27 U.S.C. 207. (44) 18 U.S.C. 843(d). (45) 18 U.S.C. 923(f). (46) 27 U.S.C. 204(e). (47) 26 U.S.C. 5312(a). (48) 26 U.S.C. 5042(a)(3). (49) Reorganization Act of 1949, 5 U.S.C. Sections 901 et seq.; Revenue Act of 1951, Section 616; Treasury Department Order 221 (37 F.R. 11696, dated June 19,

1972). (50) 5 U.S.C. 301. (51) 26 U.S.C. 5181.

PURPOSE(S):

The purpose of this system is to determine suitability, eligibility or qualifications of individuals who are engaged or propose to engage in activities regulated by ATF; achieve compliance with laws under ATF's jurisdiction; assure full collection of revenue due from legal industries; eliminate commercial bribery, consumer deception and other improper trade practices in the distilled spirits, beer and wine industries; interact with Federal, state and local governmental agencies in the resolution of problems relating to industrial development, revenue protection, public health, ecology, and other areas of joint jurisdictional concern. When a criminal investigation results in a compilation of information contained in this system of records, the information shall be transferred to the Treasury ATF—Criminal Investigation Report System and shall become part of that system for all purposes of the Privacy Act of 1974.

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

A record in this system may be disclosed as a routine use to: (1) Employees of other governmental agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party to the extent necessary to collect or verify information pertinent to the Bureau's decision to grant, deny or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by the Bureau; (3) appropriate Federal, state, local or foreign agencies for the purpose of enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) INTERPOL and similar national and international intelligence gathering organizations for the purpose of identifying international and national criminals involved in consumer fraud, revenue evasion or crimes; (6) foreign governments in accordance with formal or informal international agreements; (7) appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (8) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (10) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

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

STORAGE:

Active records stored in file folders in filing cabinets and in electronic media.

RETRIEVABILITY:

Records are retrievable by name, permit or license number, by document locator number, or by employer identification number (EIN).

SAFEGUARDS:

Direct access restricted to personnel in the Department of Treasury in the performance of their duty. Transmitted to routine users on a ''need to know'' basis and others upon verification of the substance and propriety of the request. Stored in file cabinets in rooms locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 20 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Firearms Explosive & Arson; Assistant Director, Alcohol and Tobacco; Assistant Director, Field Operations; and Assistant Director, Science & Technology, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

(1) Acquaintances. (2) Bureau Personnel. (3) Business and Professional Associates. (4) Creditors. (5) Criminal Records. (6) Financial Institutions. (7) Former Employers. (8) Internal Revenue Service. (9) Military Records. (10) Physicians. (11) Psychiatrists. (12) References. (13) Police Reports. (14) Witnesses. (15) Federal Law Enforcement Agencies. (16) State Law Enforcement Agencies. (17) Local Law Enforcement Agencies. (18) State Regulatory Agencies. (19) Federal Regulatory Agencies. (20) Local Regulatory Agencies. (21) Chief Counsel's Opinions. (22) Regional Counsel's Opinions. (23) Chief Counsel's Memoranda. (24) Regional Counsel's Memoranda. (25) Field Investigation Reports. (26) Third Parties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (k)(2). See 31 CFR 1.36.

Treasury/ATF .009

SYSTEM NAME:

Technical and Scientific Services Record System-Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. A list of field offices is available by writing to the Chief, Disclosure Division, Room 8400, 650 Pennsylvania Avenue, NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants to register firearms under the National Firearms Act. (2) Applicants for surplus military firearms under the Director of Civilian Marksmanship Program. (3) Importers of implements of war as defined under the Mutual Security Act of 1954 and the Arms Export Control Act of 1976. (4) Licensed importers registered under the Mutual Security Act of 1954 and the

Arms Export Control Act of 1976. (5) Manufacturers of National Firearms Act who are exempt from payment of Special (Occupational) tax provisions. (6) Non-Bureau chemists certified to make analysis of alcoholic beverages. (7) Persons involved in explosives tagging and detection program. (8) Registered owners of National Firearms Act firearms. (9) Special (Occupational) taxpayers as defined under Title II of the Gun Control Act of 1968. (10) Victims of explosives. (11) Individuals involved in Government funded research projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Alterations of registered National Firearms Act firearms. (2) Applications for surplus military firearms. (3) Applications to register firearms and destructive devices under the National Firearms Act. (4) Applications to import articles on the United States Munitions list. (5) Blueprints. (6) Certifications of payment of Special (occupational) tax payments. (7) Changes of address for owner of firearms registered under the National Firearms Act. (8) Claims for erroneous Special (Occupational) taxes payments. (9) Descriptions of Inventions. (10) Delinquency notices regarding proof of importation of National Firearms Act Firearms. (11) Explosive reports. (12) Non-Bureau chemists' statements of qualification. (13) Patent information. (14) Registrations of firearms and destructive devices under the National Firearms Act. (15) Registration of war trophy firearms. (16) Requests and authorizations for temporary movement and/or temporary storage of National Firearms Act firearms. (17) Technical and scientific data. (18) Transaction records concerning National Firearms Act firearms. (19) Trade secrets. (20) United States Government contracts to manufacturers of National Firearms Act firearms. (21) Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 18 U.S.C. Chapter 40; (2) 18 U.S.C. Chapter 44; (3) 18 U.S.C. Section 3056; (4) 26 U.S.C. Sections 6001(a), 5001, 5008, 5009(a), 5006(a), 5021–5023, 5041, 5042(a)(2), 5051, 5053, 5056, 5062(c), 5705, 6201, 6423(b), 5105, 5106, 5131(c), 5132, 5172, 5172(b)(1), 5275, 5301(b), 5356, 5401, 5417, 5502(b), 5511(3), 5521(a), 5179(a), 5712, 7011; (5) 27 U.S.C. Sections 204(c); (6) 26 U.S.C. Chapter 35; (7) Executive Order 10973, as amended by Executive Order 11432.

PURPOSE(S):

The purpose of this system is to provide technical and scientific support and expertise to Criminal and Regulatory Enforcement activities of the Bureau; to other Federal, state, local and foreign law enforcement agencies; and to industries involved in activities regulated by the Bureau. When a criminal investigation results in a compilation of information contained in this system, the information so compiled shall be transferred to the ATF Criminal Investigation Report System and shall become a part of that system for all purposes of the Privacy Act of 1974.

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

A record in this system may be disclosed as a routine use to:

(1) Employees of other governmental agencies when required or authorized to be released by statute, regulations or Executive Order; (2) any third party to the extent necessary to collect or verify information pertinent to the Bureau's decision to grant, deny or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by the Bureau; (3) appropriate Federal, state, local or foreign agencies, for the purpose of enforcing administrative, civil, criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit; (4) a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) INTERPOL and similar national and international intelligence gathering organizations for the purpose of identifying international and national criminals involved in consumer fraud, revenue evasion or crimes; (6) foreign governments in accordance with formal or informal international agreements; (7) appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (8) insurance companies making determinations regarding claims in cases that the Bureau has conducted or is conducting in an arson investigation; (9) a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (10) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

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

STORAGE:

Active records stored in file folders and in electronic media.

RETRIEVABILITY:

Records are retrievable by name, by unique identifier, control number, serial number of National Firearms Act firearms.

SAFEGUARDS:

Stored in file cabinets locked during non-duty hours. The records stored in electronic media are password protected.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Schedules numbers 1 through 20 issued by the National Archives and Records Administration, and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records stored on tape discs or on-line mass storage are disposed of by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Firearms Explosive & Arson; Assistant Director, Alcohol and Tobacco; Assistant Director, Field Operations; and Assistant Director, Science & Technology, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

CONTESTING RECORD PROCEDURES:

See ''Record access procedures'' above.

RECORD SOURCE CATEGORIES:

(1) Individuals. (2) Companies. (3) Corporations. (4) Firearms Licensees. (5) Explosive Licensees. (6) Explosive Permittees. (7) Bureau personnel. (8) Federal law enforcement agencies. (9) State law enforcement agencies. (10) Local law enforcement agencies. (11) Foreign law enforcement agencies. (12) Federal Regulatory agencies. (13) State Regulatory agencies. (14) Local Regulatory agencies. (15) Non-Bureau Chemists.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Exempt under 5 U.S.C. 552a (k)(2). See 31 CFR 1.36.

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Federal Register

Thursday,
August 30, 2001

Part II

Commodity Futures Trading Commission

17 CFR Part 41

Securities and Exchange Commission

17 CFR Part 240

Cash Settlement and Regulatory Halt Requirements for Security Futures Products; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038–AB86

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–44743; File No. S7–15–01]

RIN 3235–AI24

Cash Settlement and Regulatory Halt Requirements for Security Futures Products

AGENCIES: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Joint Proposed Rule.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'') and the Securities and Exchange Commission (''SEC'') (collectively ''Commissions'') are proposing new rules under the Commodity Exchange Act (''CEA'') and the Securities Exchange Act of 1934 (''Exchange Act'') generally to provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish a final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product. The rules proposed today would set forth more specifically how the exchange's or association's rules can satisfy the statutory provisions of the Commodity Futures Modernization Act of 2000 (''CFMA'').

DATES: Comments must be received on or before October 1, 2001.

ADDRESSES: Comments should be sent to both agencies at the addresses listed below.

CFTC: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to *secretary@cftc.gov.* Reference should be made to ''Cash Settlement and Regulatory Halt Requirements for Security Futures Products.''

SEC: All comments concerning the rule proposal should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Comments also may be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–15–01; this file number should be included on the subject line if e-mail is used. Comment letters will be available for public inspection and copying in the SEC's public reference room at the same address. Electronically submitted comment letters will be posted on the SEC's Internet web site (*http://www.sec.gov*). The SEC does not edit personal identifying information, such as names or e-mail addresses, from electronic submissions. Submit only the information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

CFTC: Richard A. Shilts, Acting Director, at (202) 418–5275; and Thomas M. Leahy, Jr., Financial Instruments Unit Chief, at (202) 418–5278, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. E-mail: (RShilts@cftc.gov) or (TLeahy@cftc.gov).

SEC: Alton Harvey, Office Head, at (202) 942–4167; Terri Evans, Special Counsel, at (202) 942–4162; Michael Gaw, Special Counsel, at (202) 942–0158; and Cyndi Nguyen, Attorney, at (202) 942–4163, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION:

The Commissions today are requesting public comment on proposed Rule 41.1,[1] 41.25(a)(2),[2] and 41.25(b)[3] under the CEA and proposed Rule 6h–1 under the Exchange Act,[4] that generally provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish (i) a final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and (ii) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product.

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I. Executive Summary

The CFMA[5] authorizes the trading of futures on individual stocks and narrow-based security indexes, and puts, calls, straddles, options, or privileges thereon (collectively, ''security futures products'').[6] The

[1] Proposed 17 CFR 41.1, hereinafter referred to as proposed CFTC Rule 41.1.

[2] Proposed 17 CFR 41.25(a)(2), hereinafter referred to as proposed CFTC Rule 41.25(a)(2).

[3] Proposed 17 CFR 41.25(b), hereinafter referred to as proposed CFTC Rule 41.25(b).

[4] Proposed 17 CFR 240.6h–1, hereinafter referred to as proposed SEC Rule 6h–1.

[5] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[6] However, no person may offer to enter into, enter into, or confirm the execution of any option on a security future for at least three years after the enactment of the CFMA. *See* Section 2(a)(1)(D)(iii)

CFMA defines security futures products as ''securities'' under the Exchange Act,[7] the Securities Act of 1933,[8] the Investment Company Act of 1940,[9] and the Investment Advisers Act of 1940,[10] and as contracts of sale for future delivery of a single security or of a narrow-based security index or options thereon under the CEA.[11] Accordingly, the regulatory framework established by the CFMA for the markets and intermediaries trading security futures products provides the SEC and the CFTC with joint jurisdiction.

