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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

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AB84

General Administrative Regulations; Submission of Policies, Provisions of Policies, and Rates of Premium

AGENCY: Federal Crop Insurance Corporation.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the procedures for the submission of policies, plans of insurance, or other rates or premium by insurance companies, or other persons or entities, to the FCIC Board of Directors (Board) for approval for reinsurance and subsidy under section 508(h) of the Federal Crop Insurance Act (Act), in accordance with section 2108 of the 2001 Supplemental Appropriations Act.

This rule prescribes the respective roles and responsibilities of FCIC and the applicant. This rule also prescribes guidelines for the timing, content, and approval process for policies, plans of insurance, and rates of premium submitted under section 508(h) of the Act. In addition, this rule establishes requirements and guidelines for the reimbursement of research and development costs and maintenance costs for such submissions approved by the Board, and the payment of fees by insurance companies after the maintenance period has expired. This rule also provides guidelines for non-reinsured supplemental policies to be submitted to FCIC for review in accordance with the Standard Reinsurance Agreement (SRA).

EFFECTIVE DATES: This rule is effective September 17, 2001. Written comments and opinions on this interim rule will be accepted until close of business November 16, 2001 and will be considered when the rule is to be made final. Comments to the General Administrative Regulations; Submission of Policies, Provisions of Policies, and Rates of Premium proposed rule published in the **Federal Register** on July 16, 2001, will be considered at the same time that comments are considered for this rule and those comments will not have to be resubmitted for consideration. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through November 16, 2001.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133. Comments titled ''General Administrative Regulation; Submission of Policies, Provisions of Policies, and Rates of Premium'' may be sent via the Internet to: DirectorPDD@rm.fcic.usda.gov. A copy of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CST, Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: Timothy Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–3707.

SUPPLEMENTARY INFORMATION

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is significant for the purpose of Executive Order 12866 and, therefore, it has been reviewed by OMB.

Paperwork Reduction Act of 1995

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the information collection and record keeping requirements included in this rule have been submitted for approval to OMB. Please submit written comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this rule.

Comments are being solicited from the public concerning this proposed information collection and record keeping requirements. This outside input will help:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses.)

Title: General Administrative Regulation; Submission of Policies, Provisions of Policies, and Rates of Premium.

Abstract: This rule revises guidelines for the submission of policies or other material to the Board under section 508(h) of the Act. In accordance with that section of the Act, this rule establishes the process for the submission of policies, plans of insurance, and rates of premium, the deadlines for the review and approval process by the Board, and the respective roles and responsibilities of FCIC and the applicant related to the submission. This rule specifies information that must be included in a new or revised submission and the format it must be in to be considered for Board approval. This rule establishes requirements and guidelines for the reimbursement of research and development costs and maintenance costs for such submissions approved by the Board and the payment of fees by insurance companies after the maintenance period has expired. It also requires non-reinsured supplemental policies developed by companies reinsured by FCIC to be submitted to FCIC for review in accordance with provisions contained in the Standard Reinsurance Agreement (SRA).

Purpose: To amend 7 CFR part 400 by revising subpart V.

Burden statement: This rule is needed to ensure that the Board receives complete submissions that are ready for review and approval. It also ensures the fair and equitable distribution of limited funds for research and development costs and maintenance costs. This rule will ensure an effective, orderly, and efficient crop insurance marketplace, and that the Federal crop insurance program is delivered to all producers in a manner that does not unfairly discriminate among producers or insurance companies.

The burden associated with this rule, with the exception of reading the rule, is in the development and submission of a policy, revision to a policy or rates of premium for any policy or plan authorized under the Act. FCIC estimates that annually 75 people (excluding Federal employees) will spend 2 hours reading this document for a total of 150 hours (75 × 2 = 150). FCIC estimates people in 14 positions (marketing manager, computer manager, financial manager, technical writer, actuary, accountant, lawyer, economist, computer programmer, underwriter, paralegal, marketing researcher, statistician, and office assistant) will respond for a total of 210 respondents (14 positions × 15 submissions = 210). FCIC estimates 105 annual responses (15 × 7 = 105) due to 15 applicants completing seven objectives (preparing the submission, modifying the submission, corresponding with the Board, preparation and presentation to the Board, responding to issues, negotiating agreements, costs and fees and maintenance of approved products). To determine approximate annual burden hours, FCIC estimates 15 entities will prepare a submission (applicants) and will spend the following amount of time for each of the seven objectives: (1) Preparing and submitting the submission—22,500 hours (15 applicants × 1,500 hours = 22,500); (2) Modifying the submission prior to Board approval—15,000 hours (15 applicants × 1,000 hours = 15,000); (3) Preparation of correspondence between the Board and applicant—150 hours (15 applicants × 10 hours = 150); (4) Preparation and presentation of the submission to the Board—600 hours (15 applicants × 40 hours = 600 hours); (5) Responding to procedural, policy, and data automation issues subsequent to Board approval—15,000 hours (15 applicants × 1,000 hours = 15,000); (6) Negotiation of agreements, costs and fees—600 hours (15 applicants × 40 hours); and (7) Maintenance of approved products—3,000 hours (15 applicants × 200 hours = 3,000).

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 543 hours per response.

Respondents: Insurance companies, insureds, insurance agents, and other persons or entities who may wish to submit policies or policy provisions to the Board for approval.

Estimated Annual Number of Respondents: 210.

Estimated Annual Number of Responses Per Respondent: 0.5.

Estimated Annual Number of Responses: 105.

Estimated Total Annual Burden of Respondents: The total public burden for this rule is estimated at 57,000 hours.

Record keeping requirements: FCIC requires records to be kept for three years, and all records required by FCIC are retained as part of the normal business practice. Therefore, FCIC is not estimating additional burden related to record keeping.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

The policies contained in this rule do not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. Additionally, the regulation does not require any greater action on the small entities than is required on the part of large entities. The amount of work required of the insurance companies will not increase because the information must already be collected under the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 or 7 CFR 400.169, as applicable, must be exhausted before any action for judicial review of any determination or action by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On July 16, 2001, FCIC published this rule as a proposed rule (66 FR 36951–36960). During the comment period, Congress enacted section 2103 of the 2001 Supplemental Appropriations Act, which authorized FCIC to promulgate this rule without regard to the notice and comment provisions of section 533 of title 5, United States Code, the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, relating to notices of proposed rulemaking and public participation in rulemaking, and chapter 35 of title 44, United States Code. Congress also required that this rule be effective on the date of publication.

FCIC makes available standard policies for producers to insure certain

crops against various agricultural production risks and perils. Under the provisions of section 508(h) of the Act, (7 U.S.C. 1501 *et seq.*) any person may submit or propose other crop insurance policies, plans of insurance, provisions of policies, or rates of premium. These policies may be submitted without regard to limitations contained in the Act.

The Act requires that FCIC issue regulations to establish guidelines for the submission and Board review of policies or other material submitted to the Board under the Act. This rule prescribes guidelines for the timing, content, approval process, and the reimbursement for research and development costs and maintenance costs, and potential user fees for such submissions. This rule also clarifies the roles and responsibilities of FCIC and the applicant with respect to the submission. This rule also provides guidelines for non-reinsured supplemental policies to be submitted to FCIC for review in accordance with the SRA.

For submissions approved by the Board prior to publication of this regulation, applicants may either submit documentation of research and development costs or use a formula method to determine the amount of the research and development and maintenance reimbursement. The formula presented in this regulation is an objective measurement using the average number of policies per year earning premium from inception of the product to the time this regulation is published times $7 with the result of this calculation adjusted for scope and complexity, as required by legislation. The $7 was determined by using estimated product development costs with the intent to provide research and development cost reimbursement on an equitable basis considering the sales life cycle to date and market penetration.

Other technical corrections have been made as a result additional review and discussion with the Board.

List of Subjects in 7 CFR Part 400

Administrative practice and procedures, Crop insurance.

Interim Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 400 by revising Subpart V to read as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

Sec.

400.700 Basis, purpose, and applicability.
400.701 Definitions.
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400.703 Timing of submission.
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400.705 Contents required for a new submission or changes to a previously approved submission.
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400.709 Roles and responsibilities.
400.710 Preemption and premium taxation.
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400.712 Research and development reimbursement, maintenance reimbursement, and user fees.
400.713 Non-reinsured supplemental (NRS) policy.

Authority: 7 U.S.C. 1506(1), 1506(p).

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

§ 400.700 Basis, purpose, and applicability.

This subpart establishes guidelines for the submission of policies, plans of insurance, and rates of premium to the Board under section 508(h) of the Act and for non-reinsured supplemental policies in accordance with the SRA, and the roles and responsibilities of FCIC and the applicant. It also specifies the procedures for requesting reimbursement for research and development and maintenance costs for products and the approval process.

§ 400.701 Definitions.

Act. The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.)

Actuarial documents. The forms and associated materials applicable to a crop or insurance year, which are available for public inspection in an agent's office and FCIC's website at www.act.fcic.usda.gov. These materials show the insurable acreage or commodities, the applicable guarantees, coverage levels, premium rates, insurable cropping practices common to the area, and other related information regarding crop insurance or other risk management plans of insurance in the county or state.

Actuarially appropriate. Premium rates determined to cover the anticipated loss and a reasonable reserve based on valid reasoning, an examination of all known risk data, and founded on thorough knowledge or experience of the expected value of all future costs associated with a risk transfer.

Administrative and operating (A&O) subsidy. An amount for expenses associated with selling and servicing insurance products authorized by the Act and paid by FCIC on behalf of the producer to approved insurance providers.

Applicant. Any person or entity that submits a policy, provisions of a policy, or premium rates to the Board for approval under section 508(h) of the Act.

Approved insurance provider. A private insurance company that has been approved by FCIC to provide insurance coverage to producers participating in programs authorized by the Act.

Board. The Board of Directors of FCIC.

Complexity. Complexity takes into consideration such factors as originality, the number and type of factual determinations necessary to establish insurable interest, evaluate risk, and determine whether an indemnity is payable, the number of commodities and areas to which the product is applicable, the rating methodology, the number of risks covered, unique policy provisions or endorsements, the delivery process of the submission, and the process of creating rules, policy terms and conditions, underwriting procedures, rating methodologies, administrative and operating procedures, and supporting materials.

Development. The process of creating rules, methodologies, administrative and operating procedures, supporting materials, and documentation necessary to submit, gain approval, and implement a proposed policy or coverage.

Endorsement. A document appended to a policy reinsured under the Act that supplements or amends the insurance coverage of that policy.

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

Maintenance. The process of continual support and improvement, as needed, for a policy or plan of insurance, including the periodic review of setting prices, updating premium rates or the rating methodology, updating or modifying policy terms and conditions, expanding into new commodities and areas, and other measures necessary to assure financial viability and actuarial soundness or to respond to statutory or regulatory changes.

Maintenance costs. Specific expenses associated with the maintenance of a policy during the maintenance period.

Maintenance period. A period of time that begins on the date the Board approves the submission for maintenance and ends on the date that is not more than four reinsurance years after such approval.

Manager. The Manager of FCIC.

Marketable. An evaluation by the Board of the marketing plan submitted by the applicant that determines that producers will purchase the product and approved insurance providers will sell the product based on credible evidence provided by the applicant.

Marketing plan. A detailed, written plan that identifies, at a minimum, the expected number of potential buyers, premium, and liability, the data upon which such information is based and a prescribed insurance year cycle.

Multiple peril crop insurance (MPCI). All insurance policies reinsured by FCIC that offers coverage for loss of production.

National Agricultural Statistics Service (NASS). An agency of the United States Department of Agriculture, or a successor agency.

Non-reinsured supplemental policy (NRS). A policy, endorsement or other risk management tool that is developed by an approved insurance provider, or an entity affiliated in some manner with an approved insurance provider, that offers coverage, other than for loss related to hail, for commodities in addition to coverage available under a policy or plan of insurance that is reinsured by FCIC. This policy, endorsement or other risk management tool has not been submitted under 508(h) for FCIC approval for reinsurance.

Non-significant changes. Minor changes to the policy or plan of insurance, such as technical corrections, that do not affect the rating or pricing methodologies, the amount of subsidy owed, the amount of coverage, the interests of producers, FCIC's reinsurance risk, or any condition that may affect liability or the amount of loss to be paid under the policy. This includes any changes due to statutory or regulatory requirements.

Policy. A contract for insurance that includes an application, Basic Provisions, applicable commodity provisions, other applicable options and endorsements, the actuarial documents for the insured commodity, and related materials.

Plan of insurance. A class of policies, such as MPCI or Crop Revenue Coverage, that offer a specific type of coverage to one or more agricultural commodities.

Rate of premium. The dollar amount per insured unit or percentage rate per dollar of liability that is needed to pay anticipated losses and provide a reasonable reserve.

Related materials. The actuarial documents, special provisions, and any underwriting or loss adjustment manuals, handbooks, forms or other materials.

Research. The processes used to determine the need, producer interest, if the product is marketable, and feasibility of a proposed policy, plan of insurance or rate of premium.

Research and development costs. Specific expenses incurred and directly related to research and development of a submission approved by the Board.

Revenue insurance. Plans of insurance providing protection against loss of income or change in price.

Risk Management Agency (RMA). An agency of USDA responsible for the administration of all programs authorized under the Act and other authorities.

Risk subsidy. The portion of the approved premium paid by FCIC on behalf of the insured person.

Sales closing date. The final calendar date on which an approved insurance provider may accept an application by a producer for insurance.

Secretary. The Secretary of the United States Department of Agriculture.

Significant change. Any change to the policy or plan of insurance that may affect the rating and pricing methodologies, the amount of subsidy owed, the amount of coverage, the interests of producers, FCIC's reinsurance risk, or any condition that may affect liability or the amount of loss to be paid under the policy.

Special Provisions. The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

Submission. A policy, plan of insurance, provision of a policy or plan of insurance, or rates of premium provided by an applicant to FCIC in accordance with the requirements of this subpart.

USDA. The United States Department of Agriculture.

User fees. Fees, approved by the Board, that can be charged to approved insurance providers for use of a policy or plan of insurance.

§ 400.702 Confidentiality of submission and duration of confidentiality.

(a) Prior to approval by the Board, any submission made to the Board under section 508(h) of the Act, including any information generated from the submission, will be considered confidential commercial or financial information for purposes of 5 U.S.C. 552(b)(4) and will not be released by FCIC to the public, unless the applicant authorizes such release in writing.

(b) Once the Board approves a submission, all information provided with the submission, or generated in the approval process, may be released to the public, including any mathematical modeling and data, unless it remains confidential business information under 5 U.S.C. 552(b).

(c) Any submission disapproved by the Board will remain confidential commercial or financial information in accordance with 5 U.S.C. 552(b) and no information related to such submission will be released by FCIC unless authorized in writing by the applicant.

§ 400.703 Timing of submission.

(a) A submission may only be provided to FCIC the first 5 business days of the months of, January, April, July, and October.

(b) Any submission not provided within the first 5 business days of a month stated in paragraph (a) of this section, will be considered to have been provided the next month stated in paragraph (a). For example, if an applicant provides a submission on the January 10, it will be considered to have been received on April 1.

(c) Any submission must be provided to the Deputy Administrator, Research and Development (or any successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676, not later than 180 days prior to the earliest proposed sales closing date to be considered for sale in the requested crop year.

§ 400.704 Type of submission.

(a) An applicant may submit to the Board in accordance with § 400.705:

(1) A policy or plan of insurance not currently reinsured by FCIC;

(2) One or more proposed revisions to a policy or plan of insurance authorized under the Act; or

(3) Rates of premium for any policy or plan of insurance authorized under the Act.

(b) An applicant must submit to the Board any significant change to a previously approved submission prior to making the change.

§ 400.705 Contents required for a new submission or changes to a previously approved submission.

A complete submission must contain the following material, as applicable, in the order given, in a 3-ring binder, with

section dividers clearly labeling each section. The entire submission must be included in an electronic format acceptable to RMA. Six identical copies of each submission must be sent to the Deputy Administrator, Research and Development (or successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676, and one identical copy of each submission provided to the Administrator, Risk Management Agency, 1400 Independence Ave., Stop 0801, Room 3053 South Building, Washington, DC 20250–0801.

(a) The first section will contain general information, including, as applicable:

(1) The applicant's name, address or primary business location, phone number, and e-mail address;

(2) The type of submission (see § 400.704);

(3) A statement of whether the applicant is requesting:

(i) Reinsurance, which includes risk subsidy and A&O subsidy;

(ii) Costs for reimbursement for research and development; or

(iii) Estimated costs for reimbursement for maintenance.

(4) The proposed agricultural commodities, including types, varieties, and practices covered by the submission;

(5) The crop and reinsurance years in which the submission is proposed to be available for purchase by producers;

(6) The proposed sales closing date;

(7) The proposed duration and scope of the plan of insurance;

(8) A marketing plan;

(9) Any known or anticipated future expansion plans;

(10) Identification, including names, addresses, telephone numbers, and e-mail addresses, of the persons responsible for:

(i) Addressing questions regarding the policy, underwriting rules and procedures, rate and price methodologies, data processing and record keeping requirements, and any other questions that may arise in administering the program after it is approved; and

(ii) Annual reviews to ensure compliance with all requirements of the Act, this subpart, and any agreements executed between the applicant and FCIC.

(11) A statement whether the submission will be filed with the applicable office responsible for regulating insurance in each state proposed for insurance coverage, and, if not, reasons why the submission will not be filed for review.

(b) The second section must contain the benefits of the plan, including, as applicable, a statement about the plan that demonstrates:

(1) How the submission offers coverage or other benefits not currently available from existing public and private programs.

(2) The demand for the submission, which must be supported by information from market research, producers or producer groups, agents, lending institutions, and other interested parties that provide verifiable evidence of demand; and

(3) How the submission meets public policy goals and objectives consistent with the Act and other laws, as well as policy goals supported by USDA and the Federal Government.

(c) The third section must contain the policy, including, as applicable:

(1) If the submission involves a new insurance policy or plan of insurance:

(i) All applicable policy provisions; and,

(ii) A list and description of any additional coverage that may be elected by the insured, including how such coverage may be obtained.

(2) If the submission involves a change to a previously approved policy, plan of insurance, or rates of premium, the proposed revisions, rationale for each change, data and analysis supporting each change, the impact of each change, and the impact of all changes in aggregate.

(d) The fourth section must contain the information related to the marketing of the policy or plan of insurance, including, as applicable:

(1) A list of states and counties where the submission is proposed to be offered;

(2) The amount of commodity (acres, head, board feet, etc.), the amount of production, and the value of each agricultural commodity proposed to be covered in each proposed county and state;

(3) The expected liability and premium for each proposed county and state;

(4) If available, any insurance experience for each year and in each proposed county and state in which the policy has been previously offered for sale including an evaluation of the policy's performance and, if data are available, a comparison with other similar insurance policies reinsured under the Act; and

(5) The projected frequency and severity of loss if the proposed submission is approved.

(e) The fifth section must contain the information related to the underwriting of the submission, including, as applicable:

(1) A sample of each document or form that will be used to present and sell the product;

(2) Detailed rules for determining insurance eligibility, including all producer reporting requirements;

(3) Relevant dates, if not included in the proposed policy;

(4) Detailed examples of the data and calculations needed to establish the insurance guarantee, liability, and premium per acre or other unit of measure, including worksheets that provide the calculations in sufficient detail and in the same order as presented in the policy to allow verification that the premiums charged for the coverage are consistent with policy provisions;

(5) A detailed example of calculations used to determine a claim for indemnity for each unique situation in which a loss may be payable;

(6) A detailed description of the causes of loss covered by the policy or plan of insurance and any causes of loss excluded; and

(7) Any statements to be included in the actuarial documents.

(f) The sixth section must contain the information related to prices and the rates of premium, including, as applicable:

(1) A list of all assumptions made in the premium rating and commodity pricing methodologies, and the basis for these assumptions;

(2) A detailed description of the pricing and rating methodologies, including supporting documentation, all mathematical formulas, equations, and data sources used in determining rates and prices and an explanation of premium components that detail how rates were determined for each component, that demonstrate the rate is appropriate;

(3) An example of a rate calculation and an example of a price calculation;

(4) A discussion of the reliability of the data; and

(5) An analysis of the results of simulations or modeling showing the performance of proposed rates and commodity prices, as applicable, based on one or more of the following (Such simulations must use all years of experience available to the applicant):

(i) A recalculation of total premium and losses compared to a similar or comparable insurance plan offered under the authority of the Act with modifications, as needed, to represent the components of the submission;

(ii) A simulation based on the probability distributions used to develop the rates and commodity prices, as applicable, including sensitivity tests that demonstrate price or yield

extremes, and the impact of inappropriate assumptions; or

(iii) Any other comparable simulation that provides results indicating both aggregate and individual performance of the submission under various scenarios depicting good and poor actuarial experience.

(g) The seventh section must contain an evaluation and certification from an accredited associate or fellow of the Casualty Actuarial Society, or other similarly qualified professional, that certifies the submission is actuarially appropriate and consistent with appropriate insurance principles and practices.

(h) The eighth section must contain all forms applicable to the submission, including:

(1) An application for insurance and procedures for accepting the application; and

(2) All applicable policy forms, instructions and procedures that are necessary to establish the amounts of coverage or loss.

(i) The ninth section must contain the following;

(1) A statement agreeing that sales will be deferred until the next applicable sales closing date if policy information, forms, premium rates, prices, any automated premium calculator, and other related information or documents are not made available to all approved insurance providers:

(i) For a new submission, at least 60 days prior to the earliest sales closing date specified in the submission; or

(ii) For a revised submission, at least 60 days prior to the earliest contract change date specified in the submission;

(2) An explanation of any provision of the policy not authorized under the Act and identification of the portion of the rate of premium due to these provisions;

(3) Agent and loss adjuster training plans; and

(4) A certification from the applicant's legal counsel that the submission meets and complies with all requirements of the Act, applicable regulations, and any reinsurance agreement.

(j) The tenth section must contain the documents that demonstrate the submission complies in all respects with the standards established for processing and acceptance of data as specified in the FCIC Data Acceptance System Handbook (Manual 13), unless other arrangements have been made with RMA. This handbook is available from the Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676 or on the FCIC web site (http://www.rma.usda.gov/data/#m13).

(k) The eleventh section must contain the information related to a request for reimbursement of research and development costs, and maintenance costs, as applicable, in accordance with § 400.712.

(l) The twelfth section must contain executed certification statements in accordance with the following:

(1) ''{Applicant's Name} hereby claim that the amounts set forth in this section and § 400.712 are correct and due and owing to {Applicant's Name} by FCIC under the Federal Crop Insurance Act.''

(2) ''{Applicant Name} understands that, in addition to criminal fines and imprisonment, the submission of false or fraudulent statements or claims may result in civil and administrative sanctions.''

§ 400.706 Review of submission.

(a) Prior to providing any submission, including a new submission, a resubmission, or a change to a previously approved submission, to the Board for its review, RMA will:

(1) Review the submission for completeness to determine if all necessary and appropriate documentation is included in accordance with § 400.705;

(2) Review the submission to determine whether the documentation is of a level of quality to conduct a meaningful review by the Board;

(3) If the submission is determined to be complete and the documentation of sufficient quality to permit a meaningful review, the submission will be considered to have been submitted to the Board for approval or disapproval. The date that FCIC determines that the submission is complete, as notified to the applicant, will be the date that the time frame for approval or disapproval by the Board begins;

(4) Return to the applicant any submission lacking any of the information required in § 400.705, or with documentation that is of insufficient quality to permit a meaningful review (such submission will not be considered as provided to the Board for the purpose of commencing the period by which the submission must be approved or disapproved by the Board. If the submission is resubmitted, it will be considered a new submission.);

(b) When FCIC determines that the submission is complete and the documentation of sufficient quality to permit a meaningful review, it will forward the submission to the Board for consideration for approval or disapproval.

(c) During the consideration process, the Board will:

(1) For all new submissions or significant changes to previously approved submissions, contract with five independent persons with underwriting or actuarial experience to review the submission:

(i) Of the five reviewers, no more than one will be employed by the Federal Government, and none may be employed by any approved insurance provider or their representatives; and

(ii) The reviewers will each provide their assessment of whether the submission protects the interests of agricultural producers and taxpayers, is actuarially appropriate, follows appropriate insurance principles, meets the requirements of the Act, does not contain excessive risks, follows sound, reasonable, and appropriate underwriting principles, as well as other items the Board may deem necessary;

(2) For all submissions:

(i) Request review by FCIC to determine whether the submission protects the interests of agricultural producers and taxpayers, is actuarially appropriate, follows appropriate insurance principles, meets the requirements of the Act, does not contain excessive risks, is consistent with USDA's public policy goals, does not increase or shift risk to any other FCIC reinsured policy, can be administered and delivered efficiently and effectively, and meets the standards pursuant to § 400.712 for reimbursement of research and development costs and maintenance costs, if requested, and determine whether the requested amount of government reinsurance, risk subsidy, and administrative and operating subsidies is reasonable and appropriate for the type of coverage provided by the policy submission; and

(ii) Seek review from the Office of the General Counsel (OGC) to determine whether the interests of producers are adequately protected and if the submission conforms to the requirements of the Act.