Under the Exchange Act, it is unlawful for any person to effect transactions in security futures products that are not listed on a national securities exchange[12] or on a national securities association registered pursuant to Section 15A(a) of the Exchange Act.[13] In addition, Section 6(h)(2) of the Exchange Act[14] provides that such an exchange or association may trade only those security futures products that conform with listing standards filed by the exchange or association with the SEC under Section 19(b) of the Exchange Act[15] and that meet certain criteria specified in Section 2(a)(1)(D)(i) of the CEA[16] and the standards and conditions enumerated in Section 6(h)(3) of the Exchange Act.[17] In particular, the CEA and the Exchange Act stipulate that the listing standards of an exchange or association trading security futures products shall, among other things, require that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security or option thereon.[18] In addition, listing standards must require that the market on which the security futures product trades has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded.[19] The rule proposed today would set forth more specifically how the exchange's or association's rules can satisfy these statutory provisions.[20]

A. Settlement Prices for Cash-Settled Security Futures Products

In the mid-1980s, the closing-price settlement procedures used by cash-settled stock index futures and options[21] often severely strained the liquidity of the securities markets and raised concerns that such liquidity constraints could provide opportunities for manipulative or abusive trading practices. Consequently, markets trading the most actively traded futures contracts and many stock index option contracts moved to opening-price settlement procedures. To avert similar liquidity constraints and to minimize opportunities for manipulative and abusive trading practices, the Commissions preliminarily believe that cash-settled security futures products should be required to use opening-price settlement procedures. Moreover, the Commissions preliminarily believe that opening-price settlement procedures are consistent with the provisions of Section 2(a)(1)(D)(i)(VII) of the CEA[22] and Section 6(h)(3)(H) of the Exchange Act,[23] because they would permit a national securities exchange or a national securities association registered pursuant to Section 15A(a) of the Exchange Act[24] to trade only security futures products that conform to listing standards that, among other things, require that trading in a security futures product not be readily susceptible to manipulation of the price of such product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.[25] Accordingly, proposed SEC Rule 6h–1(b) and CFTC Rule 41.25(b)(1) would require that the final settlement price of a cash-settled security futures product based on a single security fairly reflect the opening price of the underlying security. Similarly, proposed SEC Rule 6h–1(c) and CFTC Rule 41.25(b)(2) would require that the final settlement price of a cash-settled security futures product based on a narrow-based security index fairly reflect the opening prices in the index's underlying

of the CEA, 7 U.S.C. 2(a)(1)(D)(iii); Section 6(h)(6) of the Exchange Act, 15 U.S.C. 78f(h)(6).

[7] *See* Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10).

[8] *See* Section 2(a)(1) of the Securities Act of 1933, 15 U.S.C. 77b(a)(1).

[9] *See* Section 2(a)(36) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(36).

[10] *See* Section 202(a)(18) of the Investment Advisers Act of 1940, 15 U.S.C. 80b–2(a)(18).

[11] *See* Section 1a(31) of the CEA, 7 U.S.C. 1a(31).

[12] Section 6(g) of the Exchange Act, 15 U.S.C. 78f(g), allows a designated contract market under Section 5 of the CEA, 7 U.S.C. 7, or a registered derivatives transaction execution facility under Section 5a of the CEA, 7 U.S.C. 7a, to register as a national securities exchange solely for the purpose of trading security futures products (''Security Futures Product Exchange''). *See* Securities Exchange Act Release No. 44692 (August 13, 2001), 66 FR 43721 (August 20, 2001) (adopting, in part, requirements for designated contract markets and registered derivatives transaction execution facilities to register as national securities exchanges). By definition, the phrase ''national securities exchange'' encompasses these notice-registered entities. For simplicity, this rulemaking will refer to national securities exchanges and national securities associations. But it should be noted that the CFTC's rules govern designated contract markets and registered derivatives transaction execution facilities, and therefore, the rule proposed today by the CFTC contains language that differs from the rest of this proposed rulemaking.

[13] U.S.C. 78*o*–3(a). *See* Section 6(h)(1) of the Exchange Act, 15 U.S.C. 78f(h)(1). It should be noted that in an earlier release, the SEC stated its belief that Section 6(h)(1) is designed to ensure that a regulated national securities exchange or national securities association establish terms for security futures products and standards for the selection of underlying securities, consistent with the Exchange Act's listing standard requirements. *See* Securities Exchange Act Release No. 44434 (June 15, 2001), 66 FR 33283 (June 21, 2001) (order approving the Options Clearing Corporation's (''OCC'') proposed rule change allowing it to clear transactions in security futures products effected on any national securities exchange or association registered under Section 6(a) or 15A(a) of the Exchange Act or any designated contract market that is registered as a national securities exchange under Section 6(g) of the Exchange Act). Further, the SEC stated its belief that, as long as the security futures products satisfy these requirements and the coordinated surveillance and trading halt protections in Section 6(h)(5), they need not be cleared by OCC or any other specific clearing organization. *Id.*

[14] 15 U.S.C. 78f(h)(2).

[15] 15 U.S.C. 78s(b).

[16] 7 U.S.C. 2(a)(1)(D)(i).

[17] 15 U.S.C. 78f(h)(3).

[18] *See* Section 2(a)(1)(D)(i)(VII) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII); Section 6(h)(3)(H) of the Exchange Act, 15 U.S.C. 78f(h)(3)(H).

[19] *See* Section 2(a)(1)(D)(i)(X) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(X); Section 6(h)(3)(K) of the Exchange Act, 15 U.S.C. 78f(h)(3)(K).

[20] Section 9(b) of the Exchange Act states in part that ''[i]t shall be unlawful for any person to effect, by use of any facility of a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors (1) any transaction in connection with any security whereby any party to such transaction acquires * * * any security futures product on the security; or (2) any transaction in connection with any security with relation to which he has, directly or indirectly, any interest in any * * * such security futures product; or (3) any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any * * * such security futures product with relation to such security.'' 15 U.S.C. 78i(b). In addition, Section 9(h)(1) of the Exchange Act states that ''[i]t shall be unlawful for any person * * * to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof.'' The SEC believes that the proposed rule is necessary in the public interest, for the protection of investors, and the maintenance of fair and orderly markets.

[21] Index products are cash-settled, not physically settled.

[22] 7 U.S.C. 2(a)(1)(D)(i)(VII).

[23] 15 U.S.C. 78f(h)(3)(H).

[24] 15 U.S.C. 78*o*–3(a).

[25] *See* proposed SEC Rule 6h–1(f) and proposed CFTC Rule 41.25(b)(3), and *infra* discussion at Section II.B, Settlement Prices for Cash-Settled Security Futures Products.

securities. The Commissions also are proposing that they may grant exemptions to national securities exchanges or national securities associations from such requirements.

B. Regulatory Halts

The securities markets have long-established procedures that require cross-market trading halts in an equity security, related equity securities, and related options whenever the market trading and listing the equity security (''listing market'') imposes a regulatory halt in that security.[26] The most common type of regulatory halt is one that prevents trading in an equity security for a short time (usually less than an hour) while material news about the security's issuer is disseminated to investors. The markets coordinate cross-market ''news pending'' regulatory halts to promote investor protection and fair and orderly markets.[27]

The Commissions believe, therefore, that it would be appropriate for news pending cross-market halt procedures to apply to security futures products. The Commissions also believe that the application of these procedures to security futures products is necessary to satisfy the provisions of Section 2(a)(1)(D)(i)(X) of the CEA [28] and Section 6(h)(3)(K) of the Exchange Act,[29] which permit a national securities exchange or a national securities association registered pursuant to Section 15A(a) of the Exchange Act [30] to trade only security futures products that conform to listing standards that, among other things, require procedures to ''coordinate'' trading halts between the listing market for the underlying security and other markets that trade the underlying security or any related security. The definition of ''regulatory halt'' set forth in proposed SEC Rule 6h–1(a)(3) and CFTC Rule 41.1(l) would include a delay, halt, or suspension of trading of a security by the listing market as a result of pending news.[31] Proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would require that trading on a security futures product based on a single security be halted at all times that such a news pending regulatory halt has been instituted by the listing market for the underlying security.

The other type of regulatory halt currently used by the securities markets involves ''circuit breaker'' procedures.[32] Since October 1988, the stock, options, and index futures markets have had in place circuit breaker procedures that would impose brief cross-market trading halts at predetermined thresholds during a severe market decline. The coordinated cross-market trading halts provided by circuit breaker procedures are designed to operate only during significant market declines and to substitute orderly, pre-planned halts for the *ad hoc* and destabilizing halts that can occur when market liquidity is exhausted. The circuit breakers also protect investors and the markets by providing opportunities for markets and market participants to assess market conditions and potential systemic stress during a historic market decline.[33] In approving the original circuit breakers proposed by the securities markets, the SEC noted that the circuit breakers were not an attempt to prevent markets from reaching new price levels, but an effort by the securities and futures markets to arrive at a coordinated means to address potentially destabilizing market volatility of the severity of the October 1987 market break.[34]

For these same reasons, the Commissions believe that it is important to require the application of cross-market circuit breaker regulatory halt procedures to security futures products. Moreover, the Commissions believe that such a requirement is necessary to satisfy the requirements of Section 2(a)(1)(D)(i)(X) of the CEA[35] and Section 6(h)(3)(K) of the Exchange Act.[36] If cross-market circuit breaker regulatory halt procedures were not applied to the security futures products, such a failure would undermine the use of a trading halt in the underlying securities. The definition of ''regulatory halt'' set forth in proposed SEC Rule 6h–1(a)(3) and CFTC Rule 41.1(l), therefore, would include a delay, halt, or suspension of trading of a security by the listing market as a result of the operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on the listing market. Proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would require that trading on a security futures product based on a single security be halted at all times that such a circuit breaker regulatory halt has been instituted by the listing market for the underlying security.

Index futures and options also have been subject to the markets' circuit breaker procedures since their adoption in 1988.[37] In view of the broad-based indexes underlying current futures and options, however, these products generally have not been subject to news pending regulatory halts in the underlying securities. Nevertheless, the Commissions believe that, under some circumstances, trading should be halted in a security futures product based on a narrow-based security index when a substantial portion of the underlying securities is halted due to circuit breaker or news pending regulatory halts. Proposed SEC Rule 6h–1(e) and CFTC Rule 41.25(a)(2)(ii), therefore, would require that trading on a security futures product based on a narrow-based security index be halted at all times that news pending or circuit breaker regulatory halts have been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.[38]

II. Discussion of Proposed Rulemaking

Before a national securities exchange or national securities association lists or trades security futures products, it is required to file, pursuant to Section 19(b) of the Exchange Act,[39] a proposed rule change with the SEC establishing listing standards that comply with Section 6(h)(3) of the Exchange Act.[40] Generally, a national securities exchange registered under Section 6(a) of the Exchange Act [41] or a national securities association registered under Section 15A(a) of the Exchange Act [42] must file proposed rule changes with the SEC pursuant to Section 19(b)(1) of the Exchange Act [43] for notice, comment, and SEC approval, prior to implementation, unless the rule is otherwise permitted to become effective pursuant to Section 19(b)(3) of the

[26] Cross-market halts are not required for non-regulatory halts, such as when one market halts trading because of an imbalance of buy and sell orders in a particular security or when trading is disrupted on one market due to a problem in its systems or on its trading floor.

[27] *See, e.g., infra* note and accompanying text.

[28] 7 U.S.C. 2(a)(1)(D)(i)(X).

[29] 15 U.S.C. 78f(h)(3)(K).

[30] 15 U.S.C. 78*o*–3(a).

[31] Under the proposed rule, a pending news regulatory halt includes halts that are the result of a determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue. *See* proposed SEC Rule 6h–1(a)(3) and proposed CFTC Rule 41.1(l).

[32] *See infra* notes 77 and 78 and accompanying text.

[33] *See* Circuit Breaker Report by the Staff of the President's Working Group on Financial Markets dated August 18, 1998 (''Circuit Breaker Report'').

[34] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988).

[35] 7 U.S.C. 2(a)(1)(D)(i)(X).

[36] 15 U.S.C. 78f(h)(3)(K).

[37] *See* Circuit Breaker Report, *supra* note.

[38] For a further discussion of the 30 percent threshold, *see infra* discussion at Section II.C.2(b), Trading Halt Coordination in Narrow-Based Security Index Futures.

[39] 15 U.S.C. 78s(b).

[40] 15 U.S.C. 78f(h)(3).

[41] 15 U.S.C. 78f(a).

[42] 15 U.S.C. 78*o*–3(a).

[43] 15 U.S.C. 78s(b)(1).

Exchange Act.[44] A Security Futures Product Exchange[45] or a national securities association registered under Section 15A(k) of the Exchange Act[46] must generally submit, pursuant to Section 19(b)(7) of the Exchange Act,[47] proposed rule changes relating to certain enumerated matters, including listing standards.

A. Staff Interpretive Guidance

Section 2(a)(1)(D)(i) of the CEA and Section 6(h)(3) of the Exchange Act enumerate the standards and conditions that these listing standards must meet.[48] The rule being proposed today would identify certain requirements that the Commissions believe are necessary to satisfy these provisions. Because national securities exchanges and national securities associations may desire to begin trading security futures products prior to the Commissions taking final action on the proposed rule, the SEC staff believes that a proposed rule change filed by a national securities exchange registered under Section 6(a) of the Exchange Act[49] or a national securities association registered pursuant to Section 15A(a) of the Exchange Act[50] regarding listing standards for security futures products would satisfy, in part, the criteria enumerated in Section 6(h)(3)(H) and (K) of the Exchange Act[51] if such listing standards conformed to the proposed rule. Therefore, until such time as the SEC acts on proposed SEC Rule 6h–1, if those proposed listing standards are consistent with proposed SEC Rule 6h–1, the SEC staff would recommend to the SEC that it approve proposed rules to establish listing standards filed by national securities exchanges and national securities associations and would not recommend to the SEC that it abrogate proposed rules to establish listing standards filed by Security Futures Product Exchanges.[52] If, after receiving comment on their proposal, the Commissions determine to adopt a rule that is different from that proposed today, or to not adopt a rule, exchanges and associations would be free, or may be required, to propose changes to their listing standards.

B. Settlement Prices for Cash-Settled Security Futures Products

1. Prior Problems With Closing-Price Settlement Procedures

All currently traded index futures and options are cash-settled. When stock index futures and options began trading in the mid-1980s, virtually all of these products used closing-price settlement procedures. Closing-price settlement procedures in index futures and options generally base the index settlement price on the execution prices from the last regular session trades in the underlying securities. The cash settlement provisions of stock index futures and options contracts facilitated the growth of sizeable index arbitrage activities by firms and professional traders and made it relatively easy for arbitrageurs to buy or sell the underlying stocks at or near the market close on expiration Fridays[53] in order to ''unwind'' arbitrage-related positions. Because of cash settlement, the amount of cash received by an arbitrageur by selling long positions (or the amount of cash paid out to buy or cover short positions) in underlying stocks at the close on expiration Friday would exactly match the amount of cash that would have to be paid out to cover short positions (or received from the sale of long positions) in the expiring index futures or options.

These types of unwinding programs at the close on expiration Fridays often severely strained the liquidity of the securities markets. Because unwinding programs sometimes consisted of large sell (or buy) orders in individual securities, the securities markets often found it extremely difficult to solicit sufficient buy or sell interest to absorb the expiration-related programs within the limited time permitted to establish closing prices shortly after 4:00 p.m. (Eastern). It was not uncommon, therefore, for stock specialists to have to drop share prices sharply at the close to establish sufficient buy-side interest to draw in matching buy orders or to raise prices sharply at the close to establish sufficient sell-side interest to draw in matching sell orders.[54] The time constraints faced by specialists to establish closing prices that would reflect an equilibrium between buy and sell interest resulted in sharp price movements in the indexes underlying the futures or options. In addition, regulators and self-regulators were concerned that the liquidity constraints faced by the securities markets to accommodate expiration-related buy or sell programs at the market close on expiration Fridays could exacerbate ongoing market swings during an expiration and could provide opportunities for entities to anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices.[55]

To reduce such expiration-related strains on market liquidity, the Chicago Mercantile Exchange (''CME'') in 1987 switched from closing-price settlement procedures to opening-price settlement procedures for certain stock index futures. The CME's products included

[44] 15 U.S.C. 78s(b)(3).

[45] *See supra* note 12.

[46] 15 U.S.C. 78*o*–3(k).

[47] 15 U.S.C. 78s(b)(7).

[48] Section 2(a)(1)(D)(i) of the CEA, 7 U.S.C. 2(a)(1)(D)(i); Section 6(h)(3) of the Exchange Act, 15 U.S.C. 78f(h)(3).

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

[50] 15 U.S.C. 78*o*–3(a).

[51] 15 U.S.C. 78f(h)(3)(H) and (K).

[52] *See supra* note 12.

[53] The term ''expiration Fridays'' refers to the third Friday of each month that marks the expiration date for that month's individual stock options, stock index options, and stock index futures contracts. On the expiration date, options and futures contracts cease to exist. Some stock index futures and options expire on a quarterly basis, with their expiration Friday occurring on the third Friday of the last month of the quarter (March, June, September, and December).

[54] Steep discounts (premiums) were necessary in part because traders who bought (sold) stocks to offset unwinding programs had to maintain their newly acquired long (short) positions over the weekend—during which time, they were subject to considerable market risk

[55] The liquidity constraints faced by the securities markets due to unwinding programs used in closing-price settlement procedures were discussed by the SEC staff in its report on the market decline on November 15, 1991. *See* SEC Division of Market Regulation, *Trading Analysis of November 15, 1991* (October 1992) (''*Trading Analysis of November 15, 1991*''). With respect to concerns regarding manipulation, the Commissions note that the Intermarket Surveillance Group (''ISG'') was created under the auspices of the SEC in 1981 as a forum to ensure that national securities exchanges and national securities associations adequately share surveillance information and coordinate inquiries and investigations designed to address potential intermarket manipulations and trading abuses. All national securities exchanges and national securities associations are full members of the ISG. Full members routinely share a great deal of surveillance and investigatory information, and the SEC believes that this framework has proven to be an essential mechanism to ensure that there is adequate information sharing and investigatory coordination for potential intermarket manipulations and trading abuses.

Since 1987, several futures exchanges and non-U.S. exchanges and associations have been affiliate members of the ISG. Affiliate members are required to share information on a more limited basis with the ISG. To fulfill the requirement of the CEA and Exchange Act that listing standards of exchanges and associations trading security futures products ''require procedures be in place for coordinated surveillance among the markets on which the security futures product is traded, any market on which the security underlying the security futures product is traded, and any other markets on which any related security is traded to detect manipulation and insider trading,'' the Commissions believe that it is essential that all such exchanges and associations be full members of the ISG. In view of the essential role that the ISG plays, the Commissions also believe that the ISG should grant full memberships to all national securities exchanges and national securities associations registered pursuant to Section 15A(a) of the Exchange Act trading securities futures products, including Security Futures Product Exchanges, upon a good-faith showing that the entities meet the criteria for full membership.

the industry's most actively traded index futures contract, which was based on the Standard & Poor's 500 Stock Index (''SPX Futures'').[56] Because SPX Futures were employed in the vast majority of index arbitrage trading programs at that time, the adoption of opening-price settlement procedures for these contracts had a significant effect on unwinding programs in the securities markets on SPX Futures' quarterly expirations.

Most other market participants began moving to opening-price settlement procedures for stock index options contracts. For example, the New York Stock Exchange (''NYSE'') and the Chicago Board Options Exchange (''CBOE'') implemented opening-price settlement procedures for certain index options in 1987.[57] Other exchanges adopted similar procedure [58] for some of their index options.[59] Exchanges also incorporated opening-price settlement requirements as part of their listing criteria for index options.[60]

Opening-price settlement procedures offered several features that facilitated the ability of the securities markets to handle expiration-related unwinding programs. For example, the NYSE was able to use its existing electronic order-routing systems and electronic specialist books to process and match incoming unwinding stock orders before the opening of the regular trading session at 9:30 a.m. (Eastern). Specialists could then utilize long-standing procedures to disseminate price indications in an orderly manner before index component stocks opened for trading. Moreover, smaller price discounts or premiums were needed to draw in orders to offset unwinding programs because traders who entered the offsetting orders understood that they would have the remainder of the trading session to trade out of any long or short positions acquired at the opening. As a result, it appears that the widespread adoption of opening-price settlement procedures in index futures and options has served to mitigate the liquidity strains that had previously been experienced in the securities markets on expirations.

2. Requirements for Security Futures Products Using Cash Settlement

In view of the experience gained with settlements in cash-settled stock index futures and options in the 1980s and in light of the potential for manipulation of the underlying securities markets, the Commissions preliminarily believe that it would be prudent, at the outset of trading in these products, to require exchanges specifying cash settlement in lieu of physical delivery for security futures products to use a final settlement price that fairly reflects the opening price of the underlying security or securities as the basis for cash settling positions at contract expiration.[61]

a. Single-Stock Futures

Proposed SEC Rule 6h-1(b) and CFTC Rule 41.25(b)(1) would require that the final settlement price of a cash-settled security futures product based on a single security fairly reflect the opening price of the underlying security.[62] While the emphasis in the proposed rule is on cash settlements based on the opening price(s), the Commissions' proposal would leave national securities exchanges and national securities associations trading security futures products with some flexibility in adopting rules that determine how the opening price is defined for this purpose. For example, under the proposed rule, a national securities exchange or national securities association could define the opening price for a single-stock future as the trade-weighted average price of the underlying security during the first few minutes of trading of a regular trading session. Alternatively, the opening price for a security futures product could be defined as the price reported for the first trade in that security at the beginning of the regular trading session.

Proposed SEC Rule 6h-1(b) and CFTC Rule 41.25(b)(1) also would require that, if an opening price for an underlying security is not readily available, the final settlement price of the overlying cash-settled security futures product must fairly reflect the price of the underlying security during its most recent regular trading session. The Commissions believe that, if the opening price for the underlying security is not readily available, a price derived from the most recent regular trading session of that security would be an appropriate substitute.[63] Again, the Commissions' proposal would provide national securities exchanges and national securities associations with some discretion to implement this general rule without dictating how the

[56] The New York Futures Exchange also shifted its stock index futures to opening-price settlement procedures in 1987.

[57] *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992); *see, e.g.,* Securities Exchange Act Release No. 24367 (April 17, 1987), 52 FR 13890 (April 27, 1987) (approving CBOE proposal to list an option on an index that settled based on the opening prices of component securities); Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (approving CBOE proposal to, among other things, phase out all index options on the Standard & Poor's 500 Stock Index using closing-price settlement procedures); Securities Exchange Act Release No. 24276 (March 27, 1987), 52 FR 10836 (April 3, 1987) (permitting NYSE to base settlement on opening prices for options on two indices); Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23474 (June 22, 1988) (approving NYSE proposal to, among other things, provide for opening-price settlement of stock index options).

[58] *See, e.g.,* Securities Exchange Act Release No. 26653 (March 21, 1989), 54 FR 12705 (March 28, 1989) (approving the American Stock Exchange's (''Amex'') proposal for options on an index using settlement based on opening prices); Securities Exchange Release No. 31330 (October 16, 1992), 57 FR 48408 (October 23, 1992) (approving Amex's proposal to, among other things, phase out certain options where the settlement value upon expiration is based on the closing prices of component securities); Securities Exchange Act Release No. 36236 (September 14, 1995), 60 FR 49031 (September 21, 1995) (approving Pacific Stock Exchange (''PCX'') proposal to revise the terms of certain options contracts from closing-price settlement to opening-price settlement); Securities Exchange Act Release No. 35131 (December 20, 1994), 59 FR 66990 (December 28, 1994) (giving immediate effectiveness to a Philadelphia Stock Exchange's (''Phlx'') proposal regarding options on an index using settlements based on opening prices and satisfying generic listing criteria).

[59] Some index options, such as CBOE's options contracts based on the Standard & Poor's 100 Stock Index (''OEX options'') retained closing-price settlement procedures. CBOE believed that these settlement procedures were appropriate for OEX options because these contracts were used primarily by retail investors and were not actively used in the types of index arbitrage unwinding programs that had strained the liquidity of the securities market at the close on expirations.

[60] *See* Amex Rule 901C, Commentary .02(c) (listing requirements for stock industry index groups pursuant to SEC Rule 19b-4(e)); CBOE Rule 24.2(b)(1) (listing criteria for narrow-based security index options under SEC Rule 19b-4(e)); PCX Rule 7.3(b)(1) (listing criteria for narrow-based security index options); Phlx Rule 1009A(b)(1) (listing criteria for narrow-based security index options pursuant to SEC Rule 19b-4(e)); *see also* Commentary to Phlx Rule 1000A(b)(8) (''For any series of index options first opened after March 30, 1987, the Exchange may, in its discretion, provide that the calculation of the final index settlement value of any index on which options are traded at the Exchange will be determined by reference to the prices of the constituent stocks at a time other than the close of trading on the last trading day before expiration'').