(3) Render a decision to approve or give notice of an intent to disapprove within 90 days after the date the submission is considered submitted to the Board in accordance with paragraph (a)(3) of this section, unless the applicant and Board agree to a time delay in accordance with paragraph (h) of this section.

(d) All comments and evaluations will be forwarded to the Board by a date determined to allow the Board adequate time for review.

(e) The Board will consider all comments, evaluations, and recommendations in its review process. Prior to making a decision, the Board may request additional information

from RMA, OGC, the independent reviewers, or the applicant.

(f) The Board may disapprove a submission if it determines that:

(1) The interests of producers are not protected;

(2) The premium rates are not actuarially appropriate;

(3) The submission does not conform to sound insurance and underwriting principles;

(4) The risks associated with the submission are excessive; or

(5) There is insufficient time before the submission would become effective under section 508(h) of the Act for the Board to make an informed decision with respect to whether the interests of producers are protected, the premium rates are actuarially appropriate, or the risks associated with the submission are excessive.

(g) If the Board intends to disapprove the submission, the applicant will be notified in writing at least 30 days prior to the Board taking such action. The Board will provide the applicant with a written explanation for the intent to disapprove the submission.

(h) An applicant may request, at any time, a time delay before the Board provides a notice of intent to disapprove the submission. The Board is not required to agree to such an extension.

(1) The applicant understands that any requested time delay will not be limited in the length time or the number of delays. However, delays may make implementation of the submission for the targeted crop year impractical or impossible.

(2) The time period during which the Board must make a decision to approve or disapprove the submission is not in effect during any time delay requested by the applicant.

(3) The Board and the applicant must agree to a time period in which the Board must make its decision to approve or disapprove after the expiration of any requested time delay.

(i) The applicant may withdraw a submission at any time by written request to the Board. A withdrawn submission that is resubmitted will result in the submission being deemed a new submission for the purposes of determining the amount of time that the Board must act on such submission.

(j) Prior to any Board action taken or after the Board has provided formal notice of its intent to disapprove all or part of a submission:

(1) Modification can occur in writing or orally prior to the Board providing notice of its intent to disapprove all or part of a submission.

(2) After formal notice of intent to disapprove all or part of a submission has been provided by the Board, the applicant must provide written to the Board that the submission will be modified not later than 30 days after the Board provided such notice. Except as provided in paragraph (j)(5) of this section, the applicant must also include the date that the modification will be provided to the Board.

(3) If the modification is in direct response to reviewer comments, the Board may act on the modification immediately or seek further review within the 30 day time period allowed.

(4) The Board will approve or disapprove a modified submission not later than 30 days after receiving a modified submission from the applicant, unless the applicant and the Board agree to a time delay. If a time delay is agreed upon the time period during which the Board must act on the modified submission will not be in effect during the delay.

(5) The Board will disapprove a modified submission if:

(i) All causes for disapproval stated by the Board in its notification of its intent to disapprove the submission are not satisfactorily addressed;

(ii) Insufficient time is available for review of the modified submission to determine whether all causes for disapproval have been satisfactorily addressed; or

(iii) If modification is so substantial that the Board determines that additional independent review is required and a time delay can not be agreed to allow for such review.

(k) When the applicant is notified of the Board's intent to disapprove and the submission is not revised or withdrawn, the Board will provide written notification to the applicant that the submission has been disapproved no less than 30 days after the date that the notice of intent to disapprove was provided to the applicant.

(l) If the Board fails to take action on a new submission within the prescribed 90 day period in paragraph (c)(3) of this section, or within the time period in accordance with paragraph (h)(3) of this section after receiving the revised submission, such submission will be deemed approved by the Board for the initial reinsurance year designated for the submission. The Board must approve the submission for it to be available for any subsequent reinsurance year.

§ 400.707 Presentation to the Board for approval or disapproval.

(a) The Board will inform the applicant of the date, time, and place of the Board meeting.

(b) The applicant will be given the opportunity and is encouraged to present the submission to the Board in person. The applicant must confirm, in writing, whether the applicant will present the submission to the Board.

(c) If the applicant elects, at any time, not to present the submission to the Board, the Board will make its decision based on the submission and the reviews provided in accordance with § 400.706(c).

§ 400.708 Approved submission.

(a) After a submission is approved by the Board, and prior to it being made available for sale to producers, the following items, as applicable, must be completed:

(1) If the Board requires, an agreement between the applicant and FCIC that specifies the responsibilities of each with respect to the implementation, delivery and oversight of the submission, including the disposition of property rights for the policy; and

(2) A reinsurance agreement if terms and conditions differ from the Standard Reinsurance Agreement.

(b) A submission approved by the Board under this subpart will be made available to all approved insurance providers under the same reinsurance and subsidy terms and conditions as received by the applicant.

(c) Any solicitation, sales, marketing, or advertising of the approved submission by the applicant before FCIC has made the submission and related materials available to all interested parties through its official issuance system will result in the denial of reinsurance, risk subsidy, and A&O subsidy for those policies affected.

§ 400.709 Roles and responsibilities.

(a) With respect to the applicant:

(1) The applicant is responsible for:

(i) Preparing and ensuring that all policy documents, rates of premium, and supporting materials, including actuarial materials, are submitted to FCIC in the form approved by the Board;

(ii) Except as provided in § 400.712(k)(2), annually updating and providing maintenance changes no later than 180 days prior to the earliest sales closing date for the commodity in all counties or states in which the policy or plan of insurance is sold and;

(iii) Addressing responses to procedural issues, questions, problems or clarifications in regard to a policy or plan of insurance (all such resolutions will be communicated to all approved insurance providers through FCIC's official issuance system.);

(2) Only the applicant may make changes to the policy, plan of insurance,

or rates of premium approved by the Board (Any changes, both non-significant and significant, must be submitted to FCIC no later than 180 days prior to the earliest sales closing date for the commodity in all counties or states in which the policy or plan of insurance is sold. Significant changes must be submitted to the Board for review in accordance with this subpart and will be considered as a new submission.);

(3) Except as provided in paragraph (a)(4) of this section, the applicant is solely liable for any mistakes, errors, or flaws in the submitted policy, plan of insurance, their related materials, or the rates of premium that have been approved by the Board unless the policy or plan of insurance is transferred to FCIC in accordance with § 400.712(k)(2), the applicant remains liable for any mistakes, errors, or flaws that occurred prior to the transfer of the policy or plan of insurance;

(4) If the mistake, error, or flaw in the policy, plan of insurance, their related materials, or the rates of premium is discovered not less than 45 days prior to the cancellation or termination date for the policy or plan of insurance, the applicant may request in writing that FCIC withdraw the approved policy, plan of insurance, or rates of premium:

(i) Such request must state the discovered mistake, error, or flaw in the policy, plan of insurance, or rates of premium, and the expected impact on the program; and

(ii) For all timely received requests for withdrawal, no liability will attach to such policies, plans of insurance, or rates of premium that have been withdrawn and no producer, approved insurance provider, or any other person will have a right of action against the applicant; and

(5) Notwithstanding the policy provisions regarding cancellation, any policy, plan of insurance, or rates of premium that have been timely withdrawn are deemed canceled and applications for insurance are not accepted as of the date that FCIC publishes the notice of withdrawal on its website at www.act.fcic.usda.gov. Producers will have the option of selecting any other policy or plan of insurance authorized under the Act that is available in their area by the sales closing date for such policy or plan of insurance.

(6) Failure of the applicant to perform the applicant's responsibilities may result in the denial of reinsurance for the policy or plan of insurance.

(b) With respect to FCIC:

(1) FCIC is responsible for:

(i) Ensuring that all approved insurance providers receive the approved policy or plan of insurance, and related materials, for sale to producers in a timely manner (All such information shall be communicated to all approved insurance providers through FCIC's official issuance system.);

(ii) Ensuring that all approved insurance providers receive reinsurance under the same terms and conditions as the applicant (approved insurance providers should contact FCIC to obtain and execute a copy of the reinsurance agreement) if required;

(iii) Conducting the best review of the submission possible in the time allowed; and

(iv) Reviewing the activities of approved insurance providers, agents, loss adjusters, and producers to ensure that they are in accordance with the terms of the policy or plan of insurance, the reinsurance agreement, and all applicable procedures;

(2) FCIC will not be liable for any mistakes, errors, or flaws in the policy, plan of insurance, their related materials, or the rates of premium and no cause of action will exist against FCIC as a result of such mistake, error, or flaw in a submission submitted under this subpart;

(3) If at any time prior to the cancellation or termination date, FCIC discovers that there is a mistake, error, or flaw in the policy, plan of insurance, their related materials, or the rates of premium that results in over or under insurance, FCIC will deny reinsurance to such policy or plan of insurance:

(4) If reinsurance is denied under paragraph (b)(3) of this section, the approved insurance provider will have the option of:

(i) Selling and servicing the policy or plan of insurance at its own risk and without any subsidy; or

(ii) Canceling the policy or plan of insurance in accordance with its terms; and

(5) If the applicant transfers the policy or plan of insurance to FCIC in accordance with § 400.712 (k)(2), FCIC will assume the liability for any mistakes, errors, or flaws that occur after the policy or plan insurance as been transferred and FCIC is in control of maintenance.

§ 400.710 Preemption and premium taxation.

A policy or plan of insurance that is approved by the Board for FCIC reinsurance is preempted from state and local taxation.

§ 400.711 Right of review, modification, and the withdrawal of reinsurance.

At any time after approval, the Board may review any policy, plan of insurance, related materials, and rates of premium approved under this subpart and request additional information to determine whether the policy, plan of insurance, related materials, and rates of premium comply with statutory or regulatory changes or court orders, are still actuarially appropriate, and protect program integrity and the interests of producers. The Board will notify the applicant of any problem or issue that may arise and allow the applicant an opportunity to make any needed change. The Board may deny reinsurance for the applicable policy, plan of insurance or rate of premium if:

(a) The applicant fails to perform their responsibilities under § 400.709; or

(b) If the applicant does not satisfactorily provide materials or resolve any issue so that necessary changes can be made prior to the earliest contract change date.

§ 400.712 Research and development reimbursement, maintenance reimbursement, and user fees.

(a) Submissions approved by the Board for reinsurance under section 508(h) of the Act may be eligible for a one time payment of research and development costs and maintenance costs for up to four reinsurance years, as determined by the Board after the date such costs have been approved by the Board. Reimbursements made under this section will be considered as payment in full for research, development, and maintenance, as applicable, for any policy or plan of insurance and any property rights to the policy or plan of insurance.

(b) For submissions submitted to the Board for reinsurance after publication of this subpart, an estimate of a request for reimbursement of research and development costs and maintenance costs, as applicable, must be included with the original submission to the Board in accordance with this section. These estimates will only be used by FCIC for the purpose of tracking potential expenditures and will not provided a basis for making any reimbursements under this section. Documentation of actual costs allowed under this section will be used to determine any reimbursement.

(c) For a submission approved by the Board, or submitted to the Board, prior to publication of this subpart, a request for reimbursement for research and development costs and estimated maintenance costs must be received within 60 days following publication of

this subpart or approval of the submission by the Board. This request should be sent to the Deputy Administrator, Research and Development (or any successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676, and also provide one identical copy of each submission to the Administrator, Risk Management Agency, 1400 Independence Ave., Stop 0801, Room 3053 South Building, Washington, D.C. 20250–0801.

(d) To be eligible for any reimbursement under this section, FCIC must determine that a submission is marketable.

(e) To be considered for reimbursement in any fiscal year, complete and final requests for research and development costs and maintenance costs, as applicable, must be received by FCIC not later than August 1. For 2001 fiscal year only, FCIC may consider reimbursement for research and development costs on approved submissions for any request received by September 1, 2001. Given the limitation on funds, regardless of when the request is received, no payment will be made prior to September 15 of the applicable fiscal year.

(f) There are limited funds available on an annual fiscal year basis as contained in the Act. Therefore, requests for reimbursement will not be considered in the order in which they are received. Consistent with paragraphs (g), (h), (i), (j), and (l) of this section, if all applicants' requests for reimbursement of research and development costs and maintenance costs in any fiscal year:

(1) Do not exceed the maximum amount authorized by law, the applicants may receive the full amount of reimbursement authorized under these subsections.

(2) Exceed the amount authorized by law, each applicant's reimbursement will be determined by dividing the total amount of each individual applicants' reimbursable costs authorized in paragraphs (g), (h), (i), (j), and (l) by the total amount of the aggregate of all applicants' reimbursable costs authorized in paragraphs (g), (h), (i), (j), and (l) for that year and multiplying the result by the amount of reimbursement authorized under the Act.

(g) The amount of reimbursement for research and development costs and maintenance costs, as applicable, will be determined based on the amount of reimbursement authorized under paragraph (f) of this section, adjusted for the complexity of the policy, plan of insurance, or rates of premium, as determined by FCIC, and the size of the area in which the policy, plan of insurance, or rates of premium may be offered.

(1) Policies or plans of insurance that offer new and innovative coverages that are not currently available will be eligible for a higher reimbursement than policies or plans of insurance that are, or have components that are, based on existing policies or plans of insurance.

(2) Policies or plans of insurance that offer new premium rating or market price methodologies will be eligible for a higher reimbursement than policies or plans of insurance that use existing premium rating or market price methodologies.

(3) Policies or plans of insurance that cover new commodities that are not otherwise covered by crop insurance or that offer innovative coverage and original policy language will be eligible for a higher reimbursement than policies or plans of insurance for commodities for which insurance is currently available.

(4) Policies or plans of insurance that may be offered for sale nationwide or in large geographical regions will be eligible for higher reimbursement than those that are applicable to only a few counties or states or a small geographical region.

(5) Any reimbursement under this subpart will be scored as follows:

(i) Complexity scores:

(A) Basic or Common Provisions:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(B) Crop Provisions and Special Provisions:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(C) Market prices:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(D) Rates of Premium:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(E) Underwriting:

(*1*) Uses existing policies or plans of insurance: 0.05

(*2*) Contains modifications to existing policies or plans of insurance: 0.10

(*3*) Original (See paragraph (g)(3) of this section): 0.20

(ii) Geographic scope scores:

(A) Potential national availability: 0.10

(B) Potential regional, state or county availability: 0.05

(6) In accordance with paragraph (e) of this section, those policies or plans of insurance that receive a summed total score for both complexity and geographic scope that is:

(i) Equal to or greater than 0.6 may receive the full amount of reimbursement approved by the Board under paragraphs (h), (i) or (j) of this section;

(ii) Greater than 0.25 but lower than 0.60 will receive a reimbursement that is not greater than 75 percent of the full amount of reimbursement approved by the Board under paragraphs (h), (i) or (j) of this section; and

(iii) Equal to or less than 0.25 will receive a reimbursement that is not greater than 50 percent of the full amount of reimbursement approved by the Board under paragraphs (h), (i) or (j) of this section.

(h) For those submissions that were approved by the Board prior to the date of publication of this subpart, reimbursement for research and development costs will be determined in accordance with paragraph (i) of this section or by multiplying the average number of policies earning premium each crop year since inception of the policy or plan of insurance by $7.00 and multiplying the result by the complexity and scope score from paragraph (g) of this section.

(i) For those submissions submitted to the Board prior to the date of publication of this subpart but not yet approved, or submitted to the Board for approval after the date of publication of this part, research and development costs must be supported by itemized statements and supporting documentation (copies of contracts, billing statements, time sheets, travel vouchers, accounting ledgers, etc.). Actual costs submitted will be examined for reasonableness and may be adjusted at the sole discretion of the Board.

(1) Allowable research and development expense items (directly related to research and development of the submission only) may include the following;

(i) Straight-time hourly wage, exclusive of bonuses, overtime pay, or shift differentials (One line per employee, include job title, total hours, and total dollars. Compensation

amounts will be compared with the Occupational Employment Statistics Survey, published each January by the U.S. Department of Labor, Bureau of Labor Statistics);

(ii) Benefit cost per employee (Benefit costs are considered overhead and will be compared with the Employment Cost Index Annual Employer Cost Survey published each March by the U.S. Department of Labor, Bureau of Labor Statistics.);

(iii) Contracted expenses (include a copy of the contract, billing statements, accounting records, etc.);

(iv) Professional fees (include the job title, straight-time hourly wage, total hours, and total dollars);

(v) Travel and transportation (One line per event, include the job title, destination, purpose of travel, lodging cost, mileage, air or other identified transportation costs, food and miscellaneous expenses, other costs, and the total cost);

(vi) Software and computer programming developed specifically to determine appropriate rates, prices, or coverage amounts (Identify the item, include the purpose, and provide receipts or contract or straight-time hourly wage, hours, and total cost. Software developed to calculate premiums or losses, or development of software to send or receive data between the producer, agent, approved insurance provider or RMA or such other similar software may not be included as an allowable cost.);

(vii) Miscellaneous expenses such as postage, telephone, express mail, and printing (Identify the item, cost per unit, number of items, and total dollars);

(2) The following expenses are specifically not eligible for research and development cost reimbursement:

(i) Copyright or patent fees;

(ii) Training costs;

(iii) State filing fees and expenses;

(iv) Normal ongoing administrative expenses;

(v) Paid or incurred losses;

(vi) Loss adjustment expenses;

(vii) Sales commission;

(viii) Marketing costs;

(ix) Indirect overhead costs;

(x) Lobbying costs;

(xi) Product or applicant liability resulting from the research, development, preparation or marketing of the policy;

(xii) Copyright infringement claims resulting from the research, development, preparation or marketing of the policy;

(xiii) Costs of making program changes as a result of case or statutory law effecting the policy; and

(xiv) Maintenance costs associated with the submission.

(j) Requests for reimbursement of maintenance costs for submissions approved after publication of this subpart must be supported by itemized statements and supporting documentary evidence for each reinsurance year in the maintenance period. For submissions approved prior to publication of this subpart, the applicant may provide itemized statements and supporting documentary evidence or may request to receive not more than 15 percent of the amount of reimbursement for research and development costs, as determined in accordance with § 400.712, for the first reinsurance year in the maintenance period. For all subsequent reinsurance years, itemized and supporting documentary evidence must be provided. Actual costs submitted will be examined for reasonableness and may be adjusted at the sole discretion of the Board.

(1) Maintenance costs for the following activities may be reimbursed:

(i) Expansion of the original submission to cover additional commodities;

(ii) Expansion of the original submission into additional counties or states;

(iii) Reasonable and required modifications to the policy and any related materials;

(iv) Adjustment to premium rates and commodity prices as necessary or required; and

(v) Other costs associated with maintaining the policy, as determined by the Board.

(2) [Reserved]

(k) Not later than six months prior to the end of the last reinsurance year in which a maintenance reimbursement will be paid, as approved by the Board, the applicant must notify FCIC regarding its election of the treatment of the policy or plan of insurance for subsequent reinsurance years.

(1) The applicant must notify FCIC whether it intends to:

(i) Continue to maintain the policy or plan of insurance and charge a user fee, as approved by the Board, to approved insurance providers for all policies earning premium to cover maintenance expenses. It is the sole responsibility of the applicant to collect such fees from the approved insurance providers and any indebtedness for such fees must be resolved by the applicant and approved insurance provider. Applicants may request that FCIC provide the number of policies sold by each approved insurance provider. Such information will be provided not later than 90 days after such request is made or not later than 90 days after the requisite information has been provided to FCIC by the approved insurance provider, which ever is later; or

(ii) Transfer responsibility for maintenance to FCIC.

(2) If the applicant elects to:

(i) Transfer the policy or plan of insurance to FCIC, FCIC may, at its sole discretion, elect to withdraw the availability of the policy or plan of insurance or continue to maintain the policy or plan of insurance; or

(ii) Continue to maintain the policy or plan of insurance, at the time of the election, the applicant must submit a request for approval of the user fee by the Board.

(3) Requests for approval of the user fee must be accompanied by written documentation to support that the amount requested will only cover maintenance costs.

(4) The Board will approve the amount of user fee that is payable to the applicant by approved insurance providers unless the Board determines that the user fee charged:

(i) Is unreasonable in relation to the maintenance costs associated with the policy or plan of insurance; or

(ii) Unnecessarily inhibits the use of the policy or plan of insurance by other approved insurance providers.

(5) Reasonableness of the user fees will be determined by the Board based on a comparison with the amount of reimbursement for maintenance previously received, the number of policies, the number of approved insurance providers, and the expected total amount of user fees to be received in any reinsurance year.

(6) A user fee unnecessarily inhibits the use of a policy or plan of insurance if it is so high that other approved insurance providers are unable to pay such fees because of the volume of business currently underwritten by the approved insurance provider.

(7) The user fee charged to each approved insurance provider will be considered payment in full for the use of such policy, plan of insurance or rate of premium for the reinsurance year in which payment is made.

(l) The Board may consider information from the Equal Access to Justice Act, 5 U.S.C. 504, the Bureau of Labor Statistic's Occupational Employment Statistics Survey, the Bureau of Labor Statistic's Employment Cost Index, and any other information determined applicable by the Board, in making a determination whether to approve a submission for reimbursement of research, development, or maintenance costs under this section or the amount of reimbursement.

(m) For purposes of this section, rights to, or obligations of, research and development reimbursement, maintenance cost reimbursement, or user fees cannot be transferred from any individual or entity unless specifically approved in writing by the Board.

§ 400.713 Non-Reinsured supplemental (NRS) policy.

(a) The reinsured company must submit three copies of the new or revised NRS policy and related materials to the Deputy Administrator, Research and Development (or successor), Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO 64133–4676 for review, approval or disapproval at least 90 days prior to the first sales closing date applicable to the policy reinsured by FCIC.

(b) FCIC will approve the NRS policy if it does not increase or shift risk to the underlying policy or plan of insurance reinsured by FCIC, affect any rights of the insured with respect to the underlying reinsured policy or plan of insurance, or cause disruption in the marketplace for products reinsured by FCIC. Marketplace disruption includes adversely affecting sales or administration of the underlying reinsured policy, undermining producers' confidence in the Federal crop insurance program, decreasing the producer's willingness or ability to use Federally reinsured risk management products, or harming public perception of the Federal crop insurance program.

(c) Failure to timely submit the NRS policy to FCIC will result in the denial of reinsurance and subsidy for all policies reinsured by FCIC for which the insured has obtained the NRS policy.

Signed in Washington, D.C. on September 12, 2001.

Phyllis W. Honor,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 01–23157 Filed 9–12–01; 4:21 pm]

BILLING CODE 3410–08–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, and 558

New Animal Drugs; Change of Sponsor; Technical Amendment

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 43 approved new animal drug applications (NADAs) and 16 approved abbreviated new animal drug applications (ANADAs) from Hoechst Roussel Vet to Intervet, Inc. Technical amendments are also being made. This action is being taken to improve the accuracy of the agency's regulations.

DATES: This rule is effective September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Hoechst Roussel Vet, Perryville Corporate Park III, P.O. Box 4010, Clinton, NJ 08809–4010, has informed FDA that it has transferred ownership of, and all rights and interest in, the following NADAs and ANADAs to Intervet, Inc., P.O. Box 318, 405 State St., Millsboro, DE 19966.