[61] *See* proposed SEC Rule 6h-1(b) and (c) and proposed CFTC Rule 41.25(b).

[62] Proposed SEC Rule 6h-1(a)(1) and CFTC Rule 41.1(j) would define ''opening price'' as the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security. Proposed SEC Rule 6h-1(a)(2) and CFTC Rule 41.1(k) would define the ''regular trading session'' of a security as the normal hours for business of a national securities exchange or national securities association that lists the security.

[63] Although proposed SEC Rule 6h-1(b) and (c) and CFTC Rule 41.25(b)(1) and (b)(2) would not define when an opening price would not be ''readily available,'' national securities exchanges and national securities associations would have to establish, as part of their listing standards, rules that interpret this term. The Commissions' overriding concern is that settlement prices for cash-settled security futures products be established in a fair and predictable manner.

settlement price for a security futures product is derived. For example, while one national securities exchange or national securities association may decide to establish rules that would use the closing price from the most recent regular trading session if an opening price for a security underlying a security futures product is not readily available, another exchange or association could establish rules that would use a trade-weighted average over some portion of that session in such circumstances.

The Commissions do not believe at present that national securities exchanges and national securities associations should trade security futures products that settle at prices established by other than the most recent regular trading session. The Commissions believe that the final settlement price for a cash-settled single-stock future should reasonably reflect the opening price of the underlying security or, if that is not readily available, a price fairly reflective of the price in a liquid market for the underlying security. The Commissions believe that a price derived from the regular trading session of the national securities exchange or national securities association that lists the underlying security would have the greatest likelihood of reflecting the most reasonable price for that security, unlike a price generated from an extended trading hours session.

b. Narrow-Based Security Index Futures

Proposed SEC Rule 6h-1(c) and CFTC Rule 41.25(b)(2) would require, absent an exemption, national securities exchanges and national securities associations to establish that the final settlement price of a cash-settled narrow-based security index future reflect the opening prices of the underlying securities. As with single-stock futures, the Commissions are proposing that, if prices for one or more underlying securities were not readily available, the settlement prices for those securities would be derived from their most recent regular trading session. For the securities that did open normally, the settlement prices would be their respective opening prices.

c. Exemption

Proposed paragraph (f) of SEC Rule 6h-1 and paragraph (b)(3) of CFTC Rule 41.25 would permit the Commissions to grant a national securities exchange or national securities association an exemption from the above requirements.[64] The SEC would grant such an exception, either conditionally or unconditionally, if it were necessary or appropriate in the public interest, and consistent with the protection of investors.[65] The CFTC would grant such an exemption if the CFTC determines that it would be consistent with the public interest, the protection of investors, and otherwise furthers the provisions of the CEA.[66]

d. Request for Comments Relating to Final Settlement Prices

The Commissions welcome comment on all aspects of the proposed rule as they relate to final settlement prices for cash-settled security futures products, including the following matters:

Q1. Commenters are requested to submit their views on whether cash-settled security futures products should be permitted to trade with closing-price settlement procedures. If so, commenters are asked to provide policy arguments in support of their views.

Q2. If commenters believe that cash-settled security futures products should be permitted to settle at the closing price, what characteristics of security futures products would justify a determination that the liquidity pressures on the underlying securities market, associated with closing-price settlement procedures in index futures, would not present opportunities for manipulative activities in security futures products and their underlying securities?

Q3. Are there any additional safeguards that would be appropriate for security futures product cash settlement procedures to ensure that the anti-manipulation mandates in Section 2(a)(1)(D)(i)(VII) of the CEA and Section 6(h)(3)(H) of the Exchange Act are satisfied?

Q4. Would any additional safeguards for cash settlement procedures for security futures products be appropriate to promote the maintenance of fair and orderly markets under the Exchange Act?

Q5. In view of the use of opening-price settlement procedures in most actively traded index futures, what characteristics of security futures products and the manner in which they trade would indicate that opening-price settlement procedures would be inappropriate or unworkable for security futures products?

Q6. Should the proposed rule provide national securities exchanges or national securities associations any additional flexibility to determine settlement prices when the regular session opening prices are not readily available in one or more of the underlying securities?

Q7. Should the proposed rule require the use of only closing prices from the most recent trading session when regular session opening prices are not readily available in one or more of the underlying securities?

C. Regulatory Halts

1. Background

Generally, there are two types of regulatory halts used in the equity and options markets: news pending halts and circuit breaker halts. News pending halts are designed to protect the interests of current and potential shareholders by facilitating the orderly dissemination of potentially market moving information and the discovery of fair and reasonable prices for securities based on new information. A news pending halt benefits current and potential shareholders by halting all trading in the securities until there has been an opportunity for the information to be disseminated to the public. It also helps to ensure public confidence in the market and promotes the integrity of the marketplace by giving the public an opportunity to evaluate information in making investment decisions. Circuit breakers are brief, coordinated cross-market trading halts used by the major stock, options, and index futures markets to mitigate systemic stress when a severe one-day market drop of historic proportions prevents the financial markets from operating in an orderly manner.[67]

a. News Pending Halts

Currently, national securities exchanges and national securities associations may impose brief trading halts in specific securities pending the release of material information that would reasonably be expected to affect the prices of those securities.[68] Trading

[64] *See* proposed SEC Rule 6h-1(f), and proposed CFTC Rule 41.25(b)(3).

[65] *See* Section 36 of the Exchange Act, 15 U.S.C. 78mm. In granting the SEC broad exemptive authority in Section 36, Congress intended to incorporate flexibility into the Exchange Act regulatory scheme to reflect a rapidly changing marketplace. *See* H.R. Rep. No. 104–622 (1996).

[66] Section 8a(5) of the CEA allows the CFTC to make and promulgate such rules and regulations as, in the judgment of the CFTC, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA. 7 U.S.C. 12a(5). The CFTC believes that granting an exemption to the use of opening prices for cash settlement is consistent with Section 8a(5) of the CEA, so long as the exemption is consistent with the public interest, the protection of investors, and otherwise furthers the provisions of the CEA.

[67] *See* Circuit Breaker Report, *supra* note 33.

[68] *See, e.g.,* Amex, Listing Standards, Policies and Requirements, Section 402(b); Boston Stock Exchange (''BSE'') Rules of the Board of Governors, Supplement to Chapter XXVII, Section 4; National

Continued

halts give investors an opportunity to learn of and react to material news. The NYSE and Amex, for example, follow procedures for regulatory halts contained in the Consolidated Tape Association Plan (''CTA Plan'').[69] Under the CTA Plan, a regulatory halt occurs whenever the listing market (termed the ''primary market'') for any eligible security, in the exercise of its regulatory functions, halts or suspends trading in the security because the primary market has determined (i) that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or (ii) that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue.[70] The Commissions preliminarily believe that it may be appropriate to include this definition of a news pending regulatory halt under the proposed rule [71] because the exchanges already have experience in applying the requirement. When a regulatory trading halt is initiated by the primary market for a security, the regional exchanges and Nasdaq Intermarket also halt trading in the security, and the options exchanges halt trading in related options. The options exchanges also halt trading in an equity option when the underlying security has ceased trading.[72]

The options markets also have in place rules regarding trading halts on index options.[73] Several of the options markets will halt trading when, for example, a certain fixed percentage of the index halts trading or when it is appropriate in the interests of a fair and orderly market and to protect investors. For example, trading on the PCX in any index option is halted whenever trading in underlying securities whose weighted value represents more than 20 percent of the value of a broad-based index or 10 percent of the value of other indices is halted.[74]

b. Circuit Breaker Halts

The Commissions approved various exchanges' circuit breaker proposals in response to the October 1987 market break to permit these brief, coordinated cross-market halts to provide opportunities during a severe market decline to reestablish an equilibrium between buying and selling interests in an orderly fashion, and help to ensure that market participants have a reasonable opportunity to become aware of, and respond to, significant price movements.[75] The coordinated cross-market trading halts provided by circuit breaker procedures are designed to operate only during significant market declines and to substitute orderly, pre-planned halts for the *ad hoc* and destabilizing halts which can occur when market liquidity is exhausted.[76] Currently, all stock exchanges and the NASD have rules or policies to implement coordinated circuit breaker halts.[77] The options markets also have rules applying circuit breakers.[78] Finally, the index futures exchanges have adopted circuit breaker halt procedures in conjunction with their price limit rules [79] for index products.[80]

The current circuit breaker procedures call for cross-market trading halts when the Dow Jones Industrial Average (''DJIA'') declines by 10 percent, 20 percent, and 30 percent from the previous day's closing value. At the beginning of each quarter, the markets use the average closing value of the DJIA for the previous month to establish specific point-decline triggers for the quarter.[81] Specifically, a one-hour cross-market halt will be implemented if the DJIA declines by 10 percent prior to 2 p.m., and a one-half hour halt will be implemented if the DJIA declines by 10 percent between 2 p.m. and 2:30 p.m.[82] If the DJIA declines by 10 percent at or after 2:30 p.m., trading generally will not halt when the 10 percent level is reached. If the DJIA declines 20 percent prior to 1 p.m., trading will halt for two

Association of Securities Dealers (''NASD'') Rule 4120; and NYSE Listed Company Manual, Sections 202.06 and 202.07.

[69] *See* Securities Exchange Act Release No. 41315 (April 20, 199), 64 FR 23142 (April 29, 1999) (noting that the NYSE follows the CTA Plan when instituting a regulatory halt); and Securities Exchange Act Release No. 41877 (September 14, 1999), 64 FR 51566 (September 23, 1999) (noting that Amex follows the CTA Plan when instituting a regulatory halt); *see also* CTA Plan (Second Restatement), Section XI(a). The CTA Plan is a joint industry plan that governs the consolidated transaction reporting system, and each of the participants agrees to comply with the provisions of the plan. Recognizing the importance of disseminating information with respect to trading halts in certain securities, the CTA Plan imposes notification obligations upon the primary market whenever a regulatory halt occurs.

[70] *See* CTA Plan (Second Restatement), Section XI(a). For example, an event that may qualify under this standard and call for a regulatory halt is when it is unclear whether a security continues to meet the listing standards of the market on which the security is listed.

[71] *See* proposed SEC Rule 6h–1(a)(3) and proposed CFTC Rule 41.1(1).

[72] The rules of the options exchanges generally provide for halts in options whenever it is appropriate in the interests of a far and orderly market and to protect investors. *See* Amex Rule 918(b); CB0E Rule 6.3(a) and .04 of the Interpretations and Policies of CBOE Rule 6.3; International Securities Exchange (''ISE'') Rule 702; PCX Rule 6.65(a); and Phlx Rule 1047(b).

[73] *See* Amex Rule 918C(b)(3); CBOE Rule 24.7; PCX Rule 7.11; and Phlx Rule 1047A(c).

[74] *See* PCX Rule 7.11. Similarly, under Phlx Rule 1047A(c), trading in any index option may be halted whenever trading on the primary market in underlying securities representing more than 10 percent of the current index value is halted or suspended, and there is approval from two floor officials and the concurrence of a market regulation officer. *See* Phlx Rule 1047A(c).

[75] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988) (Amex, CBOE, NASD, NYSE).

[76] *See* Circuit Breaker Report, *supra* note 33.

[77] *See* Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (order approving proposals by Amex, BSE, Chicago Stock Exchange (''CHX''), NASD, NYSE, and Phlx). *See also* Amex Rule 117; BSE, Rules of the Board of Governors, Section 34A; CHX Rule 10A; Cincinnati Stock Exchange (''CSE'') Rule 12.11; NYSE Rule 80B; PCX Rule 4.22 (a), (b), and (c); and Phlx Rule 133. CSE Rule 12.11 gives the chairman or the president of the CSE the power to suspend trading whenever he or she believes that such suspension would be in the public interest, which has been interpreted as requiring the CSE, as a matter of policy, to halt trading in all equities traded on the CSE in conjunction with halted trading at all other U.S. equity and equity-related markets. *See* Securities Exchange Act Release No. 26440 (January 10, 1989), 54 FR 1830 (January 17, 1989). The NASD also recognizes the risks imposed on any single market that remains open while all other U.S. markets have halted trading in response to extraordinary price movements, and maintains a market closing policy to halt, upon SEC request, all domestic trading in both securities listed on the Nasdaq Stock Market and all equity and equity-related securities trading in the over-the-counter market should other major securities markets initiate market-wide trading halts in response to extraordinary market conditions. *See* NASD Rule 4120; NASD IM–4120–4. The SEC notes that it has a standing request with the NASD to halt trading as quickly as practicable whenever the NYSE and other equity markets have suspended trading. *See* Securities Exchange Act Release No. 39582 (January 26, 1998), 63 FR 5408 (February 2, 1998).

[78] *See* Amex Rule 950 (applying Amex Rule 117, Trading Halts Due to Extraordinary Market Volatility, to options transactions); CBOE Rule 6.3B; ISE Rule 703; PCX Rule 4.22 (which applies to options contracts through Rules 6.1(a) and (e)); and Phlx Rule 133.

[79] A price limit, in itself, does not halt trading in the futures, but prohibits trading at prices below the pre-set limit during a price decline. Intraday price limits are removed at pre-set times during the trading session, such as ten minutes after the thresholds are reached or at 3:30 p.m., whichever is earlier. Daily price limits remain in effect for the entire trading session. Specific price limits are set for each stock index futures contract. There are no price limits for U.S. stock index options, equity options, or stocks.

[80] *See, e.g.,* CME Rule 4002.I. The CME will implement a circuit breaker trading halt in SPX Futures if the 10 percent circuit breaker halt has been imposed in the securities markets and the futures are ''locked'' at their 10 percent price limit. Trading will not reopen in SPX Futures until the circuit breaker halt has been lifted in the securities markets and trading has resumed in stocks comprising at least 50 percent of the index capitalization. The CME will implement another circuit breaker trading halt in SPX Futures if the 20 percent circuit breaker halt has been imposed in the securities markets and the futures are locked at their 20 percent price limit. Once again, trading will not reopen in SPX Futures until the circuit breaker halt has been lifted in the securities markets and trading has resumed in stocks comprising at least 50 percent of the index capitalization.

[81] *See* Circuit Breaker Report, *supra* note , p. 2.

[82] *See, e.g.,* NYSE Rule 80b.

hours; trading will halt for one hour if the DJIA declines 20 percent between 1 p.m. and 2 p.m.; and trading will halt for the remainder of the day if a 20 percent decline occurs at or after 2 p.m. If the DJIA declines 30 percent at any time, trading will halt for the remainder of the day.

2. Trading Halt Coordination in Security Futures Products

As discussed above, Section 2(a)(1)(D)(i)(X) of the CEA [83] and Section 6(h)(3)(K) of the Exchange Act [84] provide that listing standards for security futures products must require procedures to ''coordinate'' trading halts between the market that trades the security futures product, the market that lists and trades the underlying security, and other markets on which any related security is traded. Proposed SEC Rule 6h–1 and CFTC Rule 41.25(a)(2) would help assure such coordination, as well as preserve the investor protection and market integrity provisions of regulatory halt procedures in the securities markets.

a. Trading Halt Coordination in Single-Stock Futures

Specifically, proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would require national securities exchanges and national securities associations to halt trading in a single-stock future while a regulatory halt has been implemented by the listing market for the underlying security.[85]The halt in the security futures product market would have to occur during the same time as a regulatory halt instituted on the listing market. Thus, if the listing market halted trading in a security for 30 minutes, the security futures product market could not institute a halt and then reopen trading in the security futures product after two minutes. The Commissions believe that the purpose of halting trading in the underlying security would be frustrated if market participants could circumvent this halt by trading during the halt in the related security futures product.[86]

b. Trading Halt Coordination in Narrow-Based Security Index Futures

Proposed SEC Rule 6h–1(e) and CFTC Rule 41.25(a)(2)(ii) would also require national securities exchanges and national securities associations to halt trading under certain circumstances in a security futures product based on a narrow-based security index. Although broad-based security indices have large numbers of component securities, so that it is extremely unlikely that news pending regulatory halts would be imposed simultaneously in securities representing a significant portion of any index, this may not be the case with all narrow-based security indexes. Accordingly, the proposal would require trading to be halted in a narrow-based security index futures product when securities representing 30 percent or more of the market capitalization of the narrow-based security index [87]are subject to a regulatory halt.[88]

The Commissions do not believe that trading of a security futures product based on a narrow-based security index should necessarily be halted because a trading halt has been instituted for only one, low-weighted component security. However, regulatory halts of components could affect a sufficiently large portion of an index to make continued trading of the security futures product a means to improperly circumvent regulatory halts in the underlying securities. For example, if a security futures product is based on a narrow-based security index consisting of two stocks and regulatory halts have been imposed by the listing market in one of the component stocks for pending news, the halt would be undermined if trading continued in the security futures product, because the security represents a substantial portion of the index value. Under these circumstances, the Commissions do not believe that trading halt procedures would be coordinated, as contemplated by Section 2(a)(1)(D)(i)(X) of the CEA [89] and Section 6(h)(3)(K) of the Exchange Act,[90] if the security futures product continued to trade while investors were precluded from trading the underlying securities. Moreover, the SEC believes that continued trading in the security futures product under these circumstances could undercut key provisions in the securities laws designed to protect investors and promote the fair and orderly operation of the markets.

The Commissions preliminarily believe that the 30 percent threshold is appropriate because it appears to be sufficiently large to avoid imposing trading halts in security futures products unnecessarily when halts have been implemented in a few isolated underlying securities. In addition, the Commissions believe that the proposed 30 percent threshold is consistent with the definition of ''narrow-based security index'' under the CEA and the Exchange Act.[91] In general, indexes in which a component security is more than 30 percent of an index's weighting are considered narrow-based and, therefore, futures on such indexes are ''securities.'' This 30 percent threshold represents, in part, a determination by Congress as to when an index becomes so highly concentrated in one security that trading in a future on that index becomes a surrogate for trading in the underlying security. For this reason, the Commissions preliminarily believe that when trading is halted in a component security or securities of an index that represent 30 percent or more of that index's weighting, trading should also be halted in the futures overlying that index.

c. Request for Comments Relating to Trading Halts

The Commissions welcome comment on all aspects of the proposed rule as it relates to trading halts for security futures products, including the following matters:

Q8. Do commenters believe that there are circumstances in which permitting a single stock futures product to trade while the underlying security is subject to a regulatory halt in the listing market would be consistent with the mandate

[83] 7 U.S.C. 2(a)(1)(D)(i)(X).

[84] 15 U.S.C. 78f(h)(3)(K).

[85] Proposed SEC Rule 6h–1(a)(3) and CFTC Rule 41.1(l) would define ''regulatory halt'' as a delay, halt, or suspension in the trading of a security that is instituted by the national securities exchange or national securities association that lists the security, as a result of: (i) pending news, or (ii) the operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

[86] The trading halt provisions of proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would not be exclusive. The proposed rule is not designed to preclude a market trading security futures products from halting trading for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[87] The Commissions jointly proposed rules to establish the method of determining the market capitalization of a narrow-based security index. *See* Securities Exchange Act Release No. 44288 (May 10, 2001), 66 FR 27560 (May 17, 2001).

[88] As with proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i), the trading halt provisions of proposed SEC Rule 6h–1(e) and CFTC Rule 41.25(a)(2)(ii) would not be exclusive. The proposed rule is not designed to preclude a market trading security futures products based on narrow-based security indexes from halting trading at a threshold of less than 30% of the market capitalization of the index or for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[89] 7 U.S.C. 2(a)(1)(D)(i)(X).

[90] 15 U.S.C. 78f(h)(3)(K).

[91] *See* Section 3(a)(55) of the Exchange Act, 15 U.S.C. 78c(a)(55), and Section 1a(25) of the CEA, 7 U.S.C. 1a(25). The Commissions jointly proposed rules to establish the method of determining the market capitalization of a narrow-based security index. *See supra* note 87.

in Section 2(a)(1)(D)(i)(X) of the CEA [92] and Section 6(h)(3)(K) of the Exchange Act,[93] requiring a national securities exchange or national securities association on which security futures products trade to have procedures to coordinate trading halts with the listing market of the underlying security?

Q9.If a regulatory halt is in place for securities representing 30 percent or more of a narrow-based security index's capitalization, do commenters believe that there are circumstances in which permitting a security futures product based on such an index to trade would be consistent with the mandate in Section 2(a)(1)(D)(i)(X) of the CEA [94] and Section 6(h)(3)(K) of the Exchange Act,[95] requiring a national securities exchange or national securities association on which security futures products trade to have procedures to coordinate trading halts with the listing market of the underlying security? Do commenters recommend using a higher or lower threshold percentage of an index's capitalization before an index future must halt trading?

Q10. If so, would trading halts in securities representing a larger percentage of the index capitalization warrant a halt in the overlying narrow-based security index future? For example, would halts in underlying securities representing 50 percent [96] of the index capitalization warrant a halt in trading the narrow-based security index future?

Q11. If continued trading in security futures products were permitted even if halts had been instituted for most or all of the underlying securities, would this put additional price pressure on the underlying security or securities when reopenings are attempted after the halts were lifted? How would this promote the maintenance of fair and orderly markets under the Exchange Act?

Q12. Is the proposed definition of ''regulatory halt'' sufficient to address all instances in which trading in security futures products should halt when trading is unavailable in the underlying security?

Q13. Do commenters believe that the Commissions should apply a standard, other than a percentage threshold of an index's capitalization, in determining whether a trading halt is appropriate for a narrow-based security index?

III. Request for Comments

The Commissions solicit comments on all aspects of proposed CFTC Rule 41.25(a)(2) and 41.25(b) under the CEA and proposed SEC Rule 6h–1 under the Exchange Act. In addition to the questions posed above, commenters are welcome to offer their views on any other matter raised by the proposed rule.

IV. Paperwork Reduction Act

CFTC: The Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. 3501 *et seq.*) imposes certain requirements on federal agencies (including the CFTC) in connection with their conducting or sponsoring any collection of information as defined by the PRA. This proposed rulemaking contains information collection requirements within the meaning of the PRA. The CFTC has submitted a copy of this part to the Office of Management and Budget (''OMB'') for its review in accordance with 44 U.S.C. 3507(d).

Collection of Information: Part 41, Relating to Security Futures Products, OMB Control Number 3038–XXXX.

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number. The CFTC is currently requesting a control number for this information collection from OMB.

As noted above, the CFMA lifted the ban on trading single stock and narrow-based stock index futures and established a framework for the joint regulation of these products by the CFTC and the SEC. In addition, the CFMA amended the CEA and the Exchange Act by adding a definition of ''narrow-based security index,'' which establishes an objective test of whether a security index is narrow-based.[97] Futures contracts on security indexes that meet the statutory definition are jointly regulated by the CFTC and the SEC. Futures contracts on indexes that do not meet the statutory definition remain under the sole jurisdiction of the CFTC.

The effect of proposed CFTC Rule 41.25(a)(2) and 41.25(b) will be to increase the burden previously submitted to OMB by 68 hours resulting from the preparation of materials to be filed with the CFTC in connection with the listing of security futures products by designated contract markets and registered derivatives transaction execution facilities.

The estimated burden of proposed CFTC Rule 41.25(a)(2) and 41.25(b) was calculated as follows:

Estimated number of respondents: 17.
Total annual responses: 850.
Estimated average number of hours per response: .08.
Estimated total number of hours of annual burden: 68.

This annual reporting burden represents an increase of 68 hours as a result of the proposed new rule.