NADA Number	Product Name
34–478	LASIX® Injection
34–621	LASIX® Tablets and Boluses
44–759	FLAVOMYCIN® Type A Medicated Article
45–188	LASIX® Packets
95–543	AMPROL HI–E®/FLAVOMYCIN®
95–547	AMPROL HI–E®/FLAVOMYCIN®/3–NITRO®
95–548	AMPROL®/3–NITRO®/FLAVOMYCIN®
95–549	AMPROL®/3–NITRO®/FLAVOMYCIN®
98–340	FLAVOMYCIN®/Monensin
98–341	FLAVOMYCIN®/3–NITRO®/COBAN®
101–628	FLAVOMYCIN®/3–NITRO®/ZOALENE®
101–629	FLAVOMYCIN®/ZOALENE®
102–380	LASIX® Syrup
104–494	PANACUR® 10% Suspension
111–278	PANACUR® Granules 22%
120–648	PANACUR®/SAFE–GUARD® Paste
121–473	PANACUR® Granules 22%
128–620	PANACUR®/SAFE–GUARD® 10% Suspension
130–185	FLAVOMYCIN®/Amprolium
130–661	FLAVOMYCIN®/CARB–O–SEP®
130–951	STENOROL® Type A Medicated Article
131–310	REGU–MATE® Solution
131–675	SAFE–GUARD® Type A Medicated Article
132–872	PANACUR®/SAFE–GUARD® 10% Paste
137–483	FLAVOMYCIN®/STENOROL®
137–600	SAFE–GUARD® Type A Medicated Article
138–612	FINAPLIX®–S; FINAPLIX®–H Implants
139–189	SAFE–GUARD® ENPROAL Feedblocks
139–473	STENOROL®/STAFAC®
140–339	FLAVOMYCIN®/NICARB®
140–340	STENOROL®/LINCOMIX®
140–533	STENOROL®/3–NITRO®/BMD®
140–584	STENOROL®/BMD®
140–824	STENOROL® Type A Medicated Article
140–843	MONTEBAN®/FLAVOMYCIN®/3–NITRO®
140–845	FLAVOMYCIN®/MONTEBAN®
140–897	REVALOR®–S; REVALOR®–G Implants

NADA Number	Product Name
140–918	STENOROL®/FLAVOMYCIN®
140–919	STENOROL®/BMD®
140–954	SAFE–GUARD® Type A/LINCOMIX®
140–992	REVALOR®–200; REVALOR®–H Implants
141–034	GAINPRO® Type A Medicated Article
141–129	AVATEC®/FLAVOMYCIN®
200–075	SACOX® Type A Medicated Article
200–080	SACOX®/3–NITRO®/FLAVOMYCIN®
200–081	SACOX®/3–NITRO®/BMD®
200–082	SACOX®/BMD®
200–083	SACOX®/FLAVOMYCIN®
200–086	SACOX®/ALBAC®/3–NITRO®
200–089	SACOX®/BACIFERM®
200–090	SACOX®/LINCOMIX®/3–NITRO®
200–091	SACOX®/3–NITRO®/AUREOMYCIN®
200–092	SACOX®/STAFAC®
200–093	SACOX®/LINCOMIX®
200–094	SACOX®/STAFAC®/3–NITRO®
200–095	SACOX®/AUREOMYCIN®
200–096	SACOX®/TERRAMYCIN®
200–097	SACOX®/3–NITRO®
200–143	SACOX®/3–NITRO®/BACIFERM®

Accordingly, the agency is amending the regulations in 21 CFR 520.48, 520.905a, 520.905b, 520.905c, 520.905d, 520.905e, 520.1010a, 520.1010b, 520.1010c, 522.1010, 522.2476, 522.2477, 558.55, 558.58, 558.95, 558.198, 558.258, 558.265, 558.355, 558.363, 558.366, and 558.550 to reflect the transfers of ownership. In addition, the sections in 21 CFR parts 520 and 522 are being revised to reflect current format.

Following the change of sponsor of these NADAs, Hoechst Roussel Vet is no longer the sponsor of any approved applications. Therefore, 21 CFR 510.600(c) is amended to remove the entries for this sponsor.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520 and 522

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''Hoechst Roussel Vet'' and in the table in paragraph (c)(2) by removing the entry for ''012799''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

4. Section 520.48 is revised to read as follows:

§ 520.48 Altrenogest solution.

(a) *Specifications*. Each milliliter (mL) of solution contains 2.2 milligrams (mg) altrenogest.

(b) *Sponsor*. See No. 057926 in § 510.600(c) of this chapter.

(c) *Special considerations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*—(1) *Amount*. 1.0 mL per 110 pounds body weight (0.044 mg per kilogram) daily for 15 consecutive days.

(2) *Indications for use*. For suppression of estrus in mares.

(3) *Limitations*. For oral use in horses only; avoid contact with the skin. Do not administer to horses intended for use as food.

§ 520.905a [Amended]

5. Section 520.905a *Fenbendazole suspension* is amended in paragraph (b) by removing ''012799'' and by adding in its place ''057926''.

§ 520.905b [Amended]

6. Section 520.905b *Fenbendazole granules* is amended in paragraph (b) by removing ''012799'' and by adding in its place ''057926''.

§ 520.905c [Amended]

7. Section 520.905c *Fenbendazole paste* is amended in paragraph (b) by removing ''012799'' and by adding in its place ''057926''.

§ 520.905d [Amended]

8. Section 520.905d *Fenbendazole powder* is amended in paragraph (b) by removing ''012799'' and by adding in its place ''057926''.

§ 520.905e [Amended]

9. Section 520.905e *Fenbendazole blocks* is amended in paragraph (b) by removing ''012799'' and by adding in its place ''057926''.

10. Section 520.1010 is revised to read as follows:

§ 520.1010 Furosemide.

(a) *Specifications*. (1) Each tablet contains 12.5 or 50 milligrams (mg) furosemide.

(2) Each bolus contains 2 grams (g) furosemide.

(3) Each packet of powder contains 2 g furosemide.

(4) Each milliliter of syrup contains 10 mg furosemide.

(b) *Sponsors*. See sponsor numbers in § 510.600(c) of this chapter for use of dosage forms and strengths listed in

paragraph (a) of this section for uses as in paragraph (d) of this section.

(1) No. 000010 for tablets in paragraph (a)(1) of this section for conditions of use in paragraphs (d)(2)(i), (d)(2)(ii)(A), and (d)(3) of this section.

(2) No. 000093 for tablets in paragraph (a)(1) of this section for conditions of use in paragraphs (d)(2)(i) and (d)(2)(ii)(B) of this section.

(3) No. 057926 for tablets in paragraph (a)(1) of this section for conditions of use in paragraphs (d)(2)(i), (d)(2)(ii)(A), and (d)(3) of this section; for boluses in paragraph (a)(2) of this section and powder in paragraph (a)(3) of this section for conditions of use in paragraph (d)(1) of this section; and for syrup in paragraph (a)(4) of this section for conditions of use in paragraphs (d)(2)(i) and (d)(2)(ii)(A).

(c) *Special considerations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*. It is used as follows:

(1) *Cattle*—(i) *Amount*. 1 to 2 mg per pound (/lb) body weight using powder, or one 2-g bolus per animal, per day.

(ii) *Indications for use*. For treatment of physiological parturient edema of the mammary gland and associated structures.

(iii) *Limitations*. Treatment not to exceed 48 hours post-parturition. Milk taken during treatment and for 48 hours after the last treatment must not be used for food. Cattle must not be slaughtered for food within 48 hours following last treatment.

(2) *Dogs*—(i) *Amount*. 1 to 2 mg/lb body weight, once or twice daily.

(ii) *Indications for use*—(A) For treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

(B) For treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency.

(3) *Cats*—(i) *Amount*. 1 to 2 mg/lb body weight, once or twice daily.

(ii) *Indications for use*. For treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

§ 520.1010a [Removed]

11. Section 520.1010a *Furosemide tablets or boluses* is removed.

§ 520.1010b [Removed]

12. Section 520.1010b *Furosemide powder* is removed.

§ 520.1010c [Removed]

13. Section 520.1010c *Furosemide syrup* is removed.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

14. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

15. Section 522.1010 is revised to read as follows:

§ 522.1010 Furosemide.

(a) *Specifications*. Each milliliter of solution contains 50 milligrams (mg) of furosemide diethanolamine.

(b) *Sponsors*. See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 000010 for use as in paragraphs (d)(1) and (d)(2)(ii) of this section.

(2) No. 000864 for use as in paragraph (d)(2)(ii) of this section.

(3) No. 057926 for use as in paragraphs (d)(1), (d)(2)(i), and (d)(3) of this section.

(c) *Special considerations*. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*—(1) *Dogs and cats*—(i) Amount. 1.25 to 2.5 mg per pound (/lb) body weight once or twice daily, intramuscularly or intravenously.

(ii) *Indications for use*. For the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency and acute noninflammatory tissue edema.

(2) *Horses*—(i) *Amount*. 250 to 500 mg per animal once or twice daily, intramuscularly or intravenously.

(A) *Indications for use*. For the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency, and acute noninflammatory tissue edema.

(B) *Limitations*. Do not use in horses intended for food.

(ii) *Amount*. 0.5 mg/lb body weight once or twice daily, intramuscularly or intravenously.

(A) *Indications for use*. For treatment of acute noninflammatory tissue edema.

(B) *Limitations*. Do not use in horses intended for food.

(3) *Cattle*—(i) *Amount*. 500 mg/animal once daily, intramuscularly or intravenously; or 250 mg/animal twice daily at 12-hour intervals, intramuscularly or intravenously.

(ii) *Indications for use*. For the treatment of physiological parturient edema of the mammary gland and associated structures.

(iii) *Limitations*. Treatment not to exceed 48 hours post-parturition. Milk taken during treatment and for 48 hours (four milkings) after the last treatment must not be used for food. Cattle must not be slaughtered for food within 48 hours following last treatment.

16. Section 522.2476 is revised to read as follows:

§ 522.2476 Trenbolone acetate.

(a) [Reserved]

(b) *Sponsors*. See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 021641 for use as in paragraphs (d)(1) and (d)(2) of this section.

(2) No. 057926 for use as in paragraphs (d)(1)(i)(A), (d)(1)(ii), (d)(1)(iii), (d)(2)(i)(A), (d)(2)(ii), and (d)(2)(iii) of this section.

(c) *Related tolerances*. See § 556.739 of this chapter.

(d) *Conditions of use*—(1) *Steers fed in confinement for slaughter*—(i) *Amount*. Use 126 days prior to slaughter; should be reimplanted once after 63 days.

(A) 140 milligrams (mg) trenbolone acetate (one implant consisting of 7 pellets, each pellet containing 20 mg trenbolone acetate) per implant dose.

(B) 140 mg trenbolone acetate (one implant consisting of 8 pellets, each of 7 pellets containing 20 milligrams trenbolone acetate, and 1 pellet containing 29 mg tylosin tartrate) per implant dose.

(ii) *Indications for use*. For improved feed efficiency.

(iii) *Limitations*. Implant subcutaneously in ear only. Do not use in animals intended for subsequent breeding or in dairy animals.

(2) *Heifers fed in confinement for slaughter*—(i) Amount. Use last 63 days prior to slaughter.

(A) 200 mg trenbolone acetate (one implant consisting of 10 pellets, each pellet containing 20 mg trenbolone acetate) per implant dose.

(B) 200 mg of trenbolone acetate (one implant consisting of 11 pellets, each of 10 pellets containing 20 mg of trenbolone acetate, and 1 pellet containing 29 mg of tylosin tartrate) per implant dose.

(ii) *Indications for use*. For increased rate of weight gain and improved feed efficiency.

(iii) *Limitations*. Implant subcutaneously in ear only. Do not use in animals intended for subsequent breeding or in dairy animals.

17. Section 522.2477 is amended by revising paragraph (b) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(b) *Sponsors*. See sponsors in § 510.600(c) of this chapter for uses as in paragraph (d) of this section.

(1) No. 021641 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(B),

(d)(1)(ii), (d)(1)(iii), and (d)(3) of this section.

(2) No. 057926 for use as in paragraphs (d)(1)(i)(A), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(ii), (d)(1)(iii), (d)(2), (d)(3)(i)(A), (d)(3)(ii), and (d)(3)(iii) of this section.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

18. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.55 [Amended]

19. Section 558.55 *Amprolium* is amended in the table in paragraphs (d)(2)(iii) by removing ''012799'' wherever it appears under the ''Limitations'' and ''Sponsor'' columns and by adding in its place ''057926''.

§ 558.58 [Amended]

20. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraphs (d)(1)(ii) and (d)(1)(iii) by removing ''012799'' wherever it appears in the ''Limitations'' column and by adding in its place ''057926''.

§ 558.95 [Amended]

21. Section 558.95 *Bambermycins* is amended in paragraphs (a)(1), (a)(2), (a)(5), (d)(1)(vi)(*b*), and (d)(1)(vii)(*b*) by removing ''012799'' and by adding in its place ''057926''; and in paragraphs (d)(1)(xi)(*b*), and (d)(1)(xii)(*b*) by removing ''012799 and 046573'' and by adding in its place ''046573 and 057926''.

§ 558.198 [Amended]

22. Section 558.198 *Diclazuril* is amended in the table in paragraphs (d)(1)(iii) by removing ''012799'' under the ''Limitations'' column and by adding in its place ''057926.''

§ 558.258 [Amended]

23. Section 558.258 *Fenbendazole*is amended in paragraph (a) by removing ''012799'' and by adding in its place ''057926''.

§ 558.265 [Amended]

24. Section 558.265 *Halofuginone hydrobromide* is amended in paragraph (a) by removing ''012799'' and by adding in its place ''057926''.

§ 558.355 [Amended]

25. Section 558.355 *Monensin* is amended in paragraphs (b)(10), (f)(2)(v)(*b*), and (f)(2)(vi)(*b*) by removing ''012799'' and by adding in its place ''057926''.

§ 558.363 [Amended]

26. Section 558.363 *Narasin* is amended in paragraphs (a)(4), (a)(5), (d)(1)(vii)(B), and (d)(1)(xii)(B) by removing ''012799'' and by adding in its place ''057926''.

§ 558.366 [Amended]

27. Section 558.366 *Nicarbazin* is amended in the table in paragraph (c) in the entry for ''Bambermycins 1 to 2'' under the ''Sponsor'' column by removing ''012799'' and by adding in its place ''057926''.

§ 558.550 [Amended]

28. Section 558.550 *Salinomycin* is amended in paragraph (a)(2) by removing ''012799'' and by adding in its place ''057926''; and in paragraphs (d)(1)(xv)(*c*) and (d)(1)(xvi)(*c*) by removing ''012799 and 046573'' and by adding in its place ''046573 and 057926''.

Dated: August 31, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–23043 Filed 9–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 30 approved new animal drug applications (NADAs) from Pfizer, Inc., to Phibro Animal Health, Inc. The technical amendments made by this final rule are intended to provide accuracy and clarity to the agency's regulations.

DATES: This rule is effective September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, has informed FDA that it has transferred ownership of, and all rights and interest in, the following NADAs to Phibro Animal Health, Inc., One Parker Plaza, Fort Lee, NJ 07024:

NADA No.	Product Name
32–704	Bloat Guard® Top Dressing
35–287	OM–5 Premix
38–281	Bloat Guard® Liquid Premix
41–061	Mecadox® Premix 10
43–290	Banminth® Premix 80
46–668	Penicillin G Procaine 50% and 100% Type A Medicated Articles
91–467	Stafac® 20, 500 Type A Medicated Articles
91–513	Stafac® Type A Medicated Articles
92–286	CTCL 10, 20, 30, 50, 70 Type A Medicated Article
92–287	CTCL 50 MR, 100 MR Type A Medicated Article
92–444	Rumatel® Premix 88
92–955	Mecadox®/Banminth®
98–431	Tylan® 10 Premix
99–006	Terramycin®/Coban®
101–666	Terramycin®/Robenz®
110–047	Banminth®/Tylan®
116–044	Banminth®/Lincomix®
120–724	Stafac®/Coban®/3–Nitro®
122–481	Stafac®/Coban®
122–608	Stafac®/Avatec®
122–822	Stafac®/Amprol HI–E®
138–828	Stafac®/Biocox®
138–953	Stafac®/Biocox®/3–Nitro®
140–448	Biocox®/Terramycin®
140–940	Aviax® Type A Medicated Article
140–998	V–Max Type A Medicated Article
141–058	Aviax®/BMD®/3–Nitro®
141–058	Aviax®/BMD®/3–Nitro®
141–065	Aviax®/BMD®
141–066	Aviax®/3–Nitro®
141–114	Aviax®/Stafac®

Accordingly, the agency is amending the regulations in §§ 520.1840, 558.58, 558.115, 558.128, 558.198, 558.311, 558.355, 558.360, 558.435, 558.450, 558.460, 558.465, 558.485, 558.515, 558.550, 558.555, 558.625, and 558.635 (21 CFR 520.1840, 558.58, 558.115, 558.128, 558.198, 558.311, 558.355, 558.360, 558.435, 558.450, 558.460, 558.465, 558.485, 558.515, 558.550, 558.555, 558.625, and 558.635) to reflect the transfer of ownership. In addition, §§ 520.1840 and 558.485 are being revised to reflect current format.

Section 558.450 is also being amended to remove the entries for combination uses of oxytetracycline (OTC) with monensin, provided under NADA 99–066, because they are redundant with entries in § 558.355. The entry for the use of 400 grams per (g/) ton OTC with 90 to 110 g/ton monensin in § 558.450(d)(1)(vi) is an error created during prior revisions (61 FR 51588, Oct. 3, 1996). The correct drug levels, 200 g/ton OTC with 90 to 110 g/ton monensin, for the same indications are codified in

§ 558.355(f)(1)(viii). The entry for the use of 500 g/ton OTC with 90 to 110 g/ton monensin in § 558.450(d)(1)(vii) is redundant with § 558.355(f)(1)(xxii).

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1840 is amended by revising paragraphs (a), (b), and (c) to read as follows.

§ 520.1840 Poloxalene.

(a) *Specifications*. Polyoxypropylene-polyoxyethylene glycol nonionic block polymer.

(b) *Sponsors*. See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 000069 for use as in paragraphs (d)(1) and (d)(3) of this section.

(2) No. 017800 for use as in paragraph (d)(4) of this section.

(3) No. 036904 for use as in paragraph (d)(2) of this section.

(4) No. 066104 for use as in paragraph (d)(3) of this section.

(c) [Reserved]

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.58 [Amended]

4. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1)(iii) under the ''Limitations'' column in the entry for ''Virginiamycin 15'' by removing ''000069'' and by adding in its place ''066104''.

§ 558.115 [Amended]

5. Section 558.115 *Carbadox* is amended in paragraph (a) by removing ''000069'' and by adding in its place ''066104''.

§ 558.128 [Amended]

6. Section 558.128 *Chlortetracycline* is amended in paragraph (a)(1) by removing ''000069, 046573, and 053389'' and by adding in its place ''046573, 053389, and 066104''; and in the table in paragraph (d)(1) under the ''Sponsor'' column by removing ''000069'' wherever it occurs and by adding in its place in numerical sequence ''066104''.

§ 558.198 [Amended]

7. Section 558.198 *Diclazuril* is amended in the table in paragraphs (d)(1)(iv) and (d)(1)(v) by removing ''000069'' under the ''Limitations'' column and by adding in its place ''066104''.

§ 558.311 [Amended]

8. Section 558.311 *Lasalocid* is amended in paragraph (b)(2) by removing ''000069'' and by adding in its place ''066104'' and in the table in paragraph (e)(1)(xv) in the entry for ''Virginiamycin 10 to 20'' under the ''Limitations'' column by removing ''000069'' and by adding in its place ''066104''.

§ 558.355 [Amended]

9. Section 558.355 *Monensin* is amended in paragraphs (b)(5), (b)(12), (f)(1)(xxii)(*b*), and (f)(2)(iv)(*b*) by removing ''000069'' and by adding in its place ''066104''; in paragraphs (f)(1)(xiii)(*b*) and (f)(1)(xxi)(*b*) by removing ''000007'' and by adding in its place ''066104''; and in paragraph (f)(1)(xx)(*b*) by removing ''as monensin sodium; as roxarsone'' and by adding in its place ''as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as virginiamycin provided by No. 066104 in § 510.600(c) of this chapter; roxarsone''.

§ 558.360 [Amended]

10. Section 558.360 *Morantel tartrate* is amended in paragraph (a) by removing ''000069'' and by adding in its place ''066104''.

§ 558.435 [Amended]

11. Section 558.435 *Oleandomycin* is amended in paragraph (a) by removing ''000069'' and by adding in its place ''066104''.

§ 558.450 [Amended]

12. Section 558.450 *Oxytetracycline* is amended in table 1 in paragraph (d)(1) by removing the entries for ''Monensin 90 to 110 g/ton'' in paragraphs (d)(1)(vi) and (d)(1)(vii); in paragraph (d)(1)(vii) in the entry for ''Salinomycin 40 to 60 g/ton'' by removing ''000069'' under the ''Sponsor'' column and by adding in its place in numerical sequence ''066104''.

§ 558.460 [Amended]

13. Section 558.460 *Penicillin* is amended in paragraph (b) by removing ''000069'' and by adding in its place ''066104''.

§ 558.465 [Amended]

14. Section 558.465 *Poloxalene free-choice liquid Type C feed* is amended in paragraph (a) by removing ''000069'' and by adding in its place ''066104''.

15. Section 558.485 is amended by revising paragraphs (a), (b), and (d)(1) to read as follows:

§ 558.485 Pyrantel.

(a) *Specifications*. Type A medicated articles containing 9.6, 19.2, 48, or 80 grams per pound pyrantel tartrate.

(b) *Approvals*. See sponsors in § 510.600(c) of this chapter for uses as in paragraph (e) of this section:

(1) No. 066104: 9.6, 19.2, and 80 grams per pound for use as in paragraph (e)(1) of this section.

(2) No. 001800: 9.6 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(3) Nos. 010439, 011490, 011749, 016968, 017473, 017519, 017790, 043733, 049685, 050568, 050639, and 051359: 9.6 and 19.2 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(4) No. 021676: 19.2 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(5) No. 017800: 19.2 and 48 grams per pound for use as in paragraphs (e)(1)(i) through (e)(1)(iii) of this section.

(6) Nos. 034936 and 046987: 9.6 and 19.2 grams per pound for use as in paragraphs (e)(1)(i) and (e)(1)(ii) of this section.

(7) Nos. 000069, 017135, and 062240: 48 grams per pound for use as in paragraph (e)(2) of this section.

* * * * *

(d) *Special considerations*. (1) See § 500.25 of this chapter. Consult a veterinarian before using in severely debilitated animals.

* * * * *

§ 558.515 [Amended]

16. Section 558.515 *Robenidine hydrochloride* is amended in the table in paragraph (d) in the entry for ''Oxytetracycline 400'' under the ''Sponsor'' column by removing ''000069'' and by adding in its place ''066104''.

§ 558.550 [Amended]

17. Section 558.550 *Salinomycin* is amended in paragraphs (d)(1)(x)(*c*) and (d)(1)(xii)(*c*) by removing ''053571'' and by adding in its place ''066104''.

18. Section 558.555 is amended by revising paragraph (a); by removing paragraph (c); by redesignating paragraph (b) as paragraph (c); in paragraph (d) by removing ''000069'' wherever it appears and by adding in its place ''066104''; and by adding new paragraph (b) to read as follows:

§ 558.555 Semduramicin.

(a) *Specifications*. Type A medicated article containing 22.7 grams per pound (50 grams per kilogram) semduramicin sodium.

(b) *Approvals*. See No. 066104 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

* * * * *

§ 558.625 [Amended]

19. Section 558.625 *Tylosin* is amended in paragraph (b)(25) by removing ''000069'' and by adding in its place ''066104''.

§ 558.635 [Amended]

20. Section 558.635 *Virginiamycin* is amended in paragraph (a)(1) by removing ''000069'' and by adding in its place ''066104''.

Dated: August 31, 2001.

Claire M. Lathers,

Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–23044 Filed 9–14–01; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301164; FRL–6798–5]

RIN 2070–AB78

Fluroxypyr 1-Methylheptyl Ester; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr in or on grass, forage and grass, hay and modifies the existing permanent tolerances for milk and for kidney of cattle, goat, hog, horse, and sheep. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on pastures and rangeland. This regulation establishes maximum permissible levels for residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr in these food commodities. The tolerances will expire and are revoked on June 30, 2003.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301164, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301164 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9367, and e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301164. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for the combined residues of the herbicide fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and

conjugated, all expressed as fluroxypyr, in or on grass, forage at 120 part per million (ppm), grass, hay at 160 ppm, and modifying the permanent tolerances for milk from 0.1 ppm to 0.30 ppm and for kidney (cattle, goat, hog, horse, and sheep) from 0.5 ppm to 1.5 ppm. These tolerances will expire and are revoked on June 30, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Fluroxypyr on Pastures and Rangeland and FFDCA Tolerances

Sericea lespedeza (also known as Chinese bush clover) is a perennial legume native to Asia that was introduced into the United States in 1896 for use as forage for livestock and as an erosion control plant. It was first recognized as a potential weed problem in southeast Kansas in the early 1980s. The Kansas Legislature made sericea lespedeza a statewide noxious weed effective July 1, 2000. It is the first federally listed crop to be declared a noxious weed.