It should be noted that proposed CFTC Rule 41.25(a)(2) and 41.25(b) is part of a larger proposed rulemaking that will require designated contract markets and registered derivatives transaction execution facilities to certify that they meet the listing standards criteria of part 41. Specifically, proposed CFTC Rule 41.23 will require that before these boards of trade list a new security futures product for trading, they certify that they comply with a number of listing standards set forth in proposed CFTC Rule 41.22, as well as the additional conditions for trading set forth in proposed CFTC Rule 41.25. In a previous notice of proposed rules, the CFTC estimated that the burden of each submission under proposed CFTC Rule 41.23 would be approximately one (1) hour. The extra burden imposed on designated contract markets and registered derivatives transaction execution facilities in certifying that they meet the criteria of proposed CFTC Rule 41.25(a)(2) and 41.25(b) should be minimal, since this certification will be a part of a larger certification. Nevertheless, the CFTC estimates that the additional burden imposed by this rule will create a burden of no more than .08 hours (approximately five (5) minutes) per response.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

The CFTC considers comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the CFTC, including whether the information will have a practical use;
- Evaluating the accuracy of the CFTC's estimate of the burden of the

[92] 7 U.S.C. 2(a)(1)(D)(i)(X).

[93] 15 U.S.C. 78f(h)(3)(K).

[94] 7 U.S.C. 2(a)(1)(D)(i)(X).

[95] 15 U.S.C. 78f(h)(3)(K).

[96] The Commissions note that, following a circuit breaker trading halt in SPX Futures on the CME, trading would not reopen until the circuit breaker halt has been lifted in the securities markets, and trading has resumed in stocks comprising at least 50 percent of the index capitalization. *See supra* note 80.

[97] *See* Section 1a(25)(A) of the CEA, 7 U.S.C. 1a(25)(A); Section 3(a)(55)(B) of the Exchange Act, 15 U.S.C. 77c(a)(55)(B).

proposed collection of information, including the validity of the methodology and assumptions used;

• Enhancing the quality, usefulness, and clarity of the information to be collected; and

• Minimizing the burden of 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).

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the CFTC on the proposed regulation. Copies of the information collection submission to OMB are available from the CFTC from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

SEC: Certain provisions of the proposed rule contain ''collection of information requirements'' within the meaning of the PRA.[98] Accordingly, the SEC submitted the collection of information requirements to the OMB for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. The SEC is revising the collection of information titled ''Rule 19b–4 and Form 19b–4,'' OMB Control No. 3235–0045. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The Exchange Act, as amended by the CFMA, provides that a national securities exchange or national securities association may trade security futures products only if the listing standards for such products conform with the requirements set forth in Section 6(h)(3) of the Exchange Act.[99] These listing standards must, among other things, require that: (1) trading in security futures products not be readily susceptible to price manipulation,[100] and (2) the exchange or association on which the security futures product is traded has in place procedures to coordinate trading halts with the market listing the security or securities underlying the security futures product.[101] To further these statutory mandates, the SEC is proposing SEC Rule 6h–1, which would provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish: (1) A final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities rather than the closing price, on the grounds that settlement based on the closing price creates greater volatility and more opportunity for price manipulation; and (2) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product.

The SEC anticipates that national securities exchanges and national securities associations that wish to trade security futures products would file with the SEC proposed rule changes, pursuant to Section 19(b) of the Exchange Act,[102] to establish listing standards that are consistent with the requirements set forth in Section 6(h)(3) of the Exchange Act.[103] The SEC would review the proposed rule changes submitted by national securities exchanges and national securities associations in the manner prescribed by Section 19(b) of the Exchange Act.[104] In addition, the SEC would publish these proposed rule changes to afford the public an opportunity to comment on the listing standards adopted by exchanges and associations with respect to security futures products. The SEC estimates that there would be 17 respondents to the proposed rule: 9 currently registered national securities exchanges, 1 national securities association (the NASD) that operates a securities market (Nasdaq), and an estimated 7 futures markets that are expected to register as Security Futures Product Exchanges. The information collected pursuant to proposed SEC Rule 6h–1 would not be kept confidential and would be publicly available.

The SEC estimates the paperwork burden for each respondent, to comply with proposed SEC Rule 6h–1 would be 10 hours of legal work at $128/hour,[105] for a total cost of $1280 per respondent. The SEC estimates that the total burden on all respondents would be 170 hours (10 hours/response × 17 respondents × 1 response/respondent), for a total cost of $21,760 ($1280/response × 17 respondents × 1 response/respondent). These burdens would be incurred on a one-time basis and would not recur.

As set forth in SEC Rule 17a–1,[106] a national securities exchange or national securities association is required to retain records of the collection of information for at least five years, the first two years in an easily accessible place. However, Rule 17a–1 requires a Security Futures Product Exchange to retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[107]

Pursuant to 44 U.S.C. 3506(c)(2)(B), the SEC solicits comments to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information would have practical utility;

(2) Evaluate the accuracy of the SEC's estimate of the burden of the proposed collections of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements proposed above should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (2) Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549–0609, with reference to File No. S7–15–01.

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The SEC has submitted the proposed collections of information to OMB for approval. Requests for the materials submitted to OMB by the SEC

[98] 44 U.S.C. 3501 *et seq.*

[99] 15 U.S.C. 78f(h)(3).

[100] *See* 15 U.S.C. 78f(h)(3)(H).

[101] *See* 15 U.S.C. 78f(h)(3)(K).

[102] 15 U.S.C. 78s(b).

[103] 15 U.S.C. 78f(h)(3).

[104] 15 U.S.C. 78s(b).

[105] The estimated rate of $128 per hour is derived from the SIA Management and Professional Earnings, Table 107 (Attorney, New York), and includes a 35 percent differential for bonus, overhead, and other expenses.

[106] 17 CFR 240.17a–1.

[107] *See* 15 U.S.C. 78q(b)(4)(B).

with regard to these collections of information should be in writing, refer to File No. S7–15–01, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 5th Street, NW, Washington, DC 20549.

V. Costs and Benefits of the Proposed Rulemaking

CFTC: Section 15 of the CEA requires the CFTC to consider the costs and benefits of its action before issuing a new regulation.[108] The CFTC understands that, by its terms, section 15 does not require the CFTC to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Nor does it require that each proposed rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, section 15 simply requires the CFTC to ''consider the costs and benefits'' of its action.

Section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the CFTC could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rule constitutes one part of a package of related rule provisions. The rule provides guidance and establishes procedures for trading facilities in order to facilitate compliance with governing laws related to security futures products.

The CFTC has considered the costs and benefits of the proposed rule as a totality, in light of the specific areas of concern identified in section 15. The proposed rule should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets or on the risk management practices of trading facilities or others. The proposed rule also should have no material effect on the protection of market participants and the public and should not impact the efficiency and competition of the markets.

Accordingly, the CFTC has determined to propose the rule discussed above. The CFTC invites public comment on the application of the cost-benefit provision of section 15 of the CEA in regard to the proposed rule. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposed rule.

SEC: The CFMA [109] authorizes the trading of futures on individual stocks and narrow-based security indexes, and puts, calls, straddles, options, or privileges thereon (collectively, ''security futures products'').[110] The CFMA requires, among other things, that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security or option thereon.[111] In addition, listing standards must require that the market on which the security futures product trades has in place procedures to coordinate trading halts between such market and any market on which any security underlying the security futures product is traded and other markets on which any related security is traded.[112]

Accordingly, the SEC is proposing new SEC Rule 6h–1 under the Exchange Act generally to provide that the listing standards of national securities exchanges and national securities associations trading security futures products establish (1) a final settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and (2) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product.[113]

Specifically, proposed SEC Rule 6h–1(a) would provide the definitions of the terms ''opening price,'' ''regular trading session,'' and ''regulatory halt.'' [114] Proposed SEC Rule 6h–1(b) would require that the settlement price of a cash-settled security futures product based on a single security fairly reflect the opening price of the underlying security.[115] Similarly, proposed SEC Rule 6h–1(c) would require that the settlement price of a cash-settled security futures product based on a narrow-based security index fairly reflect the opening prices in the index's underlying securities.[116] Furthermore, the SEC is proposing SEC Rule 6h–1(d) to require that trading on a security futures product based on a single security be halted at all times that a regulatory halt has been instituted by the listing market due to pending news or the operation of circuit breaker procedures for the underlying security.[117] Likewise, proposed SEC Rule 6h–1(e) would require that trading of a security futures product based on a narrow-based security index be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.[118]

The SEC is considering the costs and benefits of proposed SEC Rule 6h–1 and requests comment on all aspects of this cost-benefit analysis, including identification of additional costs or benefits of the proposed rule. The SEC encourages commenters to identify, discuss, analyze, and supply relevant data concerning the proposed rule.

A. Benefits of Proposed SEC Rule 6h–1 Under the Exchange Act

Proposed SEC Rule 6h–1(a) would define the terms ''opening price,'' ''regular trading session,'' and ''regulatory halt,'' and, therefore, the SEC preliminarily believes that there would be no costs imposed on the respondents arising from proposed SEC Rule 6h–1(a). However, in providing the definitions of the relevant terms, the SEC preliminarily believes that proposed SEC Rule 6h–1(a) should benefit respondents by providing legal certainty to respondents when complying with the rule.

The SEC also preliminarily believes that the provisions for cash-settled security futures products under proposed SEC Rule 6h–1(b) and (c) is necessary to minimize opportunities for intermarket manipulations and to promote the fair and orderly operation

[108] 7 U.S.C. 19.

[109] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[110] However, no person may offer to enter into, enter into, or confirm the execution of any option on a security future for at least three years after the enactment of the CFMA. *See* Section 2(a)(1)(D)(iii) of the CEA, 7 U.S.C. 2(a)(1)(D)(iii); Section 6(h)(6) of the Exchange Act, 15 U.S.C. 78f(h)(6).

[111] *See* Section 2(a)(1)(D)(i)(VII) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII); Section 6(h)(3)(H) of the Exchange Act, 15 U.S.C. 78f(h)(3)(H).

[112] *See* Section 2(a)(1)(D)(i)(X) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(X); Section 6(h)(3)(K) of the Exchange Act, 15 U.S.C. 78f(h)(3)(K).

[113] Proposed SEC Rule 6h–1.

[114] Proposed SEC Rule 6h–1(a).

[115] Proposed SEC Rule 6h–1(b).

[116] Proposed SEC Rule 6h–1(c).

[117] Proposed SEC Rule 6h–1(d).

[118] Proposed SEC Rule 6h–1(e).

of the securities markets. In particular, opening-price settlement procedures appear to be necessary to satisfy the provisions of Section 2(a)(1)(D)(i)(VII) of the CEA [119] and Section 6(h)(3)(H) of the Exchange Act [120] that listing standards for security futures products must require that trading in a security futures product not be readily susceptible to manipulation of the price of such product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.

Furthermore, the SEC preliminarily believes that using opening-price settlement procedures should avoid the problems caused by arbitrageurs unwinding large arbitrage-related positions at the market close on expiration Fridays that would severely strain the liquidity of the securities markets. Closing-price settlement procedures often made it extremely difficult for the securities markets to solicit sufficient buy or sell interest to match up with the expiration-related programs that often created buy or sell imbalances within the limited time permitted to establish closing prices shortly after 4:00 p.m. (Eastern). Therefore, it was not uncommon for stock specialists to drop share prices sharply at the close in order to provide sufficient discounts to draw in matching buy orders or raise prices sharply at the close to provide sufficient premiums to draw in matching sell orders. Furthermore, closing-price settlement procedures imposed time constraints on specialists to establish closing prices that would result in an equilibrium between buy and sell interest, which in turn produced sharp price movements in the indexes underlying the index futures or options contracts. In addition, the SEC preliminarily believes that the liquidity constraints associated with expiration-related buy or sell programs at the close on expiration Fridays would aggravate ongoing market swings during an expiration and provide opportunities for entities to anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices.[121]

The SEC preliminarily believes that proposed SEC Rule 6h–1(b) and (c), which require opening-price settlement procedures for cash-settled security futures products, should facilitate the ability of the securities markets to handle expiration-related unwinding programs and should mitigate the liquidity strains that had previously been experienced in the securities markets on expirations. It is likely that smaller price discounts or premiums will be needed to draw in orders to offset unwinding programs since traders who enter the offsetting orders will have the remainder of the trading session to trade out of any long or short positions acquired at the opening.

Furthermore, the SEC preliminarily believes that the language of the proposed rule will provide national securities exchanges and national securities associations with flexibility in establishing the procedures for determining the opening price at which to settle for a particular security futures product. For instance, a national securities exchange or a national securities association would be free to define the opening price as a trade-weighted average price of the underlying security during the first few minutes of trading of a regular trading session or the price reported for the first trade in the underlying security at the beginning of the regular trading session. In addition, proposed SEC Rule 6h–1(b) and (c) also would require that, if an opening price for an underlying security is not readily available, the settlement price of the overlying cash-settled security futures product or the cash-settled narrow-based security index future must fairly reflect the price of the underlying security or securities during its most recent regular trading session. Again, the proposal would provide national securities exchanges and national securities associations with some discretion to implement this general rule without dictating how the settlement price is derived for a security futures product.

Further, the SEC believes that the exemption provided for in proposed SEC Rule 6h–1(f), which allows the SEC to provide exemptions from this section,[122] would provide national securities exchanges and national securities associations with sufficient flexibility to use a price outside of the opening price for cash settled security futures products. Accordingly, proposed SEC Rule 6h–1(f) would benefit national securities exchanges and national securities associations by providing them with flexibility in responding to changing market conditions, as well as provide the SEC with continued oversight over the respondents by granting an exemption when it is necessary or appropriate in the public interest and is consistent with the protection of investors.

Proposed SEC Rule 6h–1(d) and (e) would require trading to be halted on security futures products at all times that a regulatory halt has been instituted for the underlying security or for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index. The proposal would help preserve the investor protection and market integrity provisions of regulatory halt procedures in the securities markets. The SEC preliminarily believes that the close relationship between the underlying security or securities and the pricing of the overlying security futures product generally justifies a regulatory halt of the security futures product at all times that a regulatory halt has been instituted for the underlying security or securities.[123]

With respect to regulatory halts due to pending news, proposed SEC Rule 6h–1(d) and (e) would benefit current and potential shareholders by providing an opportunity for material information about the underlying security or securities to be disseminated to the public. Pending news development may have a significant effect on trading, and the SEC believes that all investors should have an opportunity to learn of and react to material information in order to make informed investment judgments.[124] Accordingly, such news pending regulatory halts would foster public confidence in the market and promote the integrity of the market place. Furthermore, the SEC preliminarily believes that requiring an exchange or association to halt trading on a security futures product at all times that a regulatory halt has been instituted for the underlying security or securities should contribute to the maintenance of an efficient market.

[119] 7 U.S.C. 2(a)(1)(D)(i)(VII).

[120] 15 U.S.C. 78f(h)(3)(H).

[121] The liquidity constraints faced by the securities markets due to unwinding programs used in closing-price settlement procedures were discussed by the SEC staff in its report on the market decline on November 15, 1991. *See Trading Analysis of November 15, 1991, supra* note 55.

[122] The SEC may grant an exemption, either unconditionally or on specified terms and conditions, from using an opening price settlement for cash settled security futures products if it finds that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors. *See* Section 36 of the Exchange Act, 15 U.S.C. 78mm.

[123] The trading halt provisions of proposed SEC Rule 6h–1(d) and CFTC Rule 41.25(a)(2)(i) would not be exclusive. The proposed rule is not designed to preclude a market trading security futures products from halting trading for other appropriate reasons, such as operational difficulties being experienced by the market or its automated systems or concerns over clearance and settlement operations.

[124] *See* Securities Exchange Act Release No. 32890 (September 14, 1993), 58 FR 48916 (September 20, 1993).

In addition, the SEC preliminarily believes that instituting a regulatory halt in the trading of security futures product due to the operation of circuit breakers would further protect investors and the markets by mitigating potential systemic stress during a historic market decline and allow for the reestablishment of an equilibrium between buying and selling interests in an orderly fashion. The SEC generally believes that pre-determined, coordinated, cross-market operations of circuit breakers would effectively address market declines that threaten to result in ad hoc and potentially destabilizing market closings. The SEC preliminarily believes that the circuit breakers levels are sufficiently broad enough to be triggered only on rare occasions and represent a reasonable means to protect the nation's financial markets and participants from rapid market declines.[125] Circuit breaker procedures would also help to ensure that market participants had a reasonable opportunity to become aware of, and respond to, significant price movements.

With respect to narrow-based security indexes, the SEC believes that trading should necessarily be halted when a trading halt has been instituted for a sufficiently large portion of an index in order to prevent continued trading of the security futures product from becoming a means to improperly circumvent regulatory halts in the underlying securities. If trading in only one component security is halted, continued trading in a security index future in which such a security represents a substantial portion of the index value could also undermine the trading halt in the underlying security. The SEC preliminarily believes that trading halt procedures also would not be coordinated, as contemplated by Section 2(a)(1)(D)(i)(X) of the CEA [126] and Section 6(h)(3)(K) of the Exchange Act,[127] if the security futures product continued to trade while investors were precluded from trading some or all of the underlying securities. Moreover, the SEC preliminarily believes that continued trading in the security futures product under these circumstances would undercut key provisions in the securities laws designed to protect investors and promote the fair and orderly operation of the markets. Accordingly, the SEC believes that a general practice whereby trading is halted for the security futures product when investors lack access to current pricing information in the primary market for the underlying security should contribute to the maintenance of fair and orderly markets. Therefore, proposed SEC Rule 6h–1(e) would require a trading halt in the security futures product overlying the index when trading is halted in a component security or securities of an index that represents 30 percent or more of the index's weighting. Moreover, the SEC believes that this coordination of trading halts, as contemplated by proposed SEC Rule 6h–1(d) and (e), would generally benefit investors and the market by providing less opportunity for abuse and manipulation.

Proposed SEC Rule 6h–1(d) and (e) also would further increase investor confidence in the stability of the markets by assuring investors and the public that the national securities exchanges and national securities associations trading security futures product are reasonably equipped to handle market demand and pending material news.

Furthermore, in order to be effective, circuit breakers have to be coordinated across stock, stock index futures, and options markets in order to prevent intermarket problems of the kind experienced in October 1987.[128] Since the markets currently coordinate regulatory halts between the listing market for the underlying security and other markets that trade the underlying security or any related security in order to promote investor protection and fair and orderly markets, proposed SEC Rule 6h–1(d) and (e) would help ensure such coordination and effectiveness through the use of regulatory halts in the markets trading security futures products.

The SEC also preliminarily believes that the proposed rule will provide all market participants a clear guideline of when regulatory halts are to be observed for trading in the security futures products.

B.Costs of Proposed SEC Rule 6h–1 under the Exchange Act

The SEC estimates that there would be 17 respondents to the proposed rule: 9 currently registered national securities exchanges, 1 national securities association (the NASD) that operates a securities market (Nasdaq), and an estimated 7 futures markets that are expected to register as Security Futures Product Exchanges.

National securities exchanges and national securities associations may file proposed rule changes pursuant to Section 19(b) of the Exchange Act [129] to implement proposed SEC Rule 6h–1.[130] However, the SEC notes that even in the absence of proposed SEC Rule 6h–1, pursuant to the CFMA, to trade security futures products, each of the respondents would have to file one or more proposed rule changes to adopt listing standards for security futures products.

Under Rule 17a–1 of the Exchange Act,[131] a national securities exchange or national securities association is required to retain records of the collection of information for at least 5 years, with the first 2 years in an easily accessible place. However, Rule 17a–1 requires a Security Futures Product Exchange to retain only those records relating to persons, accounts, agreements, contracts, and transactions involving security futures products.[132] As discussed above, the SEC also does not believe that the collection of information required by proposed SEC Rule 6h–1 would result in any additional clerical work or miscellaneous clerical expenses since these clerical burdens would be incurred even in the absence of proposed SEC Rule 6h–1 [133] and are actually due to the statutory requirement. The SEC preliminarily believes that respondents would not incur any additional capital or start-up costs, nor any additional operational or maintenance costs to comply with the collection of information requirements under proposed SEC Rule 6h–1.[134]

In addition, proposed SEC Rule 6h–1 would require respondents that chose to trade these products to develop a system for determining the settlement price of a cash-settled security futures product

[125] *See* Securities Exchange Act Release No. 27370 (October 23, 1989), 54 FR 43881 (October 27, 1989).

[126] 7 U.S.C. 2(a)(1)(D)(i)(X).

[127] 15 U.S.C. 78f(h)(3)(K).

[128] In response to the events of October 19, 1987, when the Dow Jones Industrial Average (''DJIA'') sustained a one-day decline of 508 points (22.6%), the nation's securities and futures markets in 1988 adopted rules that provide for coordinated, cross-market trading halts in all equity and equity-derivative markets following specified declines in the DJIA. *See* Circuit Breaker Report, *supra* note. *See also* Securities Exchange Act Release No. 38080 (December 23, 1996), 61 FR 69126 (December 31, 1996) (citing the SEC's desire to have coordinated mechanisms across these markets to deal with potential volatility that may develop during periods of extreme downward volatility).

[129] 15 U.S.C. 78s(b).

[130] The SEC has adopted Rule 19b–7, which would direct Security Futures Product Exchanges to file proposed rule changes on Form 19b–7. *See* Securities Exchange Act Release No. 44692, *supra* note 12.

[131] 17 CFR 240.17a–1.

[132] *See* 15 U.S.C. 78q(b)(4)(B).

[133] *See* Paperwork Reduction Act discussion at Section IV.

[134] *Id.*

to fairly reflect the opening price of the underlying security. However, because respondents to the proposed rule currently have systems in place to determine opening prices, the SEC preliminarily believes that respondents complying with the settlement provisions of proposed SEC Rule 6h–1 would only incur minimal operational or maintenance costs to reconfigure their current settlement procedures to fairly reflect the opening price of the underlying security.

Finally, the SEC preliminarily believes that national securities exchanges and national securities associations would incur operational costs in developing a system to monitor when other markets have instituted a regulatory halt for an underlying security of the security futures product in order to comply with proposed SEC Rule 6h–1(b) and (c). However, the SEC notes that 9 of the estimated 17 respondents are already required to provide notification of regulatory halts since they are participants of the Consolidated Tape Association Plan (''CTA Plan'') [135] and thus, should already have systems in place to monitor each other of regulatory halts being instituted. The SEC also estimates that each of the remaining respondents will have to develop a similar system to monitor when regulatory halts have been instituted by the primary market of the underlying security. The SEC requests comments on the number of respondents who will actually have to develop a monitoring and notification system and the estimated costs in developing such a system.

C. Request for Comments

The SEC requests data to quantify the costs and benefits above. The SEC seeks estimates of these costs and benefits, as well as any costs and benefits not already described, which may result from the adoption of this proposed rule.

The SEC requests comment on the estimate of the number of respondents that would be affected by proposed SEC Rule 6h–1 and the costs and benefits associated with complying with the proposed rule. The SEC specifically requests comments on the operational and maintenance costs associated with the proposal and whether these costs would be significant. Commenters should provide analysis and empirical data to support their views on the costs and benefits associated with the proposal.

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

SEC: Section 3(f) of the Exchange Act [136] requires the SEC, whenever it is engaged in rulemaking, and is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Exchange Act [137] requires the SEC, when promulgating rules under the Exchange Act, to consider the impact any such rules would have on competition. Section 23(a)(2) of the Exchange Act further provides that the SEC may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The SEC has considered the proposed rule in light of the standards set forth in Sections 3(f) and 23(a)(2) of the Exchange Act.[138]

A. Settlement Prices for Cash-Settled Security Futures Products

1. Effects on Competition

Proposed SEC Rule 6h–1(b) and (c) would require national securities exchanges and national securities associations that trade security futures products to trade cash-settled security futures products only if the final settlement price for each cash-settled security futures products fairly reflects the opening price for the underlying security or securities. If adopted, the proposal may affect competition, as national securities exchanges and national securities associations would not be able to choose between using opening prices and closing prices for settlement of cash-settled security futures products. However, as discussed above, the SEC preliminarily believes that the benefits to be gained by such restriction justify any potential costs, and that any such restriction is appropriate in furtherance of the purposes of the Exchange Act, particularly the purpose of reducing market volatility and the opportunities for market manipulation. The SEC solicits comment on the impact on competition of the proposed rule regarding settlement prices for cash-settled security futures products.

2. Effects on Efficiency and Capital Formation

The SEC preliminarily believes that, as addressed above, the proposal regarding settlement prices for cash-settled security futures products would reduce market volatility and opportunities for market manipulation of security futures products and would ultimately improve efficiency and capital formation by strengthening investors' confidence in the market for these products. Commenters are invited to submit comments on the effect of the proposed rule regarding settlement prices for cash-settled security futures products on efficiency and capital formation.