While sericea lespedeza remains a relatively important forage crop in several southeastern states, it has become an invasive weed in tall grass and high plains prairie lands. Sericea aggressively competes with native prairie plants, and can result in a substantial reduction of native grasses and broadleaf plants. Researchers at Emporia State University (Emporia, Kansas) found that the number of grass and forb species in severely infested fields in east-central Kansas declined by 66% and 74% respectively. In a Kansas State University study, native grass production was reduced by as much as 80% when compared to non-infested areas. In addition, sericea lespedeza develops high tannin levels under the low rainfall conditions that exist in Kansas and becomes unpalatable to cattle as it matures. EPA has authorized under FIFRA section 18 the use of fluroxypyr on pastures and rangeland for control of sericea lespedeza in Kansas. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fluroxypyr in or on grass forage and hay and their associated commodities. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on grass forage and hay and their associated commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances is being approved under emergency conditions, EPA has not made any decisions about whether fluroxypyr meets EPA's registration requirements for use on pastures and rangeland or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of fluroxypyr by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Kansas to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fluroxypyr, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of fluroxypyr and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr, in or on grass, forage at 120 ppm, grass, hay at 160 ppm, and modifying the permanent tolerances for milk from 0.1 ppm to 0.30 ppm and for

kidney (cattle, goat, hog, horse, and sheep) from 0.5 ppm to 1.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

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

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

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

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

TABLE 1. — SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FLUROXYPYR FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and Endpoint/ LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13–50 years of age	Developmental NOAEL = 100 mg/kg/day UF = 100 Acute RfD = 1.0 mg/kg/day	FQPA SF = 3x aPAD = acute RfD FQPA SF = 0.33 mg/kg/day	Developmental rabbit Developmental LOAEL = 250 mg/kg/day, based on increased postimplantation loss.
Acute dietary general population including infants and children	A dose and endpoint were not selected for this population group because there were no effects observed in oral toxicology studies including maternal toxicity in the developmental toxicity studies in rats and rabbits that are attributable to a single exposure (dose). A risk assessment is not required for this population subgroup.		
Chronic dietary all populations	NOAEL = 50 mg/kg/day UF = 100 Chronic RfD = 0.50 mg/kg/day	FQPA SF = 1X cPAD = cRfD = FQPA SF = 0.50 mg/kg/day	28–day dog range-finding feeding study LOAEL = 150 mg/kg/day based on histopathological lesions in the kidneys, decreased testes weights, and increased adrenal weights in both sexes.
Incidental, Oral: Short-term (1–7 days), Intermediate-term (1 week - several months), Long-term (several months - lifetime) (Residential)	Since there are no residential uses, toxicology endpoints were not proposed/selected for any exposure scenarios.		
Dermal[1] and Inhalation[2], Short-term (1–7days) (Occupational/Residential)	Oral NOAEL= 100 mg/kg/day	LOC for MOE = 100 (Occupational)	Developmental rabbit study Developmental LOAEL = 250 mg/kg/day, based on increased postimplantation loss.
Dermal[1] and Inhalation [2]: Intermediate-term (1 week-several months) (Occupational/Residential)	Oral NOAEL= 100 mg/kg/day	LOC for MOE = 100 (Occupational)	Developmental rabbit study Developmental LOAEL = 250 mg/kg/day, based on increased postimplantation loss.

[1] Since an oral NOAEL was selected, a dermal absorption factor of 100% (default value) should be used in route-to-route extrapolation.
[2] Since an oral NOAEL was selected, an inhalation absorption factor of 100% (default value) should be used in route-to-route extrapolation.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.535) for the combined residues of fluroxypyr, in or on a variety of raw agricultural commodities, including meat, milk, poultry and eggs. Risk assessments were conducted by EPA to assess dietary exposures from fluroxypyr in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: For the acute analysis, published and proposed tolerances level residues were used. Default concentration factors and 100% CT was assumed for all commodities.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: For the chronic analysis, published and proposed tolerances level residues were used. Default concentration factors and 100% CT was assumed for all commodities.

iii. *Cancer.* The Agency has classified fluroxypyr as ''not likely'' to be a human carcinogen, therefore this risk assessment is not required.

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

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

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

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

Based on the GENEEC and SCI-GROW models the EECs of fluroxypyr for acute exposures are estimated to be 7.6 parts per billion (ppb) for surface water and 0.017 ppb for ground water. The EECs for chronic exposures are estimated to be 1.6 ppb for surface water and 0.017 ppb for ground water.

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

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

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

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

C. Safety Factor for Infants and Children

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

2. *Developmental toxicity studies.* In the developmental study in rats, the maternal (systemic) NOAEL was 125 milligrams/kilograms/day (mg/kg/day), based on clinical signs at the LOAEL of 250 mg/kg/day. The developmental (fetal) NOAEL was 250 mg/kg/day, based on reduced ossification at the LOAEL of 500 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 250 mg/kg/day, based on maternal deaths at the LOAEL of 400 mg/kg/day.

The developmental (pup) NOAEL was 125 mg/kg/day, based on increased postimplantation loss at the LOAEL of 250 mg/kg/day.

3. *Reproductive toxicity study*. In the 2–generation reproductive toxicity study in rats, the maternal (systemic) NOAEL was 100 mg/kg/day, based on increased kidney weights and kidney histopathology at the LOAEL of 500 mg/kg/day. The developmental (pup) NOAEL was 500 mg/kg/day, based on decreased body weight at the LOAEL of 1,000 mg/kg/day. The reproductive NOAEL was 1,000 mg/kg/day (HDT).

4. *Prenatal and postnatal sensitivity*. The toxicological data base for evaluating prenatal and postnatal toxicity for fluroxypyr is complete with respect to current data requirements. Based on the results of the rabbit developmental toxicity study for fluroxypyr there does appear to be an extra sensitivity for prenatal effects.

5. *Conclusion*. Based on the above, EPA concludes that reliable data support use of a 300 fold margin of exposure/uncertainty factor, rather than the standard 1,000 fold margin/factor, to protect infants and children.

D. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to fluroxypyr will occupy 1.5% of the aPAD for females 13–50 years old, the only population sub-group of concern. A dose and endpoint were not selected for the U.S. population, including infants and children because there were no effects observed in oral toxicology studies including maternal toxicity in the developmental toxicity studies in rats and rabbits that are attributable to a single exposure (dose). Therefore, a risk assessment is not required for this population subgroup.

In addition, despite the potential for acute dietary exposure to fluroxypyr in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of fluroxypyr in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2. — AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO FLUROXYPYR

Population Subgroup	aPAD (mg/kg)	%aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
Females (13–50 years old)	0.33	1.5	7.6	0.017	9,700

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fluroxypyr from food will utilize 0.6% of the cPAD for the U.S. population, 0.9% of the cPAD for all infants < 1 year old and 2.1% of the cPAD for children 1–6 years old. There are no residential uses for fluroxypyr that result in chronic residential exposure to fluroxypyr. In addition, despite the potential for chronic dietary exposure to fluroxypyr in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of fluroxypyr in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population (48 contiguous states)	0.50	0.6	1.6	0.017	17,000
All infants (< 1 year old)	0.50	0.9	1.6	0.017	5,000
Children (1–6 years old)	0.50	2.1	1.6	0.017	4,900

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

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Children (7–12 years old)	0.50	1.1	1.6	0.017	4,900
Females (13–50 years old)	0.50	0.4	1.6	0.017	15,000
Males (13–19 years old)	0.50	0.7	1.6	0.017	17,000
Males (20+ years old)	0.50	0.4	1.6	0.017	17,000
Seniors (55+ years old)	0.50	0.4	1.6	0.017	17,000

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

Fluroxypyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluroxypyr is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. The Agency has classified fluroxypyr as ''not likely'' to be a human carcinogen, therefore this risk assessment is not required.

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

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example - gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRLs) for fluroxypyr on grass.

VI. Conclusion

Therefore, tolerances are established for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr, in or on grass, forage at 120 part per million (ppm), grass, hay at 160 ppm, and the permanent tolerances are modified for milk from 0.1 ppm to 0.30 ppm and for kidney (cattle, goat, hog, horse, and sheep) from 0.5 ppm to 1.5 ppm.

VII. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301164 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

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

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

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

EPA is authorized to waive any fee requirement ''when in the judgement of

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP –301164, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: August 30, 2001.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.535 is amended by alphabetically adding the following commodities to the table in paragraph (b) to read as follows:

§ 180.535 Fluroxypyr 1-methylheptyl ester; tolerances for residues.

* * * * *

(b)* * *

Commodity	Parts per million	Expiration/Revocation Date
* * * * *		
Grass, forage	120	6/30/03
Grass hay	160	6/30/03
Kidney, cattle	1.5	6/30/03
Kidney, goat	1.5	6/30/03
Kidney, hog	1.5	6/30/03
Kidney, horse	1.5	6/30/03
Kidney, sheep	1.5	6/30/03
Milk	0.30	6/30/03

* * * * *

[FR Doc. 01–23092 Filed 9–14–01; 8:45am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301168; FRL–6800–9]

RIN 2070–AB78

Clethodim; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of clethodim in or on green onion, leaf lettuce, Brassica, head and stem, subgroup, flax seed, flax meal, mustard seed, canola seed, and canola meal. The Interregional Research Project Number-4 (IR-4) and Valent U.S.A. Corporation requested these tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). This final rule establishes permanent tolerances for clethodim and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for clethodim that existed on August 2, 1996 were previously reassessed in the **Federal Register** of April 8, 1998 (63 FR 17101) (FRL–5784–9). Consequently, regarding the actions in this final rule, no tolerance reassessments are counted toward the August 2002 review deadline of FFDCA section 408(q).

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301168, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301168 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–3194; and e-mail address: brothers.shaja&epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this

document, on the Home Page select ''Laws and Regulations'', ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301168. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of December 3, 1997 (62 FR 63942) (FRL–5756–1) EPA issued notices pursuant to section 408 of FFDCA, 21 U.S.C. 346a as amended by FQPA (Public Law 104–170) announcing the filing of pesticide petitions (PP 0E6202 and 1E6249) for tolerances by IR-4, 681 U.S. Highway #1 South, North New Brunswick, NJ 08902 and PP 7F4873 by Valent U.S.A. Corporation, 1333 N. California Blvd., Walnut Creek, California 94596. These notices included summaries of the petitions prepared by Valent U.S.A. Corporation, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.458 be amended by establishing tolerances for combined residues of the herbicide clethodim, [(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one) moieties and their sulphoxides and sulphones, all expressed as clethodim, on various commodities as follows:

(1). *PP 1E6249*. IR-4 proposed tolerances for green onion and leaf lettuce at 2.0 parts per million (ppm), and Brassica head and stem subgroup at 3.0 ppm.

(2). *PP 0E6202*. IR-4 proposed tolerance for flax seed and mustard seed at 0.5 ppm and flax meal at 1.0 ppm.

(3). *PP 7F4873*. Valent U.S.A. Corporation proposed tolerances for canola seed at 0.5 ppm and canola meal at 1.5 ppm. The petition was subsequently amended to propose tolerances for canola seed at 0.5 ppm and canola meal at 1.0 ppm.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of clethodim on green onion at 2.0 ppm, leaf lettuce at 2.0 ppm, Brassica head and stem subgroup at 3.0 ppm, flax seed at 0.50 ppm, flax meal at 1.0 ppm, mustard seed at 0.50 ppm, canola seed at 0.50 ppm, and canola meal at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by clethodim are discussed in Unit III.A. of the **Federal Register** of March 14, 2001 (66 FR 14829) (FRL–6770–8).

B. Toxicological Endpoints

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

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

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

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

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLETHODIM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and LOC for Risk Assessment	Study and Toxicological Effects
Acute dietary All populations	Not applicable	Not applicable	None Selected There were no effects observed in oral toxicity studies including developmental toxicity studies in rats and rabbits that could be attributable to a single dose (exposure). Therefore, a dose and endpoint were not selected for this risk assessment.
Chronic dietary All populations	NOAEL = 1.0 mg/kg/day UF = 100 Chronic RfD = 0.01 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD÷FQPA SF = 0.01 mg/kg/day	Chronic toxicity-Dog (1 year). Alterations in hematology and clinical chemistry parameters and increased absolute and relative liver weights observed at the LOAEL of 75 mg/kg/day.
Short-term dermal (1 to 7 days) (Residential)	Oral study maternal NOAEL = 100 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE = 100 (Residential)	Developmental toxicity-Rat. LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation).
Intermediate-term dermal (1 week to several months) (Residential)	Oral study NOAEL = 25 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE = 100 (Residential)	Subchronic toxicity-Dog (90 days). LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights.
Long-term dermal (several months to lifetime) (Residential)	Oral study NOAEL = 1.0 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE =100 (Residential)	Chronic toxicity-Dog (1 year). LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights.
Short-term inhalation (1 to 7 days) (Residential)	Oral study Maternal NOAEL= 100 mg/kg/day (Inhalation absorption rate = 100%)	LOC for MOE =100 (Residential)	Developmental-Rat LOAEL = 350 mg/kg/day based on decreased body weight gain and clinical signs of toxicity (salivation).
Intermediate-term inhalation (1 week to several months) (Residential)	Oral study NOAEL = 25 mg/kg/day (Inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Subchronic toxicity-Dog (90 days). LOAEL = 75 mg/kg/day based on increased absolute and relative liver weights.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR CLETHODIM FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and LOC for Risk Assessment	Study and Toxicological Effects
Long-term inhalation (several months to lifetime) (Residential)	Oral study NOAEL = 1.0 mg/kg/day (Dermal absorption rate = 30%)	LOC for MOE =100 (Residential)	Chronic toxicity-Dog (1 year). LOAEL = 75 mg/kg/day based on alterations in hematology and clinical chemistry parameters as well as increases in absolute and relative liver weights.
Cancer (oral, dermal, inhalation)	N/A	N/A	Clethodim is classified as a ''Not Likely'' carcinogen

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.458) for the residues of clethodim in or on a variety of food commodities. Recent tolerances established for the residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones include tuberous and corm vegetables crop subgroup 1c, fruiting vegetables crop group, root vegetables (except sugar beets) crop subgroup 1b, leaves of root and tuber vegetables (excluding sugar beets, crop group 2), sugar beet, tops and sugar beet, molasses at 1.0 ppm, leaf petioles crop subgroup 4b at 0.6 ppm, melon crop subgroup 9a at 2.0 ppm, squash/cucumber crop subgroup 9b and cranberry at 0.5 ppm, sugar beets, roots at 0.20 ppm, sunflower seed at 5.0 ppm, strawberry at 3.0 ppm, sunflower, meal and clover, forage at 10.0 ppm, and clover, hay at 20.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures from clethodim in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. An endpoint was not identified for acute dietary exposure and risk assessment because no effects were observed in oral toxicity studies including developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, an acute dietary exposure assessment was not performed.

ii. *Chronic exposure.*In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The 3–day average of consumption for each sub-population is combined with residues to determine average exposure as mg/kg/day. The chronic analysis was performed using tolerance level residues for all crops and livestock commodities. Projected percent crop treated (PCT) data were used for lettuce, broccoli, cauliflower, cabbage, onions, and Brussels sprouts. Weighted average percent of crop treated data were used for certain existing registrations (cotton, onions, peanuts, soybeans, sugar beets, and tomatoes) and 100% crop treated data were used for the remaining new uses and existing uses.

iii. *Cancer.* Clethodim has been classified as ''not likely to be carcinogenic in humans'' based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, a cancer risk assessment was not performed.

iv. *Anticipated residue and percent crop treated information.* Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information for certain registered uses as follows:

- 3% for cotton;
- 8% for onions;
- 3% for peanuts;
- 4% for soybeans;
- 15% for sugar beets, and
- 1% for tomatoes.

The Agency used PCT information for the new uses as follows:

- 2% for lettuce, broccoli and cauliflower;
- 15% for cabbage;
- 25% for onion, and
- 1% for brussels sprouts.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates were derived for the registered uses (cotton, onions, peanuts, soybeans, sugar beets and tomatoes) from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to

underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. With respect to the new uses (lettuce, broccoli, cabbage, and onion) the registrant estimated PCT based on percent market share information. The registrant based their projected clethodim PCT for these new uses based on the share of each crop that is treated with registered herbicides that control the same pests. They then projected what part of the market they could capture from those products. The Agency used a similar process for projecting percent of crop treated for Brussels sprouts and cauliflower. The Agency considers the clethodim percent of crop treated projections to be reasonable and conservative.

As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which clethodim may be applied in a particular area.

2. *Dietary exposure from drinking water*. Surface and ground water contamination may occur from the sulfoxide and sulfone degradates of clethodim, as well as from parent clethodim. However, the risk of water contamination is primarily associated with clethodim sulfone and clethodim sulfoxide rather than parent clethodim based on greater persistence and mobility for the degradates.

The only significant routes of dissipation of clethodim are microbial degradation in soil and movement by leaching or runoff. Parent clethodim is moderately persistent to hydrolysis at pH 5 with half-lives of 26–42 days and stable at pH 7 and 9 with half-lives of greater than 300 days. Even though acceptable water and soil photolysis studies show half-lives of 1.5 to 9.3 days, this may not be an important route of dissipation because of suspended sediment and shading. Photolysis is only an important route of dissipation in shallow, well-mixed surface water with no shading. The half-lives in aerobic soil are 2–3 days for parent clethodim, and 30–38 days for total toxic residues (parent + sulfoxide + sulfone). The sulfoxide and sulfone metabolites are more persistent than parent clethodim and are formed in significant quantities in soil. All residues of clethodim (parent and metabolites) are very mobile in soil with five out of six soil dissorption coefficients (Kd) less than one. The field dissipation studies show that parent clethodim was only found at levels at or near the quantitation limit of 0.02 ppm, which is consistent with the rapid degradation in soil. Clethodim sulfoxide had an apparent half-life of 2.5 to 3.7 days, indicating that movement from the treated field may have been an important route of dissipation.

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

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

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

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a percent referenced dose or percent population adjusted dose. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to clethodim they are further discussed in the aggregate risk sections below. Tier 1 surface water concentrations for parent clethodim and total toxic residues (parent + sulfoxide + sulfone) were estimated using the GENEEC model. Based on the GENEEC model, the peak EECs of clethodim for surface water were estimated to be 24.2 parts per billion (ppb), and 18.3 ppb for chronic exposure. The agency allows for a 3–fold reduction of GENEEC 56–day estimates, which result in a chronic value of 6.1 ppb for surface water. Based on the SCI-GROW model, the EECs of clethodim for ground water were estimated to be 0.49 ppb for acute exposure and 0.08 ppb for chronic exposure.

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

Clethodim is not registered for use on any sites that would result in residential exposure. Based on recently revised clethodim labels, there are no use sites through which homeowners or the public are likely to become exposed to clethodim residues, either directly through application or indirectly by contact with residues on treated surfaces. Therefore, non-occupation exposure assessment was not performed.

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* exposure to clethodim.

3. *Conclusion*. There is a complete toxicity data base for clethodim and exposure data is complete or is estimated based on data that reasonably account for potential exposures. Based on the above, EPA determined that the 10X safety factor to protect infants and children should be removed.

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. An endpoint for acute dietary exposure was not identified since no effects were observed in oral toxicity studies that could be attributable to a single dose.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to clethodim from food will utilize 30% of the cPAD for the U.S. population, 23% of the cPAD for females (13–50 years old) and 61% of the cPAD for children 1–6 years old. There are no residential uses for clethodim that result in chronic residential exposure to clethodim. In addition, there is potential for chronic dietary exposure to clethodim in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON- CANCER) EXPOSURE TO CLETHODIM

Population Subgroup	cPAD (mg/kg)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population (total)	0.01	30%	6.1	0.08	250
Children (1–6 years)	0.01	61%	6.1	0.08	40
Females (13–50 years)	0.01	23%	6.1	0.08	230

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

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

4. *Aggregate cancer risk for U.S. population*. Clethodim has been classified as ''not likely to be carcinogenic in humans'' based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, clethodim is not expected to pose a cancer risk to humans.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that

no harm will result to the general population, and to infants and children from aggregate exposure to clethodim residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Method RM-26A-1, a gas-liquid chromatographic (GLC) procedure, was validated for the analyses of residues of clethodim sulfoxide and its metabolite (5-OH clethodim sulfone) in/on flax at fortification levels of 0.05 ppm and 0.5 ppm, and on canola at a fortification level of 0.2 ppm. Method RM-26A-1 can determine all clethodim metabolites retaining the cyclohex-1-one moiety (DME and DME-OH). The Method RM-26A-1 for the determination of clethodim and its metabolites in mustard, seed and flax is acceptable for data collection.

Method RM-26B-2 was validated for the analyses of residues of clethodim sulfoxide and its metabolite (5-OH clethodim sulfone) in/on broccoli. The fortification levels for clethodim sulfoxide and 5-OH-clethodim sulfone were each 0.05 ppm, 1.0 ppm and 2.0 ppm. Recoveries of residues of clethodim sulfoxide in broccoli were within the acceptable range at the fortification level of 0.05 ppm. Recoveries of residues of 5-OH-clethodim sulfone in broccoli were within the acceptable range at fortification levels of 0.05, 1.0 and 2.0 ppm. Recoveries of residues of clethodim sulfoxide in broccoli were low at the fortification levels of 1.0 and 2.0 ppm. The Method RM-26B-2 for the determination of clethodim and its metabolites in broccoli is acceptable for data collection and enforcement purposes.

Method RM-26B-3 (a modification of RM-26B-2) was validated for the analyses of residues of clethodim sulfoxide and its metabolite (5-OH clethodim sulfone) in/on green onions, leaf lettuce, and cabbage. The fortification levels for clethodim sulfoxide and 5-OH clethodim sulfone were 0.11 ppm - 2.0 ppm for green onions, 0.11 ppm - 0.91 ppm for leaf lettuce, 0.11 ppm - 1.1 ppm for cabbage. Recoveries of residues of clethodim sulfoxide in green onions, leaf lettuce, and cabbage were within the acceptable range at all fortification levels tested. Recoveries of residues of 5-OH-clethodim sulfone were within the acceptable range except for low recoveries in green onions fortified at 2.0 ppm and cabbage fortified at 0.77 and 0.98 ppm. The Method RM-26B-3 for the determination of clethodim and its metabolites in green onions, leaf lettuce, and cabbage is acceptable for data collection.

The common moiety Method RM-26B-3 for the determination of clethodim and its metabolites is similar to the common moiety Method RM-26B-2. The Method RM-26B-2 has previously undergone a successful Petition Method Validation by the Agency. Method RM-26B-2 as an enforcement method and Method RM-26B-3 as a letter method have been forwarded to FDA for inclusion in PAM II.

Livestock feed items are associated with canola and flax seed uses. The Agency has previously concluded that adequate analytical methodology is available to enforce tolerances for residues of clethodim in livestock commodities. The compound specific method, EPA-RM-26D-2, is suitable for enforcement of tolerances for total clethodim residues in crops and livestock tissues, and it has been forwarded to FDA for publication in the Pesticide Analytical Manual, Volume II (PAM II). The common moiety method, RM-26B-2, serves as the enforcement method for milk as RM-26D-2 and is not quantitative for residues in milk.

The Methods may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Fort George G. Mead, Maryland, 20755–5350; telephone number: (410) 305–2905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There are no established Codex maximum residue limits (MRLs) for residues of clethodim in/on the commodities discussed in the subject petition; therefore, there are no questions with respect to Codex/U.S. tolerance compatibility. Codex MRLs are currently established on various crop and livestock commodities in terms of the sum of clethodim and its metabolites containing 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim. There are established Canadian residue limits for clethodim residues and its metabolites containing the 2-cyclohex-1-enone moiety on mustard, seed at 0.4 ppm, on flax at 0.3 ppm and on canola at 0.5 ppm. However, based on the submitted residue data, HED can not harmonize the tolerances of flax and mustard, seed with Canadian residue limits.

C. Conditions

The registration for the use of clethodim on leaf lettuce will be made conditional based upon the need for additional crop field trial data for clethodim on leaf lettuce. The registration for use of clethodim on canola and flax will be made conditional based upon the requirement for a canola processing study.

V. Conclusion

Therefore, tolerances are established for combined residues of clethodim, [[(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-(ethylthiopropyl)cyclohexene-3-one and 5-(2-(ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones], in or on green onion at 2.0 ppm, leaf lettuce at 2.0 ppm, brassica head and stem subgroup at 3.0 ppm, flax seed at 0.50 ppm, flax meal at 1.0 ppm, mustard seed at 0.50 ppm, canola seed at 0.50 ppm, and canola meal at 1.0 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301168 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR

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

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

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301168, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive

Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 6, 2001

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.458 is amended by revising the section heading, the introductory text paragraph (a)(3), and alphabetically adding commodities to the table in paragraph (a)(3) to read as follows:

§ 180.458 Clethodim; tolerances for residues.

(a) * * *

(3) Tolerances are established for the combined residues of the herbicide clethodim [(E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexen-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexen-3-one moieties and their sulphoxides and sulphones, expressed as clethodim tolerance residues for the following commodities.

Commodity	Parts per million
* * * *	*
Brassica, head and stem, subgroup	3.0
Canola, meal	1.0
Canola, seed	0.50
* * * *	*
Flax, meal	1.0
Flax, seed	0.50
* * * *	*
Lettuce, leaf	2.0
* * * *	*
Mustard, seed	0.50
* * * *	*
Onion, green	2.0
* * * *	*

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[FR Doc. 01–23086 Filed 9–14–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301171; FRL–6801–1]

RIN 2070–AB78

Zeta-cypermethrin and its Inactive R-isomers; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of zeta-cypermethrin and its inactive R-isomers in or on alfalfa, hay at 15 parts per million (ppm), alfalfa, forage at 5.0 ppm, alfalfa, seed at 0.5 ppm; beets, sugar, roots at 0.05 ppm, beets, sugar, tops at 0.20 ppm; corn, field, grain at 0.05 ppm, corn, pop, grain at 0.05 ppm, corn, field, forage at 0.20 ppm, corn, field, stover at 3.0 ppm, corn, pop, stover at 3.0 ppm, corn, sweet, (K + CWHR) at 0.05 ppm, corn, sweet, forage at 15 ppm, corn, sweet, stover at 15 ppm; onions, green at 3.0 ppm; leafy vegetables except Brassica at 10 ppm, head and stem Brassica at 2.0 ppm, leafy Brassica at 14 ppm; sugarcane at 0.6 ppm; rice, grain at 1.5 ppm, rice, straw at 2.0 ppm, rice, hulls at 6.0 ppm; fat of cattle, goat, horse, sheep, hogs at 1.0 ppm, meat of cattle, goat, horse, sheep, hogs at 0.1 ppm, milk, fat at 2.50 ppm (reflecting 0.10 ppm in whole milk), poultry, fat at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm, and eggs at 0.05 ppm. FMC Corporation, 1735 Market Street, Philadelphia, PA 19103 requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301171, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301171 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Linda A. DeLuise, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 305–5428; e-mail address: deluise.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301171. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 23, 1998 (63 FR 34176) (FRL–5795–1), and September 8, 1999 (64 FR 48829) FRL–6097–6), EPA issued notices under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a announcing the filing of pesticide petitions (PP) (PF 813 and PF 888) for tolerances by FMC Corporation, 1735 Market Street, Philadelphia, PA 19103.

These notices included a summary of the petition prepared by FMC Corporation, the registrant. There were no comments received in response to these notices of filing.

The petitions requested that 40 CFR 180.418 be amended by establishing a tolerance for residues of the insecticide zeta-cypermethrin, in or on the following raw agricultural commodities:

1. PP 9F6040 proposed a tolerance for rice, grain at 1.2 parts per million (ppm), rice, straw at 2.0 ppm and rice, hulls at 16.0 ppm. Based on EPA's review of processing studies, the petition was revised by the petitioner to propose a tolerance of 1.5 ppm on rice grain and 6.0 ppm on rice hulls.

2. PP 8F4970 proposed a tolerance for leafy vegetables (except Brassica vegetables) group (Crop Group 4) at 10.0 ppm, Brassica, head and stem (Crop Group 5A) at 2.0 ppm and Brassica, leafy (Crop Group 5B) at 14.0 ppm. These tolerances as proposed are adequate.

3. PP 9F3067 proposed a tolerance for sugar beets, roots at 0.05 ppm, and sugar beets, tops at 0.20 ppm; sugarcane at 0.60 ppm; corn, grain (field, seed and pop) at 0.05 ppm; green onions at 6.0 ppm; alfalfa seed at 0.5 ppm, alfalfa forage at 10.0 ppm, and alfalfa hay at 30.0 ppm; and corn, sweet (K + CWHR) at 0.1 ppm, corn, forage and corn, fodder at 30.0 ppm; poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm, poultry, fat at 0.05 ppm and eggs at 0.05 ppm; meat of cattle, goats, hogs, horses, and sheep at 0.3 ppm; fat of cattle, goats, hogs, horses, and sheep at 2.0 ppm; and milk, fat at 1.0 ppm (reflecting 0.2 ppm in whole milk). Based on EPA's review of the field residue and animal feeding data the petition was revised by the petitioner to:

a. Propose tolerances of 0.05 ppm for sweet corn (K + CWHR) and 15 ppm for sweet corn forage and stover. (Note that stover is the correct term instead of fodder).

b. Propose separate tolerance for field corn grain and pop corn grain at 0.05 ppm.

c. Delete the proposed seed corn tolerance since it is covered by field corn.

d. Propose separate tolerances for field corn stover and pop corn stover at 3.0 ppm and field corn forage at 0.20 ppm.

e. Reduce the proposed 6.0 ppm tolerance on green onion to 3.0 ppm.

f. Propose the following livestock commodity tolerances as a result of the increased dietary burden: animal (cattle, goat, hog, horse, sheep) meat at 0.1 ppm; fat at 1.0 ppm; and milk fat at 2.5 ppm (reflecting 0.10 ppm in whole milk).

g. Propose tolerances for alfalfa seed, forage and hay, respectively at 0.5 ppm, 5 ppm, and 15 ppm.

Based upon the isomer composition of zeta-cypermethrin with four insecticidally less active ones at a concentration of 1% each, EPA is proposing the current tolerance expression be revised by adding the phrase and its inactive R-isomers after the chemical name.

Although EPA had requested a number of changes to the initial petitions and Notice of Filings, the nature of the changes, i.e. reduction in tolerance levels, clarification and correction of commodity terms are not considered significant nor do they alter the risk assessment. Therefore EPA is issuing this as a final action.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is

reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of zeta-cypermethrin and its inactive R-isomers in or on alfalfa, hay at 15 parts per million (ppm), alfalfa, forage at 5.0 ppm, alfalfa, seed at 0.5 ppm; beets, sugar, roots at 0.05 ppm, beets, sugar, tops at 0.20 ppm; corn, field, grain at 0.05 ppm, corn, pop, grain at 0.05 ppm, corn, field, forage at 0.20 ppm, corn, field, stover at 3.0 ppm, corn, pop, stover at 3.0 ppm, corn, sweet, (K + CWHR) at 0.05 ppm, corn, sweet, forage at 15 ppm, corn, sweet, stover at 15 ppm; onions, green at 3.0 ppm; leafy vegetables except Brassica at 10 ppm, head and stem Brassica at 2.0 ppm, leafy Brassica at 14 ppm; sugarcane at 0.6 ppm; rice, grain at 1.5 ppm, rice, hulls at 6.0 ppm; rice, straw at 2.0 ppp; fat of cattle, goat, horse, sheep, hogs at 1.0 ppm, meat of cattle, goat, horse, sheep, hogs 0.1 ppm, milk, fat at 2.5 ppm (reflecting 0.10 ppm in whole milk), poultry, fat at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm; and eggs at 0.05 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by zeta-cypermethrin and its inactive R-isomers are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed. Zeta-cypermethrin is an enriched isomer of cypermethrin. In order to select toxicity endpoints for the purposes of risk assessment, bridging data on zeta-cypermethrin were submitted so that the toxicity of zeta-cypermethrin could be compared with that of cypermethrin and the data bases could be combined to form one complete data base for both chemicals. In the selection of toxicity endpoints, studies conducted with zeta-cypermethrin were used wherever possible. When an endpoint was selected using a study conducted with cypermethrin, a rationale was provided on why this particular endpoint was protective for exposure to zeta-cypermethrin.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY ZETA-CYPERMETHRIN AND CYPERMETHRIN TECHNICAL*

Guideline No.	Study Type	Results	Toxicity Category
870.1000	Acute oral - rat - zeta-cypermethrin	LD_{50} (M): 134.4 mg/kg (F): 86.0 mg/kg Clinical signs of neurotoxicity observed.	II
870.1000	Acute oral - cypermethrin	LD_{50} (M): 247 mg/kg (F): 309 mg/kg females Deaths: ≥150 mg/kg, usually in first day. Clinical signs of neurotoxicity, gait abnormalities; some persisting to 14 days.	II
870.1100	Acute Dermal Rats - cypermethrin Rabbits - cypermethrin	LD_{50} >4,920 mg/kg/day. Clinical signs of neurotoxicity. Abraded skin: LD_{50} >2,460 mg/kg. Lacrimation, discharge from the eye and nervous and shaking	III III
870.1200	Acute inhalation - rat - cypermethrin	LC_{50}: male (not calculated but higher than female) LC_{50}: female 2.5 (1.6-3.4) mg/L. Clinical signs of neurotoxicity. MMAD ranged from 2.22 to 2.62 μm	IV
870.2400	Primary eye irritation - rabbit cypermethrin	Slight redness of conjunctivae, chemosis and discharge. Persisted to day 7.	III

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY ZETA-CYPERMETHRIN AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results	Toxicity Category
870.2500	Primary skin irritation rabbit - cypermethrin	Slight to mild erythema on intact and abraded skin. Reversed by 48 hours. Primary Irritation Index: 0.71	IV
870.2600	Dermal sensitization - cypermethrin	Not a sensitizer in Buehler assay. Moderate sensitizer in Magnusson Kligman Maximization method.	N/A

TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity - rat: zeta-cypermethrin	NOAEL = M = 13.8 (M), 16.3 (F) mg/kg/day LOAEL = 28.2 mg/kg/day (M) based on decreased body weight, body weight gain and food consumption; at 55.7 mg/kg/day, mortality as well as decreased RBC, WBC, HGB and HCT plus increase in BUN. 32.2 mg/kg/day (F) based on decreased body weight, body weight gain and food consumption as well as interference with estrous cycle and decreased glucose; mortality at 65.2 mg/kg/day.
870.3100	90-Day oral toxicity - rat: cypermethrin	NOAEL = 7.5 mg/kg/day LOAEL = 75 mg/kg/day based on decreased body weight in both sexes.
870.3150	90-Day oral toxicity in dogs (feeding): cypermethrin	NOAEL = 24.6 (M), 34.3 (F) mg/kg/day LOAEL = 37.0 (M), 45.2 (F) mg/kg/day based on tremors as well as decreased body weight and body weight gains in both sexes.
870.3150	90-Day oral toxicity in dogs (feeding): cypermethrin	NOAEL = 12.5 mg/kg/day LOAEL = 37.5 mg/kg/day based on clinical signs (whole body tremors, exaggerated gait, ataxia, incoordination, hyperaesthesia, licking and chewing of paws; diarrhea, anorexia) and decreased body weight
870.3200	21-Day dermal toxicity - rat: zeta-cypermethrin	NOAEL = Systemic: 1,000 mg/kg/day. Dermal: <100 mg/kg/day LOAEL = Systemic: >1,000 mg/kg/day (Limit Dose) Dermal: 100 mg/kg/day, based on erythema and/or eschar 1/10 M and 6/10 F; desquamation 0/10 M and 2/10 F (no effects in any M or F controls).
870.3200	21-Day dermal toxicity - rabbit: cypermethrin	NOAEL = Systemic nonabraded animals: 200 mg/kg/day (HDT) Dermal: 20 mg/kg/day LOAEL = Systemic nonabraded animals: >200 mg/kg/day (HDT) Dermal: 200 mg/kg/day based on signs of dermal irritation
870.3465	21-Day inhalation toxicity - cypermethrin	NOAEL = 0.01 mg/L (2.7 mg/kg/day) LOAEL = 0.05 mg/L based on decreases in body weight
870.3700	Prenatal developmental in rats - zeta-cypermethrin	*Maternal* NOAEL = 12.5 mg/kg/day LOAEL = 25 mg/kg/day, based on ataxia, urine-stained abdominal fur, fecal-stained perineal fur, decreased food consumption and decreased body weight gain. *Developmental* NOAEL ≥ 35 mg/kg/day LOAEL = > 35 mg/kg/day

TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results
870.3700	Prenatal developmental in rats - cypermethrin	*Maternal* NOAEL = 17.5 mg/kg/day LOAEL = 35 mg/kg/day based on decreased body weight gain; at 70 mg/kg/day, splayed limbs, spasms and hypersensitivity to noise and convulsions. *Developmental* NOAEL = 70 mg/kg/day (HDT) LOAEL = >70 mg/kg/day
870.3700	Prenatal developmental in rabbits - cypermethrin	*Maternal* NOAEL = 100 mg/kg/day LOAEL = 450 mg/kg/day based on decreased body weight gain; anorexia, abdomino-genital staining, decreased feces and red or pink material in the pan (few does). At 700, anorexia, abdomino-genital staining, decreased feces and red or pink material in the pan were observed. *Developmental* NOAEL = 700 mg/kg/day LOAEL = >700 mg/kg/day (highest dose tested)
870.3700	Prenatal developmental in rabbits - cypermethrin	*Maternal* NOAEL = 30 mg/kg/day LOAEL > 30 mg/kg/day (HDT) *Developmental* NOAEL = 30 mg/kg/day LOAEL = > 30 mg/kg/day (highest dose tested)
870.3800	Reproduction and fertility effects - zeta-cypermethrin	*Parental/Systemic* NOAEL = 7 mg/kg/day LOAEL = 27 mg/kg/day based on decreased body weight gain (most noticeable during lactation) and increased relative brain weights M and F; at 45 mg/kg/day, some neurotoxic clinical signs in a few animals (some mortality) . *Reproductive* NOAEL = 45 mg/kg/day LOAEL >45 mg/kg/day (highest dose tested). *Offspring* NOAEL = 7 mg/kg/day LOAEL = 27 mg/kg/day, based on decreased body weight gain during lactation; at 45 mg/kg/day, pup mortality.
870.3800	Reproduction and fertility effects - cypermethrin	*Parental/Offspring* NOAEL = 7.5 mg/kg/day LOAEL = 50/37.5 mg/kg/day based on decreased body weight gain in both sexes and decreased mean litter weight gain during lactation.
870.3800	Reproduction and fertility effects - cypermethrin	*Parental/Systemic* NOAEL = 5 mg/kg/day LOAEL = 25: based on decreased body weight gain. *Offspring* NOAEL = 5 mg/kg/day LOAEL = 25: based on decreased body weight gain (lactation day 21).
870.4100	Chronic toxicity rats - cypermethrin	NOAEL = 7.5 mg/kg/day LOAEL = 75 mg/kg/day based on decreases in body weight gain (both sexes)
870.4100	Chronic toxicity dogs (capsule) - cypermethrin	NOAEL = 1 mg/kg/day LOAEL = 5 mg/kg/day based on gastrointestinal effects (liquid stool); at 15 mg/kg/day, body tremors, gait abnormalities, in coordination, disorientation and hypersensitivity to noise plus decrease in body weight.
870.4100	Chronic toxicity dogs (feeding) - cypermethrin	NOAEL = 6 mg/kg/day (M), 5.7 mg/kg/day (F) LOAEL = 20.4 mg/kg/day (M) based on abnormal clinical signs (tremors, excessive salivation, irregular gait); at 33.9 mg/kg/day, mortality. 18.1 mg/kg/day (F) based on decreased body weight and weight gains.

TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results
870.4200	Carcinogenicity rats - cypermethrin	NOAEL = 7.5 mg/kg/day LOAEL = 75 mg/kg/day based on decreases in body weight gain (both sexes). No evidence of carcinogenicity
870.4300	Carcinogenicity mice - cypermethrin	NOAEL = 14 mg/kg/day LOAEL = 57 mg/kg/day (M) based on increased absolute (20%) liver weights Females, there was a 15% increase in relative liver weights only at 229 mg/kg/day. Cancer: positive for induction of benign alveologenic neoplasms.
870.5265	*Salmonella typhimurium* reverse mutation assay - zeta-cypermethrin	Very weak positive response (2-fold increase in revertants/plate) in strain TA100 at 10,000 µg/plate without S-9 activation in two separate experiments. Doses of 3,333 and 5,000 µg/plate gave 1.5 and 1.6-fold increases in revertants/plate, respectively. Zeta-cypermethrin considered a possible weak mutagen under the conditions of the assay.
870.5265	*Salmonella typhimurium* and *S. cerevisiae* reverse mutation assay - cypermethrin	Negative up to doses of 2,500 µg/plate
870.5300	Gene mutation in mammalian cells in culture zeta-cypermethrin	CHO-K1-BH_4, subclone D1 cells. No evidence of increased forward mutation rate at the HGPRT locus at any dose tested up to and beyond solubility limit.
870.5300	Gene mutation in mammalian cells in culture cypermethrin	CHO-K1-BH_4, subclone D1 cells. No evidence of increased forward mutation rate at the HGPRT locus at any dose tested up to and beyond solubility limit.
870.5375	*In vitro* cytogenetics zeta-cypermethrin	The study demonstrates that zeta-cypermethrin is not mutagenic in the mouse lymphoma assay (L5178Y cell line) at the above doses with or without metabolic activation.
870.5380	*In vivo* cytogenetics zeta-cypermethrin	No evidence of structural chromosomal aberrations in rat bone marrow at either 6, 18, or 30 hours post dosing.
870.5380	*In vivo* cytogenetics cypermethrin	No evidence of structural chromosomal aberrations in rat bone marrow at 20 or 40 mg/kg.
870.5550	Unscheduled DNA synthesis in mammalian cells in culture zeta-cypermethrin	No unscheduled DNA synthesis was observed at any dose level up to 4,500 µg/mL in male rat (Fischer 344) liver primary hepatocyte cultures under the conditions of this assay. Minimal cytotoxicity was observed at the highest doses. Incomplete solubility of the test compound in culture media was observed, particularly at higher doses.
870.5550	Unscheduled DNA synthesis in mammalian cells in culture cypermethrin	No unscheduled DNA synthesis was observed at any dose level up to 200 mg/kg in corn oil in Alpk:APfSD strain rats (males) assessed 4 and 12 hours post dosing. 200 mg/kg dose was considered near the MTD.
870.5450	Dominant lethal assay in the rodent cypermethrin	No evidence of dominant lethal activity in CD-1 strain mice up to 10 mg/kg/day for 5 consecutive days.
870.6200	Acute neurotoxicity screening battery - zeta-cypermethrin	NOAEL = 10 mg/kg/day LOAEL = 50 mg/kg/day based on clinical signs (abdominogenital staining, oral discharge, splayed hindlimbs, staggered gait and tremors); FOB findings (abnormal mobile posture, splayed hindlimbs, soiled fur and unable to walk); at 250, more severe findings.
870.6200	Acute neurotoxicity screening battery - cypermethrin	NOAEL = 30 mg/kg/day LOAEL = 100 mg/kg based primarily on ataxia and related conditions (staggered or impaired gait, decreased activity, splayed hindlimbs and limp conditions, in addition to decreased motor activity in males and females on days 0, 1, or 2).
870.6200	Acute neurotoxicity screening battery - cypermethrin	NOAEL = < 20 mg/kg/day LOAEL = 20 mg/kg based on decreased motor activity and gait abnormalities.

TABLE 2.—TOXICITY PROFILES OF ZETA-CYPERMETHRIN TECHNICAL AND CYPERMETHRIN TECHNICAL*—Continued

Guideline No.	Study Type	Results
870.6200	Subchronic neurotoxicity screening battery - zeta-cypermethrin	NOAEL = 5.0 mg/kg/day (M); 31.5 mg/kg/day (F) LOAEL = 26.3 mg/kg/day (M) based on decreased motor activity, increased landing foot splay, and decreased body weights, body weight gains, and food consumption 55.6 mg/kg/day (F) based on decreased body weights, body weight gains, and food consumption.
870.6200	Subchronic neurotoxicity screening battery - cypermethrin	NOAEL = 31 mg/kg/day LOAEL = 77 mg/kg/day based on the following: Males: decreased body weight gain and increased landing foot splay; Females: ataxia, splayed hindlimbs, impaired gait and decreased feces as well as decreased body weight gain.
870.7485	Metabolism and pharmacokinetics	Several studies with both rats, dogs and mice are available to support the requirement for metabolism in mammals. Some of these studies assess individual *cis* and *trans* radiolabelled isomers and other studies assess the metabolism of cypermethrin with the label in either the cyclopropyl of the phenoxybenzyl ring. In general, the following has been demonstrated from these studies: cypermethrin is readily absorbed from the gastrointestinal tract and extensively metabolized. It mostly excreted in the urine that contains several characterized metabolites derived from conjugation of the hydrolysis products of the parent compound following cleavage of the esteratic linkage site.
870.7600	Dermal penetration	No study is available.

*Zeta-cypermethrin is bridged to data base with cypermethrin. Therefore, studies on both are included.

B. Toxicological Endpoints

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

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

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

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for zeta-cypermethrin and its inactive R-isomers used for human risk assessment is shown in the following Table 3:

TABLE 3.—SUMMARY OF THE TOXICOLOGICAL DOSE AND ENDPOINTS FOR ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population including infants and children)	NOAEL = 10 mg/kg/day UF = 100 Acute RfD = 0.10 mg/kg/day	FQPA SF = 1 aPAD = acute RfD FQPA SF = 0.10 mg/kg/day	Acute neurotoxicity study in the rat (zeta-cypermethrin). LOAEL = 50 mg/kg/day based on clinical signs of toxicity and FOB findings.

TABLE 3.—SUMMARY OF THE TOXICOLOGICAL DOSE AND ENDPOINTS FOR ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Endpoint for Risk Assessment	Study and Toxicological Effects
Chronic dietary (all populations)	NOAEL = 6 mg/kg/day UF = 100 Chronic RfD = 0.06 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD FQPA SF = 0.06 mg/kg/day	Chronic feeding study in the dog (cypermethrin). LOAEL = 20.4/18.1 mg/kg/day based on clinical signs of neurotoxicity and mortality in males, and decreased body weights and body weight gains in females.
Short-term incidental oral (1 to 7 days) (residential)	NOAEL = 10 mg/kg/day	LOC for MOE = 100 (residential)	Acute neurotoxicity study in the rat (zeta-cypermethrin). LOAEL = 50 mg/kg/day based on clinical signs of neurotoxicity and changes in the FOB
Intermediate-term incidental oral (1 week to several months) (residential)	NOAEL = 5.0 mg/kg/day	LOC for MOE = 100 (residential)	Subchronic neurotoxicity study in the rat (zeta-cypermethrin). LOAEL = 26.3 mg/kg/day based on decreased motor activity, increased landing foot splay, and decreased body weights, body weight gains, and food consumption
Short- and intermediate-term dermal (1 to 7 days and 1 week to several months) (residential)	No hazard identified to support quantitation of risk.	Not applicable	No systemic effects in 21-day dermal study up to 1,000 mg/kg/day and no observed developmental effects in developmental studies.
Long-term dermal (several months to lifetime) (residential)	Oral study NOAEL= 6 mg/kg/day (dermal absorption rate = 2.5%)	LOC for MOE = 100 (residential)	Chronic feeding study in the dog (cypermethrin). LOAEL = 20.4/18.1 mg/kg/day based on clinical signs of neurotoxicity and mortality in males, and decreased body weights and body weight gains in females.
Inhalation (all durations) (residential)	Inhalation study NOAEL = 0.01 mg/L (2.7 mg/kg/day)	LOC for MOE = 100 (residential) for short- and intermediate-term exposure. Long-term exposure: LOC for MOE 300 for the lack of alternative study. Route-to-route estimation would result in less protective endpoint.	21-Day inhalation study in the rat (cypermethrin). LOAEL = 0.05 mg/L/day based on body weight decrease
Cancer (oral, dermal, inhalation)	N/A	Category C (possible human carcinogen). No quantization required	Mouse oncogenicity study with cypermethrin.