B. Trading Halts for Security Futures Products

1. Effects on Competition

The SEC acknowledges that the proposed rule establishing a criteria for trading halts for security futures products could impose a burden on competition, because national securities exchanges and national securities associations that trade a security futures product would not be permitted to act as a surrogate market for an underlying security or securities when such security or securities are subject to a regulatory halt on the listing market. However, as discussed more fully above, the SEC preliminarily believes that any burden on competition as a result of a trading halt is appropriate in furtherance of the purposes of the Exchange Act. The SEC solicits comment on the impact on competition of the proposed rule regarding trading halts for security futures products.

2. Effects on Efficiency and Capital Formation

The SEC preliminarily believes that the proposal regarding trading halts for security futures products, which would require national securities exchanges and national securities associations to halt trading in security futures products when trading is halted in the underlying security or securities, will ultimately improve efficiency and capital formation by creating a fairer and more orderly marketplace. Commenters are invited to submit comments on the effect of the proposed rule regarding trading halts for security futures products on efficiency and capital formation.

[135] The CTA Plan is a joint industry plan that governs the consolidated transaction reporting system. Parties to the CTA Plan are as follows: the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc. *See* CTA Plan (Second Restatement), Section III (a).

[136] 15 U.S.C. 78c(f).

[137] 15 U.S.C. 78w(a)(2).

[138] 15 U.S.C. 78c(f) and 78w(a)(2). The CFTC is not required to evaluate proposed rules under these standards.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the SEC also is requesting information regarding the potential impact of the proposed rule on the economy on an annual basis. Commentators should provide empirical data to support their views.

VII. Regulatory Flexibility Act

CFTC: The Regulatory Flexibility Act (''RFA'') requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[139] The rule adopted herein would affect designated contract markets and registered derivatives transaction execution facilities. The CFTC has previously established certain definitions of ''small entities'' to be used in evaluating the impact of its rules on small entities in accordance with the RFA.[140] In its previous determinations, the CFTC has concluded that contract markets are not small entities for the purpose of the RFA.[141] The CFTC has also recently proposed determining that the other trading facilities subject to its jurisdiction, for reasons similar to those applicable to contract markets, would not be small entities for purposes of the RFA.[142]

Accordingly, the CFTC does not expect the rule, as proposed herein, to have a significant economic impact on a substantial number of small entities. Therefore, the Acting Chairman, on behalf of the CFTC, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments will not have a significant economic impact on a substantial number of small entities. The CFTC invites the public to comment on the finding that this proposed rule would not have a significant economic impact on a substantial number of small entities.

SEC: Section 3(a) of the RFA [143] requires the SEC to undertake an initial regulatory flexibility analysis of the proposed rules on small entities unless the SEC certifies that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities.[144] Proposed SEC Rule 6h–1 would require national security exchanges and national security associations trading security futures products to trade cash-settled security futures products only if the final settlement price for each cash-settled security futures product fairly reflects the opening price of the underlying security or securities, and to halt in trading in any security futures product when a regulatory halt is instituted for the underlying security or securities of the security futures product. There are nine currently registered national securities exchanges, one national securities association, and seven futures markets that are likely to register as Security Futures Product Exchanges, all of which would be subject to the proposed rule and none of which are small entities. The SEC has certified that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

A copy of the certification is attached as Appendix A.

VIII. Statutory Basis and Text of Proposed Rule

List of Subjects

17 CFR Part 41

Security futures products, Trading halts and Settlement provisions.

17 CFR Part 240

Securities.

Commodity Futures Trading Commission

17 CFR Chapter I

The CFTC has authority to propose these rules pursuant to sections 2(a)(1)(D)(i)(VII), 2(a)(1)(D)(i)(X), and 8a(5) of the CEA, 7 U.S.C. 2(a)(1)(D)(i)(VII), 2(a)(1)(D)(i)(X), and 12a(5).

In accordance with the foregoing, Title 17, Chapter I of the Code of Federal Regulations is proposed to be amended by amending Part 41 as follows:

PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 is revised to read as follows:

Authority: 7 U.S.C. 1a(25), 2(a), 6j, 7a–2(c) and 12a(5).

2. Section 41.1 is amended by adding paragraphs (j), (k) and (l) to read as follows:

§ 41.1 Definitions.

For purposes of this part:

* * * * *

(j) *Opening price* means the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security.

(k) *Regular trading session* of a security means the normal hours for business of a national securities exchange or national securities association that lists the security.

(l) *Regulatory halt* means a delay, halt, or suspension in the trading of a security, that is instituted by the national securities exchange or national securities association that lists the security, as a result of:

(1) A determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue; or

(2) The operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

3. Section 41.25, as proposed on July 20, 2001, 66 FR 37932, is further proposed to be amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 41.25 Additional conditions for trading for security futures products.

(a) *Common provisions.* * * *

(2) *Regulatory Trading Halts.* The rules of a designated contract market or registered derivatives transaction execution facility that lists or trades one or more security futures products must include the following provisions:

(i) Trading of a security futures product based on a single security shall be halted at all times that a regulatory halt has been instituted for the underlying security; and

(ii) Trading of a security futures product based on a narrow-based security index shall be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.

* * * * *

(b) *Special requirements for cash-settled contracts.* For cash-settled security futures products, the cash-settlement price must be reliable and acceptable, be reflective of prices in the underlying securities market and be not readily susceptible to manipulation.

(1) The final settlement price of a cash-settled security futures product based on a single security shall fairly reflect the opening price of the underlying security. If an opening price for the underlying security is not readily available, the final settlement price of the security futures product shall fairly reflect the price of the underlying security during its most recent regular

[139] 5 U.S.C. 601 *et seq.*

[140] *See* 47 FR 18618–21 (April 30, 1982).

[141] *See id.* at 18619 (discussing contract markets).

[142] *See* 66 FR 14262, 14268 (March 9, 2001).

[143] 5 U.S.C. 603(a).

[144] 5 U.S.C. 605(b).

trading session; and (1) The final settlement price of a cash-settled security futures product based on a narrow-based security index shall fairly reflect the opening prices of the underlying securities. If an opening price for one or more underlying securities is not readily available, the final settlement price of the narrow-based security index future shall, for the underlying securities for which opening prices are not readily available, fairly reflect the prices of those underlying securities during their most recent regular trading session. (2) The Commission may exempt from the provisions of paragraphs (b)(1) and (b)(2) of this section, either unconditionally or on specified terms and conditions, any designated contract market or registered derivatives transaction execution facility, when the Commission determines that an exemption is consistent with the public interest, the protection of investors, and otherwise furthers the purposes of the Act.

* * * * *

Issued in Washington, DC on August 24, 2001 by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary.

Securities and Exchange Commission

17 CFR Chapter II

The SEC is proposing the rules pursuant to its authority under Exchange Act Sections 6, 9, 15A, 19, 23(a), and 36, 15 U.S.C. 78f, 78i, 78*o*–3, 78s, 78w(a), and 78mm.

In accordance with the foregoing, Title 17, Chapter II, part 240 of the Code of Federal Regulations is proposed to be amended as follows:

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

1. The authority citation for part 240 continues to read, in part, as follows:

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

* * * * *

2. Section 240.6h–1 is added to read as follows:

§ 240.6h–1 Settlement and regulatory halt requirements for security futures products.

(a) For the purposes of this section:

(1) *Opening price* means the price at which a security opened for trading, or a price that fairly reflects the price at which a security opened for trading, during the regular trading session of the national securities exchange or national securities association that lists the security.

(2) *Regular trading session* of a security means the normal hours for business of a national securities exchange or national securities association that lists the security.

(3) *Regulatory halt* means a delay, halt, or suspension in the trading of a security, that is instituted by the national securities exchange or national securities association that lists the security, as a result of:

(i) A determination that there are matters relating to the security or issuer that have not been adequately disclosed to the public, or that there are regulatory problems relating to the security which should be clarified before trading is permitted to continue; or

(ii) The operation of circuit breaker procedures to halt or suspend trading in all equity securities trading on that national securities exchange or national securities association.

(b) The final settlement price of a cash-settled security futures product based on a single security shall fairly reflect the opening price of the underlying security. If an opening price for the underlying security is not readily available, the final settlement price of the security futures product shall fairly reflect the price of the underlying security during its most recent regular trading session.

(c) The final settlement price of a cash-settled security futures product based on a narrow-based security index shall fairly reflect the opening prices of the underlying securities. If an opening price for one or more underlying securities is not readily available, the final settlement price of the narrow-based security index future shall, for the underlying securities for which opening prices are not readily available, fairly reflect the prices of those underlying securities during their most recent regular trading session.

(d) Trading of a security futures product based on a single security shall be halted at all times that a regulatory halt has been instituted for the underlying security.

(e) Trading of a security futures product based on a narrow-based security index shall be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 30 percent or more of the market capitalization of the narrow-based security index.

(f) The Commission may exempt from the provisions of paragraphs (b) and (c) of this section, either unconditionally or on specified terms and conditions, any national securities exchange or national securities association if the Commission determines that such exemption is necessary or appropriate in the public interest, and consistent with the protection of investors.

By the Securities and Exchange Commission.[145]

Dated: August 24, 2001.

Margaret H. McFarland,

Deputy Secretary.

Appendix A

Note: Appendix A to the preamble will not appear in the Code of Federal Regulations.

Regulatory Flexibility Act Certification

The Securities and Exchange Commission (''Commission'') hereby certifies pursuant to 5 U.S.C. 605(b) that proposed Rule 6h–1 under the Securities Exchange Act of 1934 (''Exchange Act''), which generally would provide that the listing standards of national security exchanges and national security associations trading security futures products establish (i) a settlement price for each cash-settled security futures product that fairly reflects the opening price of the underlying security or securities, and (ii) a halt in trading in any security futures product when a regulatory halt is instituted by the national securities exchange or national securities association listing the security or securities underlying the security futures product, would not, if adopted, have a significant economic impact on a substantial number of small entities. Proposed Rule 6h–1 under the Exchange Act likely would apply to nine currently registered national securities exchanges, one national securities association, and an estimated seven futures markets that are expected to register as Security Futures Product Exchanges, none of which is a small entity for the purpose of the Regulatory Flexibility Act. Accordingly, proposed Rule 6h–1, if adopted, would not have a significant economic impact on a substantial number of small entities.

By the Commission.

Dated: August 24, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–21886 Filed 8–29–01; 8:45 am]

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[145] Chairman Pitt did not participate in this matter.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 93/P.L. 107–27
Federal Firefighters Retirement Age Fairness Act (Aug. 20, 2001; 115 Stat. 207)

H.R. 271/P.L. 107–28
To direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the city of Carson City, Nevada, for use as a senior center. (Aug. 20, 2001; 115 Stat. 208)

H.R. 364/P.L. 107–29
To designate the facility of the United States Postal Service located at 5927 Southwest 70th Street in Miami, Florida, as the "Marjory Williams Scrivens Post Office". (Aug. 20, 2001; 115 Stat. 209)

H.R. 427/P.L. 107–30
To provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes. (Aug. 20, 2001; 115 Stat. 210)

H.R. 558/P.L. 107–31
To designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the "Edward N. Cahn Federal Building and United States Courthouse". (Aug. 20, 2001; 115 Stat. 213)

H.R. 821/P.L. 107–32
To designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the "W. Joe Trogdon Post Office Building". (Aug. 20, 2001; 115 Stat. 214)

H.R. 988/P.L. 107–33
To designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse". (Aug. 20, 2001; 115 Stat. 215)

H.R. 1183/P.L. 107–34

To designate the facility of the United States Postal Service located at 113 South Main Street in Sylvania, Georgia, as the "G. Elliot Hagan Post Office Building". (Aug. 20, 2001; 115 Stat. 216)

H.R. 1753/P.L. 107–35

To designate the facility of the United States Postal Service located at 419 Rutherford Avenue, N.E., in Roanoke, Virginia, as the "M. Caldwell Butler Post Office Building". (Aug. 20, 2001; 115 Stat. 217)

H.R. 2043/P.L. 107–36

To designate the facility of the United States Postal Service located at 2719 South Webster Street in Kokomo, Indiana, as the "Elwood Haynes 'Bud' Hillis Post Office Building". (Aug. 20, 2001; 115 Stat. 218)

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