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.418) for the residues of zeta-cypermethrin, in or on a variety of raw agricultural commodities: Cabbage at 2.0 ppm, animal fat (cattle, goat, hog, horse, and sheep) at 0.05 ppm, animal meat by-products at 0.05 ppm, animal meat at 0.05 ppm, cottonseed at 0.5 ppm, head lettuce at 10.0 ppm, milk at 0.05 ppm, bulb onions at 0.10 ppm, and pecans at 0.05 ppm. Tolerances for cypermethrin (parent compound) are the same as those for zeta-cypermethrin with the exception that there are cypermethrin tolerances for green onions at 6.0 ppm, heads and stem Brassica at 2.0 ppm and leafy Brassica at 14.0 ppm. Risk assessments were conducted by EPA to assess dietary exposures from zeta-cypermethrin and its inactive R-isomers in food as follows:

Zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin. Both cypermethrin and zeta-cypermethrin are mixtures of eight isomers, with the active components consisting of the S-enantiomers (''S''configuration at the cyano bearing carbon). The two differ in that cypermethrin has a 50:50 R/S ratio whereas zeta-cypermethrin is enriched in the S-enantiomers with a ratio of 90:10 of S/R. The enriched isomer formulation provides for similar insect control but at lower use rates. Since use of both cypermethrin and zeta-

cypermethrin result in human exposure to the same eight isomers, dietary and non-dietary (residential) aggregate risk assessment was conducted by adding the uses of the two chemicals.

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: Tolerance-level residues and 100% crop treated have been used in these analyses for all commodities having either established or proposed tolerances of cypermethrin or zeta-cypermethrin. In cases where a commodity has an established tolerance for cypermethrin and a proposed tolerance for zeta-cypermethrin, the larger of the two values was used in the assessment. DEEM™ default processing factors were used for all commodities in this assessment.

TABLE 4.—SUMMARY OF ACUTE DIETARY EXPOSURE AND RISK FOR ZETA-CYPERMETHRIN

Population Subgroup	Acute Dietary	
	Dietary Exposure (mg/kg/day)	%aPAD
U.S. population	0.020013	20
Infants (<1 year old)	0.021554	22
Children (1-6 years)	0.030121	30
Females (13-50 years)	0.019736	20

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Tolerance-level residues and 100% crop treated have been used in these analyses for all commodities having either established or proposed tolerances of cypermethrin or zeta-cypermethrin. For chronic risk assessments, residue estimates for foods (e.g., apples) or food-forms (e.g., apple juice) of interest are multiplied by the averaged consumption estimate of each food/food-form of each population subgroup. Exposure estimates are expressed in mg/kg bwt/day and as a percent of the cPAD.

TABLE 5.—SUMMARY OF CHRONIC DIETARY EXPOSURE AND RISK FOR ZETA-CYPERMETHRIN

Population Subgroup	Chronic Dietary	
	Dietary Exposures (mg/kg/day)	%cPAD
U.S. population	0.006477	11
Infants (<1 year old)	0.005748	10
Children (1-6 years)	0.011906	20
Females (13-50 years)	0.005749	10

As shown by the summarized acute and chronic results in Tables 4 and 5, all risk estimates fall below EPA's level of concern (≥100% PAD). All exposures are Tier 1 estimates that are extremely conservative and likely overestimate actual dietary exposure. Refinements to the analyses in the form of percent crop treated considerations and/or anticipated residues would likely reduce the exposure and risk estimates for zeta-cypermethrin.

iii. *Cancer*. Cypermethrin has been classified as a Category C, possible human carcinogen, based on an increased incidence of lung adenomas and adenomas plus carcinomas combined in female mice (Cancer Peer Review Committee, 1988). The evidence was not considered strong enough to warrant a quantitative estimation of human risk. Cypermethrin has not been classified under the more current, Proposed Guidelines for Carcinogen Risk Assessment (April 10, 1996). Because zeta-cypermethrin is an enriched isomer of cypermethrin, it is also classified as a Category C carcinogen and a RfD approach was recommended for human risk assessment purposes.

2. *Dietary exposure from drinking water*. Based on the available data, cypermethrin/zeta-cypermethrin is a moderately persistent chemical that primarily degrades by photolysis in water and biodegradation. Depending on the environmental circumstances, it may persist for periods of months post-treatment. Cypermethrin is tightly bound to soil particles and is not likely to move to ground waters. However, the degradate DCVA is mobile and likely to reach ground waters. Additional information about the mobility of this degradate has been requested. Cypermethrin can contaminate surface waters through spray drift. Under some conditions it may also have a potential for runoff into surface waters (primarily through erosion), for several months post-application. Since zeta-cypermethrin is preferentially associated to the soils, the fraction of the chemical in the water column should be small. In addition, it is expected that treatment of drinking waters would remove substantial portions of cypermethrin/zeta-cypermethrin present in water.

Although the Agency has not addressed residues of DCVA in water, we have concluded that DCVA does not need to be included in the dietary risk for food.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water, EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

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

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

Based on the FIRST and SCI-GROW models, the EECs of cypermethrin and zeta-cypermethrin and its inactive R-isomers for acute exposures are estimated to be 8.9 parts per billion (ppb) for surface water and 0.006 ppb for ground water. The EECs for chronic exposures are estimated to be 0.46 ppb ppb for surface water and 0.006 ppb for ground water. These values generally represent upper-bound estimates of the concentrations that might be found in surface water and ground water due to the use of cypermethrin on Brassica vegetables, which has the highest application rate among both cypermethrin and zeta-cypermethrin on all crops over which the chemicals are applied.

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

Zeta-cypermethrin and its inactive R-isomers is not registered for use on any sites that would result in residential exposure. However, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). The analytical method does not distinguish cypermethrin from zeta-cypermethrin, and the toxicological endpoints are the same. Therefore, dietary and non-dietary residential aggregate risk assessment is conducted by adding the uses of the two chemicals.

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

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

D. Safety Factor for Infants and Children

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

ii. *Prenatal and postnatal sensitivity*. The data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to either zeta-cypermethrin or cypermethrin. In the prenatal developmental toxicity studies in rats, there was no evidence of developmental toxicity at the highest dose tested (35 mg/kg/day). Maternal toxicity (decreased body weight gain (both chemicals), and food consumption, ataxia, urine and feces-stained for (zeta-cypermethrin)) was observed at the LOAEL of 25 mg/kg/day. The maternal NOAELs were established at 12.5 mg/kg/day for zeta-cypermethrin and 17.5 mg/kg/day for cypermethrin. In the definitive rabbit developmental toxicity study conducted with cypermethrin, the maternal LOAEL was 450 mg/kg/day based on decreased body weight gain. No developmental toxicity was observed at dose levels up to 700 mg/kg/day. In the two-generation reproduction study in rats conducted with zeta-cypermethrin, offspring toxicity (decreased pup weight gain during lactation) was observed at the same treatment level which resulted in parental systemic toxicity (NOAEL: 27 mg/kg/day; LOAEL: 45 mg/kg/day). In the definitive multigeneration reproduction study conducted with cypermethrin, the parental NOAEL/LOAEL is lower than the pup NOAEL/LOAEL, both based on decreases in body weight gain (2.5/7.5 mg/kg/day for the parents versus 7.5/37.5 mg/kg/day for the pups).

iii. *Conclusion*. There is a complete toxicity data base for zeta-cypermethrin and exposure data are complete or are estimated based on data that reasonably accounts for potential exposure based on the considerations above. The safety factor can be removed for zeta-cypermethrin and its inactive R-isomers

because: (1) There is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure; (2) the requirement of a developmental neurotoxicity study is not based on criteria reflecting special concern for the developing fetuses or young which are generally used for requiring a DNT study - and a safety factor (e.g., neuropathy in adult animals; CNS malformations following prenatal exposure; brain weight or sexual maturation changes in offspring; and/or functional changes in offspring) and therefore does not warrant an FQPA safety factor; and (3) the dietary (food and drinking water) and non-dietary exposure assessments will not underestimate the potential exposures for infants and children.

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to zeta-cypermethrin and its inactive R-isomers will occupy 20% of the aPAD for the U.S. population, 20% of the aPAD for females 13 years and older, 22% of the aPAD for infants (<1 year old), and 30% of the aPAD for children (1-6 years). In addition, there is potential for acute dietary exposure to zeta-cypermethrin and its inactive R-isomers in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 6:

TABLE 6.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS

Population Subgroup	aPAD,mg/kg/day	%aPAD (Food)	Ground Water EEC[1], ppb	Surface Water EEC[1], ppb	Acute DWLOC[2], ppb
U.S. population	0.10	20%	0.006	8.9	2,800
All infants (<1 year old)	0.10	22%	0.006	8.9	780
Children (1-6 years old)	0.10	30%	0.006	8.9	700
Females (13-50 years old)	0.10	20%	0.006	8.9	2,400

[1]EECs resulting from the maximum proposed application rate (Cypermethrin on Brassica vegetables)
[2]The acute DWLOC was calculated as follows:
DWLOC (μg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption (L/day) x 0.001 mg/μg

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to zeta- cypermethrin and its inactive R-isomers from food will utilize 11% of the cPAD for the U.S. population, 10% of the cPAD for all infants (< 1 year old), and 20% of the cPAD for children (1-6 years old).

There are no residential uses for zeta-cypermethrin and its inactive R-isomers that result in chronic residential exposure to zeta-cypermethrin and its inactive R-isomers. However, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). The analytical method does not distinguish cypermethrin from zeta-cypermethrin, and the toxicological endpoints are the same. Therefore, dietary and non-dietary residential aggregate risk assessment is conducted by adding the uses of the two chemicals. Based on the use pattern, chronic residential exposure to residues of zeta-cypermethrin and its inactive R-isomers is not expected. In addition, there is potential for chronic dietary exposure to zeta-cypermethrin and its inactive R-isomers in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 7:

TABLE 7.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE

Population Subgroup	cPAD, (mg/kg/day)	%cPAD (Food)	Ground Water EEC[1], (ppb)	Surface Water EEC[1], (ppb)	Chronic DWLOC[2], (ppb)
U.S. population	0.06	11%	0.006	0.46	1,900
All infants (<1 year old)	0.06	10%	0.006	0.46	540
Children (1-6 years old)	0.06	20%	0.006	0.46	480
Females (13-50 years old)	0.06	10%	0.006	0.46	1,600

[1] EECs resulting from the maximum proposed application rate (cypermethrin on Brassica vegetables)
[2] Chronic DWLOCs were calculated as follows: DWLOC (µg/L) = maximum water exposure (mg/kg/day) x body weight (kg) ÷ consumption (L/day) x 0.001 mg/µg

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

Zeta-cypermethrin and its inactive R-isomers is currently not registered for use that could result in short-term residential exposure; however, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). Cypermethrin registered residential uses constitute short- and intermediate-term exposure scenarios; endpoints have been selected for short- and intermediate-term incidental oral and inhalation exposures, and the acceptable MOEs for short- and intermediate-term exposures are 100. Since the toxicological effects through the inhalation exposure route are similar to those toxicological effects through the oral routes, short-term aggregate risk assessment was conducted adding inhalation, oral non-dietary exposure, and average food and water exposure.

Since all the acceptable MOEs are at the same level, the aggregate risks for population subgroups can be estimated by calculating aggregate Margin of Exposure values ($MOE_{aggregate}$).

$MOE_{aggregate} = 1/(1/MOE_I + 1/MOE_D + 1/MOE_O + 1/MOE_{food} + 1/MOE_{water})$

where I = inhalation, D = dermal (no dermal endpoints was selected for zeta-cypermethrin), O = non-dietary oral, MOE_{food} = average food from the chronic DEEM run.

As residue values in water from monitoring data are not available, therefore, as with the acute dietary aggregate risk estimate, for the short- and intermediate-term aggregate risk assessments, the DWLOCs have to be back calculated.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,500 for adult males, 1,700 for adult females, 830 for a child, and 1,700 for infants. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of zeta-cypermethrin and its inactive R-isomers in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 8:

TABLE 8.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS

Population Subgroup	Target Aggregate MOE	Aggregate MOE (food and residential)[1]	Ground Water EEC[2] (µg/L)	Surface Water EEC[2] (µg/L)	DWLOC[3] (µg/L)
Adult male	100	1,500	0.006	0.46	3,300
Adult female	100	1,700	0.006	0.46	2,800
Child	100	670	0.006	0.46	850
Infants	100	1,100	0.006	0.46	910

[1] Aggregate MOE (food and residential) = 1 ÷ [(1 ÷ MOE food) + (1 ÷ MOE oral) + (1 ÷ MOE dermal) + (1 ÷ MOE inhalation)]
[2] The crop producing the highest level was used.
[3] DWLOC (µg/L) = allowable water exposure (mg/kg/day) x body weight (kg) water consumption (L) x 10^{-3} mg/µg body weights for male, female, and children are 70, 60, and 10 kg. Water consumption for male, female, and children are 2, 2, and 1 L/day

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

Zeta-cypermethrin and its inactive R-isomers is currently not registered for use that could result in intermediate-term residential exposure; however, cypermethrin does have indoor and outdoor residential uses (zeta-cypermethrin is an enriched-enantiomer version of the insecticide cypermethrin). Cypermethrin registered residential uses constitute short- and intermediate-term exposure scenarios; endpoints have been selected for short- and intermediate-term incidental oral and inhalation exposures, and the acceptable MOEs for short- and intermediate-term exposures are 100. Since the toxicological effects through the inhalation exposure route are similar to those toxicological effects through the oral routes, short-term aggregate risk assessment was conducted adding inhalation, oral non-dietary exposure, and average food and water exposure.

Since all the acceptable MOEs are at the same level, the aggregate risks for population subgroups can be estimated by calculating aggregate Margin of Exposure values ($MOE_{aggregate}$).

$MOE_{aggregate} = 1/(1/MOE_I + 1/MOE_D + 1/MOE_O + 1/MOE_{food} + 1/MOE_{water})$

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 760 for adult males, 860 for adult females, 350 for a child and 600 for infants. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of zeta-cypermethrin and its inactive R-isomers in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 9:

TABLE 9.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO ZETA-CYPERMETHRIN AND ITS INACTIVE R-ISOMERS

Population Subgroup	Target Aggregate MOE	Aggregate MOE (food and residential)[1]	Ground Water EEC[2] (µg/L)	Surface Water EEC[2] (µg/L)	DWLOC[3] (µg/L)
Adult male	100	760	0.006	0.46	1,500
Adult female	100	860	0.006	0.46	1,300
Child	100	350	0.006	0.46	360
Infants	100	600	0.006	0.46	420

[1] Aggregate MOE (food and residential) = 1 ÷ [(1÷MOE food) + (1 ÷ MOE oral) + (1 ÷ MOE dermal) + (1 ÷ MOE inhalation)]
[2] The crop producing the highest level was used.
[3] DWLOC (µg/L) = allowable water exposure (mg/kg/day) x body weight (kg) water consumption (L) x 10^{-3} mg/µg body weights for male, female, and children are 70, 60, and 10 kg. Water consumption for male, female, and children are 2, 2, and 1 L/day

5. *Aggregate cancer risk for U.S. population*. Cypermethrin/zeta-cypermethrin has been classified as a Category C carcinogen, based on an increased incidence of lung adenomas and adenomas plus carcinomas combined in female mice. However, the evidence was not considered strong enough to warrant a quantitative estimation of human risk. An RfD approach was recommended for human risk assessment purposes. Dietary risk concerns due to long-term consumption of zeta-cypermethrin are adequately addressed in the chronic exposure analysis. For the U.S. population only 11% of RfD is occupied by chronic food and water exposure.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to zeta-cypermethrin and its inactive R-isomers residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods are available for determination of cypermethrin residues in plants and animal products in PAM II (Method I). This method involves initial acetone-hexane extraction, followed by partitioning with water. The organic layer is evaporated, then redissolved in cyclohexane-methylene chloride and passed through a gel permeation column. The eluate is evaporated, redissolved in hexane and passed through a Florisil column. Cypermethrin residues are analyzed by gas chromatography (GC) with an electron capture detector (ECD). Since zeta-cypermethrin is an isomer enriched form of cypermethrin, and the PAM II method is not stereospecific, this method is considered adequate for enforcement of the proposed tolerances of zeta-cypermethrin.

B. International Residue Limits

1. Current status indicates that a Codex maximum residue level (MRL) of 0.05 ppm for residues of cypermethrin has been established for sweet corn (corn-on-the-cob). Based on zeta-cypermethrin residues observed in sweet corn ears in the U.S. field trials, the sweet corn tolerance for zeta-cypermethrin is lowered to 0.05 ppm to achieve harmonization with Codex. No Codex MRLs have been established for sweet corn forage/fodder. Canadian or Mexican MRLs have not been established for residues of cypermethrin in/on sweet corn ears or forage/fodder.

2. Current status indicates that Codex, Canadian, or Mexican MRLs have been established for residues of zeta-cypermethrin (or cypermethrin) in/on alfalfa forage (5 ppm), maize (0.05 ppm), maize fodder (5 ppm), bulb onion (0.1 ppm), root and tuber vegetables (0.05 ppm), sweet corn on the cob (0.05 ppm), and vegetable oils (0.5 ppm). The recommended tolerances will be the same as the international tolerances for maize (as applied to field, seed, and pop corn), bulb onions, and root and tuber vegetables (applied to sugar beets). The U.S. field corn fodder tolerance will be lower than the maize fodder tolerance; however, it is unlikely that maize fodder will be shipped to the U.S. In addition, if it were imported, from a practical enforcement perspective, the higher tolerance needed for sweet corn stover (15 ppm; PP 4F3012) would likely apply. Since there is no processed food tolerance for corn oil, the field corn grain tolerance of 0.05 ppm would apply. The international tolerance for vegetable oils is much higher (0.5 ppm) and cannot be harmonized with the U.S. tolerance as the later would have to be set much higher than necessary.

3. Current status indicates that no Codex, Canadian, or Mexican MRLs have been established for residues of zeta-cypermethrin in/on rice.

4. Current status indicates that a Codex MRL of 2 ppm for residues of cypermethrin (racemic) has been established for head lettuce and 1 ppm for Brassica vegetables. This is inconsistent with the proposed U.S. tolerance of 10.0 ppm for zeta-cypermethrin for Crop Group 4 (leafy vegetables except Brassica), 2.0 ppm for Crop Group 5A (head and stem Brassica), and 14.0 ppm for Crop Group 5B (leafy Brassica). Harmonization of U.S. tolerances with Codex tolerances is not possible because at the proposed maximal use rates, residues greater than

the Codex MRLs were found in the U.S. field trials. No Mexican MRLs have been established for residues of cypermethrin or zeta-cypermethrin in any relevant crop, but Canada has established cypermethrin MRLs of 1.0 ppm for celery and 0.5 ppm for broccoli, cabbage, cauliflower, and Brussels sprouts.

V. Conclusion

Therefore, the tolerances are established for residues of zeta-cypermethrin and its inactive R-isomers in or on alfalfa, hay at 15 ppm, alfalfa, forage at 5.0 ppm, alfalfa, seed at 0.5 ppm; beets, sugar, roots at 0.05 ppm, beets, sugar, tops at 0.20 ppm; corn, field, grain at 0.05 ppm, corn, pop, grain at 0.05 ppm, corn, field, forage at 0.20 ppm, corn, field, stover at 3.0 ppm, corn, pop, stover at 3.0 ppm, corn, sweet, (K + CWHR) at 0.05 ppm, corn, sweet, forage at 15 ppm, corn, sweet, stover at 15 ppm; onions, green at 3.0 ppm; leafy vegetables except Brassica at 10 ppm, head and stem Brassica at 2.0 ppm, leafy Brassica at 14 ppm; sugarcane at 0.6 ppm; rice, grain at 1.5 ppm, rice, straw at 2.0 ppm, rice, hulls at 6.0 ppm; fat of cattle, goat, horse, sheep, hogs at 1.0 ppm; meat of cattle, goat, horse, sheep, hogs at 0.1 ppm; milk, fat at 2.5 ppm (reflecting 0.10 ppm in whole milk); poultry, fat at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm; and eggs at 0.05 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301171 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

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

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301171, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has

been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Policies that have tribal implications is defined in the Executive Order to include regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.418 is amended by revising paragraph (a)(2) to read as follows:

§ 180.418 Cypermethrin and an isomer zeta-cypermethrin; tolerances for residues.

(a) * * *

(2) Tolerances are established for residues of the insecticide Z-cypermethrin (S-cyano(3-phenoxyphenyl) methyl (±))(cis-trans 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropanecarboxylate and its inactive R-isomers in or on the following raw agricultural commodities:

Commodity	Parts per million
Alfalfa, hay	15.00
Alfalfa, forage	5.00
Alfalfa, seed	0.50
Beets, sugar, roots	0.05
Beets, sugar, tops	0.20
Brassica, head and stem	2.00
Brassica, leafy	14.00
Cabbage	2.00
Cattle, fat	1.00
Cattle, mbyp	0.05
Cattle, meat	1.00
Corn, field, grain	0.05
Corn, pop, grain	0.05
Corn, field, forage	0.20
Corn, field, stover	3.00
Corn, pop, stover	3.00
Corn, sweet, (K + CWHR)	0.05
Corn, sweet, forage	15.00
Corn, sweet, stover	15.00
Cottonseed	0.5
Eggs	0.05
Goat, mbyp	0.05
Goat, meat	1.00
Hogs, fat	1.00
Hogs, mbyp	0.05
Hogs, meat	1.00
Horse, fat	1.00
Horse, mbyp	0.05
Horse, meat	1.00
Leafy vegetables except, Brassica	10.00
Lettuce, head	10.00
Milk	0.05
Milk, fat (reflecting 0.10 in whole milk)	2.50
Onions, bulb	0.10
Onions, green	3.00
Pecans	0.05
Poultry, fat	0.05

Commodity	Parts per million
Poultry, mbyp	0.05
Poultry, meat	0.05
Rice, grain	1.50
Rice, hulls	6.00
Rice, straw	2.00
Sheep, fat	1.00
Sheep, mbyp	0.05
Sheep, meat	1.00
Sugarcane	0.60

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301170; FRL–6801–4]

RIN 2070–AB78

Mefenoxam; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of mefenoxam in or on globe artichoke, starfruit, kiwifruit, papaya, black sapote, star apple, canistel, mamey sapote, mango, sapodilla, sugar apple, atemoya, custard apple, lingonberry, fresh herbs, and dried herbs. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The risk assessment performed for mefenoxam is an aggregate risk assessment which includes the proposed new uses of mefenoxam and all current metalaxyl tolerances/uses. Consequently, EPA has reassessed a total of 122 existing tolerances for metalaxyl. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. The 122 tolerances reassessed in this final rule count toward the August, 2002 review deadline.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301170, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301170 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; and e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301170. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 30, 2000 (65 FR 52746) (FRL–6739–4), EPA issued notices pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of pesticide petitions (PP) 9F05044, 9E06005, and 9E06057 for tolerances by IR-4, Technology Centre of New Jersey, 681 US Highway #1 South, North Brunswick, NJ 08902–3390. These notices included summaries of the petitions prepared by Novartis Crop Protection, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR part 180 be amended by establishing tolerances for combined residues of the fungicide mefenoxam, (*R*)- and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester,

each expressed as mefenoxam equivalents, in or on fresh herb subgroup at 5 part per million (ppm); dried herb subgroup at 30 ppm; fresh mint at 5 ppm; kiwifruit at 0.05 ppm; atemoya, globe artichoke, starfruit, sugar apple, sweepsop, and true custard at 0.1 ppm; papaya, black sapote, caimito, canistel, mamey sapote, mango, and sapodilla at 0.3 ppm; and lingonberry at 1.0 ppm. IR-4 subsequently revised the petitions, deleting tolerances for mint, sweepsop, and caimito; and changing tolerances for fresh herb from 5.0 ppm to 8.0 ppm; dried herb from 30 ppm to 55 ppm; kiwifruit from 0.05 ppm to 0.10 ppm; globe artichoke from 0.1 ppm to 0.05 ppm; atemoya, starfruit, sugar apple, and custard apple from 0.1 ppm to 0.20 ppm; papaya, black sapote, canistel, mamey sapote, mango, and sapodilla from 0.3 ppm to 0.40 ppm; and lingonberry from 1.0 ppm to 2.0 ppm.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of mefenoxam on globe artichoke at 0.05 ppm, starfruit at 0.20 ppm, kiwifruit at 0.10 ppm, papaya at 0.40 ppm, black sapote at 0.40 ppm, star apple at 0.40 ppm, canistel at 0.40 ppm, mamey sapote at 0.40 ppm, mango at 0.40 ppm, sapodilla at 0.40 ppm, sugar apple at 0.20 ppm, atemoya at 0.20 ppm, custard apple at 0.20 ppm, lingonberry at 2.0 ppm, fresh herbs at 8.0 ppm, and dried herbs at 55 ppm. EPA's assessment of exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by mefenoxam are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed. Metalaxyl is the racemic mixture of the R- and S-enantiomers; mefenoxam is the R-enantiomer. Metalaxyl has an extensive toxicity data base and a Reregistration Eligibility Decision document was completed in September 1994. Data have been accepted by EPA which bridge the necessary environmental fate, chemistry, and toxicology studies from metalaxyl to mefenoxam. The structural similarities between mefenoxam and metalaxyl are the basis for bridging data between the two active ingredients. Mefenoxam and metalaxyl have the same empirical formula, and being optical isomers, differ only in the spatial arrangement of atoms in their structure. Both the R and S enantiomers are considered residues of concern for both chemicals.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90-Day oral toxicity rodents (rats)	NOAEL = 44.8 mg/kg/day LOAEL = 90.5 mg/kg/day based on increased hepatocyte hypertrophy, increased lymphocytic infiltration of liver.
870.3150	90-Day oral toxicity in nonrodents (dogs)	NOAEL = 250 mg/kg/day LOAEL = 1,250 mg/kg/day based on based on increased alkaline phosphatase activity and increased absolute and relative liver weights for both sexes.
870.3200	21-Day dermal toxicity	NOAEL = 1,000 mg/kg/day LOAEL >1,000 mg/kg/day.
870.3700	Prenatal developmental in rodents (rats)	Maternal NOAEL = 50 mg/kg/day LOAEL = 250 mg/kg/day based on clinical signs, including post-dose convulsions. Developmental NOAEL = 250 mg/kg/day LOAEL = 400 mg/kg/day based on increased incidence of skeletal variations.
870.3700	Prenatal developmental in nonrodents (rabbits))	Maternal NOAEL = 150 mg/kg/day LOAEL = 300 mg/kg/day based on decreased body weight gain. Developmental NOAEL = 300 mg/kg/day LOAEL > 300 mg/kg/day.

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

Guideline No.	Study Type	Results
870.3800	Reproduction and fertility effects (rats)	Parental/Systemic male (M): NOAEL = 62.5 mg/kg/day, female (F): NOAEL = 12.5 mg/kg/day M: LOAEL > 62.5 mg/kg/day, F:LOAEL = 62.5 mg/kg/day based on increased relative liver weights. Reproductive NOAEL = 62.5 mg/kg/day LOAEL > 62.5. Offspring NOAEL = 12.5 mg/kg/day; LOAEL = 62.5 mg/kg/day based on histopathological changes in the livers of female pups.
870.4100	Chronic toxicity dogs	NOAEL = M: 7.80 mg/kg/day, F: 7.41 mg/kg/day; LOAEL = M: 30.63 mg/kg/day, F: 32.36 mg/kg/day based on increased alkaline phosphatase, increased relative and absolute liver weights.
870.4300	Carcinogenicity/chronic toxicity rats	NOAEL = M: 9.43 mg/kg/day, F: 9.95 mg/kg/day; LOAEL = M: 46.6 mg/kg/day, F: 55.0 mg/kg/day based on increased serum alanine amino-transferase and serum aspartate amino-transferase, increased periacinar vacuolation of hepatocytes, increased absolute and relative liver weights. No evidence of carcinogenicity.
870.4300	Carcinogenicity mice	NOAEL = M: 24.85 mg/kg/day, F: 29.59 mg/kg/day; LOAEL = M: 128.89 mg/kg/day, F: 148.16 mg/kg/day based on increased fatty infiltration of the liver. No evidence of carcinogenicity.
870.5100	Gene Mutation	There was no concentration related positive response of induced mutant colonies over background in *Salmonella* or *E. coli* strains.
870.5385	*In vivo* Cytogenetics	Metalaxyl had no effect on the incidence of nuclear anomalies.
870.7485	Metabolism and pharmacokinetics	In the first 8 hours of treatment, approximately 30% of the dose was absorbed with 1% of the test substance in the skin at the application site.
870.7600	Dermal penetration	At 24 hours after dosing, approximately 35% was absorbed.

B. Toxicological Endpoints

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

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

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

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

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

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary general population including infants and children	None	Not applicable	No appropriate study was identified.
Chronic dietary all populations	NOAEL = 7.41 mg/kg/day UF = 100 Chronic RfD = 0.074 mg/kg/day	FQPA SF = 1X cPAD = chronic RfD/FQPA SF = 0.074 mg/kg/day	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Short-term dermal (1 to 7 days) (Residential)	None	Not applicable	No systemic toxicity was seen at the limit dose in a 21-day dermal toxicity study in rabbits.
Intermediate-term dermal (1 week to several months) (Residential)	None	Not applicable	No systemic toxicity was seen at the limit dose in a 21-day dermal toxicity study in rabbits.
Long-term dermal (several months to lifetime) (Residential)	NOAEL= 7.41 mg/kg/day UF = 100 Chronic RfD = 0.074 mg/kg/day (dermal absorption rate = 35%)	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Short-term inhalation (1 to 7 days) (Residential)	oral study NOAEL= 50 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	Developmental Toxicity in Rats LOAEL = 250 mg/kg/day based on decreased body weight gains and reduced food consumption.
Intermediate-term inhalation (1 week to several months) (Residential)	oral study NOAEL = 7.41 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Long-term inhalation (several months to lifetime) (Residential)	oral study NOAEL= 7.41 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry.
Short-term oral (1 to 7 days) (Residential)	oral study maternal NOAEL = 50 mg/kg/day	LOC for MOE = 100 (Residential)	Developmental toxicity study in rats (mefenoxam). LOAEL = 250 mg/kg/day based on decreased body weight gains and reduced food consumption.
Intermediate-term oral (1 week to several months) (Residential)	oral study NOAEL = 7.41 mg/kg/day	LOC for MOE = 100 (Residential)	6-Month Feeding Study in Dogs (metalaxyl). LOAEL = 32.36 mg/kg/day based on increased liver weights and clinical chemistry (alkaline phosphatase).
Cancer (oral, dermal, inhalation)	None	Not applicable	Based on the classification of metalaxyl,mefenoxam is also considered ''not likely to be a human carcinogen.''

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

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* A time-limited tolerance has been established (40 CFR 180.546) for the combined residues of mefenoxam, in or on canola (expires December 31, 2001). No other tolerances have been established for mefenoxam *per se*. Since metalaxyl is the racemic mixture of the R- and S- enantiomers; the risk assessment performed for the proposed new uses of mefenoxam includes all current metalaxyl tolerances/uses. Tolerances have been established (40 CFR 180.408) for metalaxyl on various raw agricultural commodities and animal commodities. Tolerances have been established for metalaxyl and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as metalaxyl equivalents, at 0.4 ppm in the fat, kidney, and liver of cattle, goats, hogs, horses, poultry, and sheep; 0.05 ppm in meat and meat byproducts (except kidney and liver) of cattle, goats, hogs, horses, poultry, and sheep; 0.02 ppm in milk, and 0.05 ppm in eggs. Risk assessments were conducted by EPA to assess dietary exposures from mefenoxam in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has

indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. An acute dietary risk assessment was not preformed for mefenoxam since an endpoint of concern was not identified during the review of the available studies.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1994–1996 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Since metalaxyl and mefenoxam share the same residues of concern, the chronic dietary exposure assessment was performed using established metalaxyl tolerances in addition to the proposed tolerances for mefenoxam. The chronic dietary analysis used residue values at the established and recommended tolerance levels, and assumed that 100 percent of the registered and proposed crops were treated. This Tier 1 chronic dietary analysis should be considered highly conservative.

iii. *Cancer*. Metalaxyl has been classified as ''not likely to be carcinogenic in humans'' based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, based on the classification of metalaxyl, mefenoxam is also considered ''not likely to be a human carcinogen.''

2. *Dietary exposure from drinking water*. Sufficient acceptable bridging data have been submitted to verify that the environmental fate of mefenoxam is similar to that of metalaxyl. Therefore, based on the bridging data submitted (soil photolysis, aerobic soil metabolism and batch equilibrium and column leaching studies), EPA can conclude that environmental fate studies of metalaxyl, including the reviewed studies on mefenoxam, can be used to predict the environmental fate of mefenoxam. Metalaxyl was found to be moderately stable under normal environmental conditions; its degradates are mobile in sandy soils and those low in organic matter. EPA has determined that residues of metalaxyl and mefenoxam and their metabolites *N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine (CGA-62826), each expressed as parent equivalents, should be included in the drinking water assessment.

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

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and Screening Concentrations in Ground Water (SCI-GROW), which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

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

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

The first-tier screening model GENEEC was used to estimate potential surface water concentrations, and the screening model SCI-GROW was used to estimate potential ground water concentrations. The maximum annual lingonberry application rate of 5.4 lb a.i./acre (2.7 ai/acre twice) was used to model mefenoxam concentrations in drinking water. The GENEEC simulation of the lingonberry use predicts an acute concentration of 180 ppb, and a 90–day chronic concentration of 109 ppb. SCI-GROW modeling simulated mefenoxam concentrations in ground water of 13.5 ppb for this proposed use. For the degradate of concern, CGA-62826, GENEEC modeling results in estimates of 198 ppb for acute exposure and 194 ppb for chronic exposure, with limited environmental fate data. The predicted SCI-GROW concentration for this degradate is 37 ppb in ground water. The combined (parent plus metabolite) EEC values are 101 ppb (109 ppb for parent + 194 ppb for degradate/3) for chronic surface water and 51 ppb (13.5 ppb for parent and 37 ppb for degradate) for ground water.

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

Mefenoxam is currently registered for use on the residential non-dietary site turf. Risk assessments were conducted using the following residential exposure assumptions: Residential handler exposure has been assessed for two formulations of mefenoxam: an emulsifiable concentrate, (1) Subdue® MAXX® EC, and (2) a granular, Subdue® MAXX® GR both used at a maximum rate of 0.015 lb ai/1,000 ft^2. Non-occupational (residential) handlers may be exposed during mixing, loading and application of mefenoxam using a variety of application methods for short-term durations (1-7 days) based on the mefenoxam turf use. Continuous exposure over intermediate-term (7 days to several months) or long-term (several months or more) time periods are not expected. Dermal exposure was not assessed because applicable endpoints were not identified. MOEs for inhalation exposure from non-occupational handler scenarios were above the target of 100, and thus do not exceed EPA's level of concern.

Non-occupational postapplication exposures were also assessed for Subdue® MAXX® EC (46.6%) and Subdue® MAXX® GR (0.97%), two

major mefenoxam products on turf which are considered to represent the reasonable upper bound residential exposure potential. Adults and children may be exposed to mefenoxam residues following treatment of residential areas. However, postapplication exposure is limited to incidental oral exposure, since post application inhalation exposure is expected to be negligible and endpoints were not identified for short- or intermediate-term dermal risk assessment. Postapplication exposure assessments were performed for toddler's incidental ingestion of residues of mefenoxam on treated turf (hand-to-mouth, object-to-mouth) and ingestion of granules. MOEs for oral exposure to toddlers were all above 100 and thus do not exceed EPA's level of concern. Also, combined exposure from toddler's incidental ingestion of mefenoxam residues on treated turf and from object-to-mouth exposure from treated turfgrass and soil results in short-term MOEs that are greater than 100 and do not exceed EPA's level of concern.

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

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

D. Safety Factor for Infants and Children

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

2. *Conclusion*. There is a complete toxicity data base for mefenoxam and exposure data are complete or are estimated based on data that reasonably account for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because (1) there is no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure, (2) a developmental neurotoxicity study is not required at this time, and (3) the dietary (food and drinking water) and non-dietary exposure assessments will not underestimate the potential exposures for infants and children.

E. Aggregate Risks and Determination of Safety

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

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

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

1. *Acute risk*. Acute aggregate risk consists of the combined dietary exposures from food and drinking water sources. The total exposure is compared to the acute RfD. An acute RfD was not identified. Therefore, an acute aggregate risk assessment was not performed.

2. *Chronic risk*. EPA determined that the parent, mefenoxam, and the metabolite *N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine (CGA-62826), each expressed as parent equivalents, should be included in the drinking water assessment. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to mefenoxam from food will utilize 17% of the cPAD for the U.S. population, 36% of the cPAD for children 1-6 years old and 14% of the cPAD for females 13-50 years old. Based on the use pattern, chronic residential exposure to residues of mefenoxam is not expected. In addition, there is potential for chronic dietary exposure to mefenoxam in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Ground Water EEC (ppb)	Surface Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.074	17	51	101	2,100
Children 1-6 years	0.074	36	51	101	460
Females 13-50 years	0.074	14	51	101	1,900

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

Mefenoxam is currently registered for use that could result in short-and intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short- and intermediate-term exposures for mefenoxam.

Short-term and intermediate aggregate risks from mefenoxam were calculated based on exposures from the oral and inhalation routes of exposure. Inhalation exposure was assessed for the adult, residential pesticide handler only. Postapplication, inhalation exposure to the adult handler is not considered a significant route of exposure. Incidental oral risk was assessed for the postapplication exposure of toddlers in the home environment only. Dermal toxicity endpoints were not chosen for this chemical and thus an assessment of the dermal route of exposure was not performed.

Short- and intermediate-term daily doses from the hand-to-mouth, turfgrass, and soil ingestion pathways were combined and represent the residential exposure potential for toddlers, represented as children 1 to 6 years old. Short- and intermediate-term inhalation values from the residential activity which resulted in the greatest exposure, were used to calculate residential exposures to adult home applicators. In all cases, the residential exposures described above were added to the average food exposures to develop the aggregate exposure estimate. This exposure estimate was then compared to the appropriate toxicity endpoint.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 3,700 for the U.S. population, and 1,300 for children 1-6 years old, and 4,400 for females 13-50 yrs. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of mefenoxam in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO MEFENOXAM

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC(ppb)	Short-Term DWLOC (ppb)
Females 13-50 yrs	4,400	100	101	51	14,000
US Population	3,700	100	101	51	17,000
Children 1-6 yrs	1,300	100	101	51	4,600

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 650 for females 13-50 years old, 560 for the U.S. population, and 230 for children 1-6 years old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of mefenoxam in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO MEFENOXAM

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Females 13-50 yrs	650	100	101	51	1,900
U.S. population	560	100	101	51	2,100
Children 1-6 yrs	230	100	101	51	420

5. *Aggregate cancer risk for U.S. population*. Metalaxyl has been classified as ''not likely to be carcinogenic in humans'' based on the results of a carcinogenicity study in mice and the combined chronic toxicity and carcinogenicity study in rats. Therefore, based on the classification of metalaxyl, mefenoxam is also considered ''not likely to be a human carcinogen.''

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

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement method, Method AG-395 (MRID 00148440; sent to FDA for inclusion in PAM II as Method III), is available to determine the regulated residues of mefenoxam i.e., the combined residues of (*R*)-and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as mefenoxam equivalents in artichoke, carambola (starfruit), sugar apple, sweetsop, atemoya, true custard apple, kiwifruit, papaya, black sapote, caimito, canistel, mamey sapote, mango, sapodilla, lingonberry, and herbs. Method AG-395 is an improved modification of Method I (Method AG-348) in PAM II. In AG-348, residues are converted to 2,6-dimethylaniline and analyzed by gas chromotography (GLC) with alkali flame ionization detection (AFID). Gas-liquid chromatography/mass spectrometry in the chemical ionization mode with selected ion monitoring is used in the determinative step of Method AG-348 for samples that show interference in the GLC/AFID analysis. In AG-395, residues are converted to 2,6-dimethylaniline and analyzed by gas liquid chromatography (GLC) with a nitrogen/phosphorus detector operating in the nitrogen-specific mode. The limit of quantitation of Method AG-395 is 0.05 ppm for each commodity. Method I in PAM II and Method AG-395 do not distinguish between mefenoxam R-isomer) and metalaxyl which is a mixture of the R and S enantiomers). Method 456-98 can distinguish between R and S enantiomers. A successful EPA method validation has been completed by EPA for Method 456-98.

Adequate enforcement methodology (example: Gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

No Codex, Canadian, or Mexican Maximum Residue Limits or tolerances have been established for mefenoxam on artichoke, starfruit, kiwifruit, papaya, black sapote, caimito, canistel, mamey sapote, mango, sapodilla, sugar apple, sweetsop, atemoya, true custard apple, lingonberry, or herbs.

C. Rotational Crops

An adequate confined rotational crop study is available on metalaxyl. Based on the metalaxyl confined rotational crop study, EPA has determined that the residues of mefenoxam to be regulated for the tolerance expression and for dietary risk assessments for rotational crops are (*R*)- and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as parent equivalents, except that 2-[(methoxyacetyl)(2-methoxy-1-methyl-2-oxoethyl)amino]-3-methylbenzoic acid (CGA-108905) and *N*-(3-hydroxy-2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester (CGA-100255) will be considered in risk assessments involving the foliar use of mefenoxam on the treated crop. EPA concludes that U.S. tolerances are adequate to cover residues on crops grown in rotation with mefenoxam treated crops, provided crop rotation is limited to crops that have established metalaxyl or mefenoxam tolerances. Crop rotational studies are not required for globe artichoke, starfruit, kiwifruit, papaya, black sapote, star apple, canistel, mamey sapote, mango, sapodilla, sugar apple, atemoya, custard apple, lingonberry; it is not reasonably foreseeable that any other food or feed crop will be planted after harvest of these treated crops.

D. Conditions

Registration for use of mefenoxam on papaya and kiwifruit will be conditional. Continued registration will be contingent upon EPA receiving additional residue field trials for papaya and kiwifruit. One additional field trial on kiwifruit from California is required. Additional field trials for papaya are needed from Hawaii and Florida.

V. Conclusion

Therefore, these tolerances are established for the combined residues of mefenoxam, (*R*)- and (*S*)-2-[(2,6-dimethylphenyl)-methoxyacetylamino]-propionic acid methyl ester, its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, in or on globe artichoke at 0.05 ppm, starfruit at 0.20 ppm, kiwifruit at 0.10 ppm, papaya at 0.40 ppm, black sapote at 0.40 ppm, star apple at 0.40 ppm, canistel at 0.40 ppm, mamey sapote at 0.40 ppm, mango at 0.40 ppm, sapodilla at 0.40 ppm, sugar apple at 0.20 ppm, atemoya at 0.20 ppm, custard apple at 0.20 ppm, lingonberry at 2.0 ppm, fresh herbs at 8.0 ppm, and dried herbs at 55 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301170 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001..

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR

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

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

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301170, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive

Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.546 is amended by adding text to paragraph (a) to read as follows:

§ 180.546 Mefenoxam; tolerances for residues.

(a) *General*. Tolerances are established for the combined residues of (*R*)- and (*S*)-2-[(2,6-dimethyl(phenyl)-methoxyacetylamine]-propionic acid methyl ester, and its metabolites containing the 2,6 dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methylphenyl)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as mefenoxam equivalents, in or on the following food commodities:

Commodity	Parts per million
Artichoke, globe	0.05
Atemoya	0.20
Canistel	0.40
Custard apple	0.20
Herbs, dried	55
Herbs, fresh	8.0
Kiwifruit	0.10
Lingonberry	2.0
Mango	0.40
Papaya	0.40
Sapodilla	0.40
Sapote, black	0.40
Sapote, mamey	0.40
Star apple	0.40
Starfruit	0.20
Sugar apple	0.20

* * * * *

[FR Doc. 01–23088 Filed 9–14–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301172; FRL–6803–2]

RIN 2070–AB78

Bentazon; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of bentazon (3-isopropyl-1H-2,1,3-Benzothiadiazin-4(3H)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on Flax, seed at 1.0 ppm. BASF Corporation, Agricultural Products Division requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 17, 2001. Objections and requests for hearings, identified by docket control number OPP–301172, must be received by EPA on or before November 16, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301172 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: 703–305–6224; and e-mail address: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://

www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301172. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 17, 1998 (63 FR 43937)(FRL–6018–2), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 6F4640, 3F4270) for tolerance by BASF Corporation, Agricultural Products Division, P.O 13528, Research Triangle Park, NC 27709–35281. This notice included a summary of the petition prepared by BASF Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.355(a) be amended by establishing a tolerance for combined residues of the herbicide bentazon, (3-isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide and its 6- and 8-hydroxy metabolites, in or on Flax, seed at 1.0 part per million (ppm).

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of bentazon on Flax, seed at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by bentazon are discussed in the **Federal Register** of March 8, 2000 (65 FR 12122)(FRL–6492–7) as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

B. Toxicological Endpoints

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

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

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

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

of departure/exposures) is calculated. A summary of the toxicological endpoints for bentazon used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR BENTAZON FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Acute Dietary (Females 13–50 years old)	Developmental NOAEL = 100 UF = 100 FQPA SF* = 10	Increased postimplantation loss, skeletal variations, and reduced weight of fetuses at a LOAEL of 250 mg/kg/day.	Developmental Toxicity-Rat
	Acute RfD = 1 mg/kg		
	Acute PAD = 0.1 mg/kg		
Acute Dietary (General Population)	None	A dose and non-developmental endpoint attributable to a single exposure were not identified in oral toxicity studies.	None
		Risk Assessment is NOT required.	
Chronic Dietary	NOAEL = 3.2 UF = 100 FQPA SF = 10	A dose-dependent presence of feces with red areas in dogs at 13.1 mg/kg/day (LOAEL) and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.	One-Year Feeding Study-Dog
	Chronic RfD = 0.03 mg/kg/day		
	Chronic PAD = 0.003 mg/kg/day		
Short-Term (Dermal)	No systemic toxicity was seen at the Limit-Dose in a 21-day dermal toxicity study in rabbits. Therefore, this risk assessment is NOT required.		
Intermediate-Term (Dermal)[a]	Oral NOAEL = 13.1 MOE = 100 (Occupational) MOE = 1,000 (Residential)	The presence of feces with red areas seen in dogs at weeks 4, 6, and 12 at a LOAEL of 52.3 mg/kg/day.	One-Year Feeding Study-Dog
Long-Term (Dermal)[a,d]	Oral NOAEL = 3.2 MOE = 100 (Occupational) MOE = 1,000 (Residential)	A dose-dependent presence of feces with red areas in dogs at a LOAEL of 13.1 mg/kg/day (seen at week 33) and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.	One-Year Feeding Study-Dog
Short Term (Inhalation)[b]	Oral Developmental NOAEL = 100 MOE = 100 (Occupational) MOE = 1,000 (Residential)	Increased postimplantation loss, skeletal variations, and reduced weight of fetuses at a LOAEL of 250 mg/kg/day.	Developmental Toxicity-Rat
Intermediate Term (Inhalation)[c,d]	Oral NOAEL = 13.1 MOE = 100 (Occupational) MOE = 1,000 (Residential)	The presence of feces with red areas seen in dogs at weeks 4, 6, and 12 at a LOAEL of 52.3 mg/kg/day.	One-Year Feeding Study-Dog
Long Term (Inhalation)[c,d]	Oral NOAEL=3.2 MOE = 100 (Occupational) MOE = 1,000 (Residential)	A dose-dependent presence of feces with red areas in dogs at a LOAEL of 13.1 mg/kg/day (seen at week 33) and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.	One Year Feeding Study-Dog

[a] A dermal absorption factor of 2% should be used for route-to-route extrapolation.
[b] An inhalation absorption factor of 100% should be used for route-to-route extrapolation for short-term inhalation risk assessment.
[c] An inhalation absorption factor of 100% and a dermal absorption factor of 2% should be used for route-to-route extrapolation for intermediate- and long-term risk assessments.
[d] Although long-term dermal and inhalation endpoints were selected, the current use pattern does not indicate a concern for long-term dermal or inhalation exposure potential. Long-term dermal and inhalation risk assessments were not conducted.
** The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.355(a)) for the combined residues of bentazon (3-isopropyl-1H-2,1,3-benzothiadiazin-4 (3H)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on a variety of raw agricultural commodities. Tolerances are also established for the combined residues of the herbicide bentazon (3-isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide) and its metabolite 2-amino-*N*-isopropyl benzamide (AIBA) in or on the following food commodities: for cattle, goats, hogs, poultry, and sheep, fat, meat-by-products, and meat, with a tolerance of 0.05 ppm, for eggs, with a tolerance of 0.05 ppm, and milk, with a tolerance of 0.02 ppm. Risk assessments were conducted by EPA to assess dietary exposures from bentazon in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food

consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: An acute analysis was performed using tolerance level residues, 100% crop treated (CT), and DEEM® default processing factors for all commodities.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: an Anticipated Residue was calculated for succulent peas using average residue values (1.08 ppm) from the submitted crop field trials. Percent CT information for several commodities was used. For all other commodities 100% CT was assumed. DEEM® default processing factors were used for all commodities.

iii. *Cancer*. Bentazon has been classified as a Group E chemical (evidence of non-carcinogenicity for humans) based upon lack of evidence of carcinogenicity in rats and mice.

iv. *Anticipated residue and percent crop treated information*. Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used percent crop treated (PCT) information as follows.

For the acute analysis, tolerance level residues and 100% CT was assumed for all commodities. For the chronic analysis, PCT information was used for mint (25%), sweet corn (13%), snap beans (15%), green peas (13%), dry beans and peas (17%), alfalfa (0%), sorghum (0%), corn (1%), rice (5%), peanuts (27%), soybeans (12%), and potatoes (0%). For alfalfa, sorghum and potatoes, which have %CT estimates of zero, a value of 1% CT was used in the analysis. For all crops other than mint, sweet corn, snap beans, green peas, dry bean and peas, alfalfa, sorghum, corn, rice, peanuts, soybeans and potatoes, 100% CT was used, and tolerance level residues were used for all crops.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which bentazon may be applied in a particular area.

2. *Dietary exposure from drinking water*. Degradation products of bentazon in the tolerance expression are 8-hydroxy bentazon (plants), 6-hydroxy bentazon (plants), and AIBA (animals). AIBA was the only degradation product in the tolerance expression which was found in standard laboratory environmental fate studies. Therefore, the water assessment was conducted for bentazon and AIBA.

SCI-GROW (Screening Concentration in Ground Water) modeling indicates that bentazon residue (bentazon + AIBA) concentrations in ground water used as drinking water are not likely to exceed 4.25 parts per billion (ppb). As reported in the 1994 bentazon RED, bentazon concentrations (excluding degradation products) in ground water are higher (20 to 120 ppb) when compared to SCI-GROW model predictions. The maximum concentration of bentazon (120 ppb) was observed in shallow groundwater samples near greens and tees in a United States Geological Survey (USGS) and the Florida Department of Environmental Protection (FDEP) monitoring study. Since the monitoring data indicate a higher concentration than the SCI-GROW screening model, EPA used the 20 ppb as the representative national Tier 1 ground water screening concentration for bentazon.

Tier II PRZM-EXAMS modeling indicates that cumulative bentazon residue (bentazon + AIBA) concentrations in surface water to be used as screening concentrations for bentazon are 41 ppb for the 1 in 10 year peak (acute) and 8 ppb for the 36 year annual mean (chronic).

A preliminary review of the National Water Quality Assessment Program (NAWQA) monitoring data suggest that bentazon concentrations in surface water are substantially lower than

model predictions. There are no surface water monitoring data for bentazon degradation products. Bentazon has been detected in 37 agricultural streams at a concentration of 0.05 ppb for the 95th percentile and estimated maximum concentration of 5 ppb and 14 integrator sites on large streams at a concentration of 0.15 ppb for the 95th percentile and estimated maximum concentration of 2.8 μg/L. Bentazon was not detected (less than Method of Detection Limit) in urban streams (http://water.wr.usgs.gov/pnsp/gwsw1.html, 3/27/98). Bentazon is not reported in the latest summary of the NAWQA monitoring data (Larson, et al., ''Pesticides in Streams of the United States-Initial Results from the National Water-Quality Assessment Program Water Resources Investigations Report'' 98–4222). Bentazon degradation products were not part of the analysis in the NAWQA monitoring program.

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

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

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

Based on the PRZM/EXAMS and SCI-GROW models the EECs of bentazon for acute exposures are estimated to be 41 ppb for surface water and 20 ppb for ground water. The EECs for chronic exposures are estimated to be 8 ppb for surface water and 20 ppb for ground water.

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

Bentazon is currently registered for use on the following residential non-dietary sites: turf and ornamentals. The risk assessment was conducted using the following residential exposure assumptions: Although bentazon is a registered herbicide for use on turf and ornamentals, short-term non-dietary ingestion exposure for toddlers is not assessed since EPA determined that there is no acute dietary or oral endpoint applicable to infants and children.

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

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

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. Both the rat developmental and reproductive toxicity studies indicate increased susceptibility from *in utero* and post natal exposure to bentazon. The available developmental toxicity data in rabbits did not provide an indication of increased susceptibility from *in utero* exposure to bentazon.

3. *Conclusion*. There is a complete toxicity data base for bentazon and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The FQPA safety factor for protection of infants and children will be retained at 10x in assessing the risk posed by bentazon. This decision is based on:

i. Evidence of increased susceptibility following in utero exposure to bentazon in the prenatal developmental toxicity study in rats in the absence of maternal toxicity.

ii. Quantitative evidence of increased susceptibility following prenatal/postnatal exposure to bentazon in the 2-generation reproduction study in rats.

E. Aggregate Risks and Determination of Safety

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

exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

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

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to bentazon will occupy 2% of the aPAD for females 13 years and older. No appropriate end-point was available to quantitate risk to the general U.S. population from a single dose administration of bentazon. In addition, there is potential for acute dietary exposure to bentazon in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO BENTAZON

Population Subgroup[1]	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC(ppb)	Acute DWLOC[2] (ppb)
Females 13–50 years old	0.1	2	41	20	2,900

[1] Population subgroup chosen was the female subgroup with the highest food exposure (60 kg. body weight assumed).
[2] Allowable Drinking Water Exposure (mg/kg/day) = aPAD (mg/kg/day) - Dietary Exposure from DEEM (mg/kg/day)

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to bentazon from food will utilize less than or equal to 10% of the cPAD for the U.S. population, 12% of the cPAD for non-nursing infant and 28% of the cPAD for children 1–6 years old.

Based on the use pattern, chronic residential exposure to residues of bentazon is not expected. In addition, there is potential for chronic dietary exposure to bentazon in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

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

Population Subgroup[1]	cPAD mg/kg/day	% cPAD(Food)	Surface Water EEC[2] (ppb)	Ground Water EEC[2] (ppb)	Chronic DWLOC[3] (ppb)
U.S. Population (48 states)	0.003	10	8	20	95
Non-nursing infants	0.003	12	8	20	26
Children 1–6 years old	0.003	28	8	20	22
Children 7–12 years old	0.003	16	8	20	26
Females 13–50 years old	0.003	6.3	8	20	95
Males 13–19 years old	0.003	10	8	20	95
Males 20+ years old	0.003	6.7	8	20	98
Seniors 55+ years old	0.003	6.2	8	20	99

[1] Population subgroups chosen were U.S. population (70 kg. body weight assumed), the female subgroup with the highest food exposure (60 kg. body weight assumed),the infant/child subgroup with the highest food exposure (10 kg body weight assumed), and the other general population subgroups (70 kg body weight assumed) which have higher dietary exposure than the U.S. population.
[2] Allowable Drinking Water Exposure (mg/kg/day) = cPAD (mg/kg/day) - Dietary Exposure from DEEM (mg/kg/day)
[3] DWLOC(μg/L) = maximum water exposure (mg/kg/day) x body weight(kg) ÷ water consumption (L) x 10^{-3} mg/μg

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

Bentazon is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for bentazon.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 250,000 for females 13–50 years old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of bentazon in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of

concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO BENTAZON

Population Subgroup	Aggregate MOE[1] (Food + Residential)[2]	Aggregate Level of Concern[3] (LOC)	Surface Water EEC[4] (ppb)	Ground Water EEC[4] (ppb)	Short-Term DWLOC[5] (ppb)
Females 13–50 years old	250,000	1,000	8	20	3,000

[1] Residential Exposure = Oral exposure + Dermal exposure + Inhalation Exposure
[2] Maximum Exposure (mg/kg/day) = NOAEL/Target MOE
[3] Basis for the target MOE: inter- and intra- species UFs totaling 100 + 10X FQPA SF
[4] The crop producing the highest level was used.
[5] DWLOC(µg/L = maximum water exposure (mg/kg/day) x body weight (kg) (60 kg. body weight assumed) 2 (L) x 10^{-3} mg/µg
* Aggregate MOE = NOAEL ÷ (Avg Food Exposure + Residential Exposure)
* Maximum Water Exposure (mg/kg/day) = Target Maximum Exposure - (Food Exposure + Residential Expoxure)

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

Bentazon is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for bentazon.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 8,200 for males 20+ years old, females 13–50 years old and males 13–19 years old and 1,900 for children 1–6 years old. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of bentazon in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO BENTAZON

Population Subgroup	Aggregate MOE[1](Food + Residential)[2]	Aggregate Level of Concern[3] (LOC)	Surface Water EEC[4] (ppb)	Ground Water EEC[4] (ppb)	Intermediate-Term DWLOC[5] (ppb)
Males 20+ years old	8,200	1,000	8	20	400
Females 13–50 years old	8,200	1,000	8	20	340
Children 1–6 years old	1,900	1,000	8	20	64
Males 13–19 years old	8,200	1,000	8	20	400

[1] Residential Exposure = Oral exposure + Dermal exposure + Inhalation Exposure
[2] Maximum Exposure (mg/kg/day) = NOAEL/Target MOE
[3] Basis for the target MOE: inter- and intra- species UFs totaling 100 x 10X (FQPA SF)
[4] The crop producing the highest level was used.
[5] DWLOC(µg/L) = maximum water exposure (mg/kg/day) x body weight (kg)÷ water consumption (L) x 10^{-3} mg/µg
* Aggregate MOE = NOAEL÷ (Avg Food Exposure + Residential Exposure)
* Maximum Water Exposure (mg/kg/day) = Target Maximum Exposure - (Food Exposure + Residential Exposure)

5. *Aggregate cancer risk for U.S. population.* Bentazon has been classified as a Group E chemical (evidence of non-carcinogenicity for humans) based upon lack of evidence of carcinogenicity in rats and mice. Therefore no cancer risk is expected.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methods are available for the determination of residues of bentazon and its 6- and 8-hydroxy metabolites in/on plant commodities. The Pesticide Analytical Method Volume II (PAM II) lists Method II, a GLC method with flame photometric detection for the determination of bentazon and its hydroxy metabolites in/on corn, rice, and soybeans; the limit of detection (LOD) for each compound is 0.05 ppm. Method III, modified from Method II, is available for the determination of bentazon and its hydroxy metabolites in/on peanuts and seed and pod vegetables with a LOD of 0.05 ppm for each compound. These methods are adequate to enforce the tolerances associated with this petition.

B. International Residue Limits

There is a Codex maximum residue limit (MRL) of 0.1 ppm for bentazon and its metabolites established in/on linseed. Therefore, a compatibility issue is relevant to the proposed flax, seed tolerance. Harmonization of the U.S. tolerance will not be possible as the use pattern proposed in this petition may result in residues which exceed the Codex MRL.

C. Conditions

Analytical analyses of bentazon and its regulated metabolites using the FDA multiresidue protocols are required as part of the conditional registration of bentazon on flax.

V. Conclusion

Therefore, the tolerance is established for combined residues of bentazon, (3-isopropyl-H-2,1,3-Benzothiadiazin-4 (3H)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on flax, seed at 1.0 ppm.

VI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301172 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 16, 2001.

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

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

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

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

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

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301172, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary

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

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 7, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.355 is amended by revising the term ''commodity'' in the introductory text to paragraph (a) to read ''commodities'' and by alphabetically adding the commodity ''flax, seed'' to the table in paragraph (a)(1) to read as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) * * *

Commodity	Parts per million
* *	* * *
Flax, seed	1.0
* *	* * *

* * * * *

[FR Doc. 01–23085 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000407096–0096–01; I.D. 090501C]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Implementation of Conditional Closures

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

ACTION: Implementation of conditional closures in the Gulf of Maine.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator) has determined that at least 1.67 million lb (759 metric tons (mt)) of Gulf of Maine (GOM) cod has been landed as of July 31, 2001. Therefore, pursuant to regulations governing the Northeast multispecies fishery, specific areas within this fishery will be closed. The intent of this action is to protect GOM cod resources.

DATES: Effective November 1, 2001, through January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978–281–9279.

SUPPLEMENTARY INFORMATION: Regulations implementing the conditional Cashes Ledge and GOM Rolling Closure Areas in Framework Adjustment 33 (65 FR 21658, April 24, 2000) became effective on June 1, 2000. To help ensure that GOM cod landings remain within the target TAC established for the fishing year, Framework 33 provided a mechanism specified at 50 CFR 648.81(o) to close the area identified as the Cashes Ledge Closure Area from November 1 through November 30, and the area identified as Rolling Closure Area VI from January 1 through January 31 if the Regional Administrator determines that at least 50 percent of the average between the $F_{0.1}$ target total allowable catch (TAC) and the F_{max} target TAC (1.67 million lb (759 mt) for the fishing years beginning May 1, 2000, and May 1, 2001) has been landed as of, or before, July 31. Last year, on September 5, 2000, NMFS announced (65 FR 53648) that the

conditional closures would become effective for the 2000 fishing year.

For the 2001 fishing year, which began on May 1, 2001, the New England Fishery Management Council (Council) voted to maintain the same GOM cod target TACs as in fishing year 2000 (for F_{max} and $F_{0.1}$), because of uncertainty regarding 1999 and 2000 GOM cod discard levels (66 FR 15812, March 21, 2001). The intent of retaining the same GOM cod target TACs was to prevent an increase in the exploitation of GOM cod during the 2001 fishing year. The conditional closure of Cashes Ledge in November 2001, and a portion of Massachusetts Bay in January 2002, are therefore required, if preliminary landings data through July 31, 2001, indicate that more than 1.67 million lb (759 mt) of GOM cod has been landed. NMFS is required to publish notification in the **Federal Register** informing the public of the implementation of the conditional closures if GOM cod landings exceed those levels.

Based upon the best available scientific information, the Regional Administrator has determined that at least 1.67 million lb (759 mt) of GOM cod has been landed as of July 31, 2001. Therefore, NMFS is implementing the conditional closure of the Cashes Ledge Closure Area, as described in § 648.81(h)(1), and Rolling Closure Area VI, as described in § 648.81(g)(1)(vi), to better ensure that GOM cod landings remain within the target TACs established for the 2001 fishing year. Pursuant to § 648.81(o), the Cashes Ledge Closure Area will be closed from November 1, 2001, through November 30, 2001, and Rolling Closure Area VI will be closed from January 1, 2002, through January 31, 2002, to all fishing vessels, and to fishing gear capable of catching Northeast multispecies, except as provided under § 648.81(h)(2) and (g)(2).

The coordinates of the closed areas are as follows:

CASHES LEDGE CLOSURE AREA

Point	N. Lat.	W. Long.
CL1	43°07′	69°02′
CL2	42°49.5′	68°46′
CL3	42°46.5′	68°50.5′
CL4	42°43.5′	68°58.5′
CL5	42°42.5′	69°17.5′
CL6	42°49.5′	69°26′
CL1	43°07′	69°02′

ROLLING CLOSURE AREA VI

Point	N. Lat.	W. Long.
GM1	42°00′	(2)
GM2	42°00′	(3)
GM3	42°00′	(4)
GM4	42°00′	70°00’
GM8	42°30′	70°00’
GM9	42°30’	(2)

(1) or other intersecting line: (2) Massachusetts shoreline (3) Cape Cod shoreline on Cape Cod Bay (4) Cape Cod shoreline on the Atlantic Ocean

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: September 12, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–23178 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 180
Monday, September 17, 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.

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Parts 50 and 80

[Docket Number 010828220–1220–01]

RIN 0607–AA24

Amendments to Age Search Procedures

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Bureau of the Census (Census Bureau) proposes a rule that would clarify and revise the general information requirements pertaining to its Age Search program. The Census Bureau is proposing these clarifications to ensure that there are no misunderstandings about the program requirements as a result of ambiguous language. The intent of the Census Bureau in taking these actions is to clarify and revise processing requirements and legal restrictions.

DATES: Written comments must be submitted on or before October 17, 2001.

ADDRESSES: Direct all written comments on this proposed rulemaking to Judith N. Petty, Chief, National Processing Center, U.S. Census Bureau, 1201 East 10th Street, Room 247, Building 66, Jeffersonville, IN 47132, by telephone on (812) 218–3344 or by fax on (812) 218–3293.

FOR FURTHER INFORMATION CONTACT: Stanley M. Domzalski, Assistant Division Chief (Services), National Processing Center, U.S. Census Bureau, 1201 East 10th Street, Room 247, Building 66, Jeffersonville, IN 47132, by telephone on (812) 218–3579 or by fax on (812) 218–3293.

SUPPLEMENTARY INFORMATION:

Background

The age and citizenship searching service is a self-supporting operation of the Census Bureau in accordance with Title 31, United States Code, Section 483a. Under this statute, all expenses incurred in the retrieval of personal information from decennial census records and the preparation of census transcripts are covered by fees paid by individuals who request this service. The Age Search census transcript provides proof of age to qualify individuals for social security or other retirements benefits, proof of citizenship to obtain passports, proof of family relationships for rights of inheritance, or to satisfy other situations where a birth certificate is required but not available. Census records are also considered a valuable tool for genealogical research. The 1910 through 1990 censuses in custody of the Census Bureau are confidential and protected from disclosure by Title 13, United States Code.

Program Requirements

In order to clarify and update the general rules applying to the Age Search Program, the Census Bureau proposes the following four amendments to Title 15, Code of Federal Regulations (CFR), parts 50 and 80:

- Amend § 50.1 to change the time frame from 120 days to 90 days for submitting any required additional information after completing an initial, unsuccessful search. This change is consistent with current policy on the issue.
- Amend § 50.5 to update the note following the chart on the fee structure. The Census Bureau has not had a fee increase since 1993.
- Amend § 80.1 to clarify the procedures for releasing census information. This change is consistent with current policy on the issue.
- Amend § 80.1 to reflect the current address.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The rulemaking revises and clarifies language in procedures and requirements for the Age Search program. The clarification in language does not impose any additional costs or have any other adverse economic impact on small business or entities who use the Age Search program.

The revision to the number of days the public has to submit any required additional information after completing an initial, unsuccessful search may have an effect on program users. The proposed rule would reduce, from 120 to 90, the number of days the public has to submit additional information. The Census Bureau is proposing this revision to the time frame to promote efficiency in the administrative process. While the time period for filing requested information would be 30 days shorter than previously allowed, there is no cost to small entities directly attributable to this reduced time period.

Executive Orders

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

Paperwork Reduction Act

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 (PRA) unless that collection of information displays a current Office of Management and Budget (OMB) control number. This notice does not represent a collection of information and is not subject to the PRA's requirements. The Form BC–600, referenced in the amended language for § 80.1, has been cleared under OMB control number 0607–0117.

List of Subjects

15 CFR Part 50

Census data, Population census, Statistics.

15 CFR Part 80

Census data, Population census, Statistics

For reasons set out in the preamble, Parts 50 and 80 are amended as follows:

PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

1. The authority citation for 15 CFR part 50 continues to read as follows:

Authority: Sec. 3, 49 Stat. 293, as amended; and 15 U.S.C. 192a. Interprets or applies sec. 1, 40 Stat. 1256, as amended; sec. 1, 49 Stat. 292; sec. 8, 60 Stat. 1013, as amended; 15 U.S.C. 192, 189a; and 13 U.S.C. 8.

2. Amend § 50.1 by revising paragraph (d) to read as follows:

§ 50.1 General.

* * * * *

(d) If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

* * * * *

3. Amend § 50.5 by revising the following note on the chart.

§ 50.5 Fee structure for age search and citizenship information

* * * * *

Note: The $10.00 for each full schedule requested is in addition to the $40.00 transcript fee.

PART 80—FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES

1. The authority citation for 15 CFR part 80 continues to read as follows:

Authority: Sec. 1, Pub. L. 83–1158, and 68 Stat. 1013 (13 U.S.C. 8).

2. Amend § 80.1 by revising paragraphs (c) and (g) to read as follows:

§ 80.1 General requirements.

* * * * *

(c) Requests for information from decennial census of population records (herein ''Census Information'') should be made available on Form BC–600, which is available from offices at the Census Bureau in Suitland, Maryland 20233, and Jeffersonville, Indiana 47131; all county courthouses; Social Security Administration field offices; post offices; and Immigration and Naturalization Service offices. A letter request—without Form BC–600—will be accepted only if it contains the information necessary to complete a Form BC–600. No application will be processed without payment of the required fee as set forth in 15 CFR 50.5.

* * * * *

(g) Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC–600.

Dated: September 10, 2001.

William G. Barron, Jr.,

Acting Director, Bureau of the Census.

[FR Doc. 01–23164 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08–01–012]

RIN 2115–AE46

Marine Events and Regattas; Annual Marine Events in the Eighth Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish and modify various annually recurring marine events throughout the Eighth Coast Guard District. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to control vessel traffic in portions of the waterways of the Eighth Coast Guard District in conjunction with these marine events.

DATES: Comments and related material must reach the Coast Guard on or before October 17, 2001.

ADDRESSES: You may mail comments and related material to Commander (dl), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The Eighth Coast Guard District legal office maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 1311, Hale Boggs Federal Building, New Orleans, Louisiana, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander David Nichols, Eighth Coast Guard District Legal Office, (504) 589–6188.

SUPPLEMENTARY INFORMATION:

Regulatory History

Annual marine events in the Eighth Coast Guard District are listed in Table 1 of 33 CFR § 100.801. This part provides the regulations that apply to all marine events listed in Table 1. Occasionally, these regulations require updating and/or modification.

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–01–012), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your comments and material reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Eighth Coast Guard District legal office at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Discussion of Proposed Rule

This proposed regulation would establish six annually recurring marine events and change the regulated areas of two established annually recurring marine events. This proposed rulemaking is necessary to ensure the safety of life on the navigable waters of the United States and to give the marine community the opportunity to comment on these events. The events being added or amended are as follows:

Independence Day Fireworks, Mobile, AL

The Coast Guard proposes to establish an annual marine event on the Mobile River. The regulated area will be from the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North. The Mobile Register will sponsor the one-day event that will occur on the 4th of July.

Blue Angels Air Show, Pensacola, FL

The Coast Guard proposes to establish an annual marine event off the Pensacola Beach on the Gulf of Mexico. The regulated area will be a five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront. Naval

Air Station Pensacola, Florida will sponsor the two-day event that will occur on the 2nd weekend in July.

Fort-to-Fort Swim, Pensacola, FL

The Coast Guard proposes to establish an annual marine event in the Gulf Intracoastal Waterway at Pensacola, Florida. The regulated area will be from the Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16. The one-day event will occur on the 1st weekend in August.

Keesler Air Force Base Air Show, Biloxi, MS

The Coast Guard proposes to establish an annual marine event in Back Bay, Biloxi, Mississippi. The regulated area will be bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees, 55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West. Keesler Air Force Base, Biloxi, Mississippi, will sponsor the two-day event that will occur on the 1st weekend in November.

Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

The Coast Guard proposes to establish an annual marine event in Santa Rosa Sound. The regulated area will be Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou. The Krewe of Billy Bowlegs of Okaloosa County, Inc. will sponsor the two-day event that will occur on the 1st weekend in June.

East-West Powerboat Shootout, Corpus Christi, TX

The Coast Guard proposes to establish an annual marine event in Corpus Christi Bay adjacent to the Corpus Christi downtown area. The regulated area will be bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West. EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association will sponsor the two-day event that will occur on the 1st or 2nd weekend in June.

Rubber Ducky Derby, Beaumont, TX

The Coast Guard proposes to establish an annual marine event on the Neches River from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5. C P Rehabilitation Center will sponsor the event which will occur on the 2nd, 3rd, and 4th Saturday in April.

Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

The Coast Guard proposes to establish an annual marine event on the waters of the Sabine-Neches Canal from Wilson Middle School to the northern terminus of Old Golf Course Road. The event is sponsored by the City of Port Arthur and Lamar State College and will occur on the Fourth of July.

Neches River Festival, Beaumont, TX [Amended]

The Coast Guard proposes to change the effective date for this annual event.

Amend the Date to read ''two days beginning on the 2nd, 3rd, or 4th weekend in April.''

Annual Labor Day Fireworks [Amended]

The Coast Guard proposes to change the regulated area for this annual event.

Amend Regulated Area to read ''Destin East Pass between and including buoys 5 to 11, Destin, FL''.

Independence Day Fireworks, Destin, FL [Amended]

The Coast Guard proposes to change the regulated area for this annual event.

Amend Regulated Area to read ''Destin East Pass between and including buoys 5 to 11, Destin, FL''.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although these proposed marine events will restrict vessel traffic from transiting certain areas of Eighth Coast Guard District waters, the effect of this regulation will not be significant due to the limited duration that the regulated areas will be in effect and the advance notification that will be made to the maritime community through the **Federal Register**. These proposed regulations have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Collection of Information

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

Federalism

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

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. These marine events would not have a significant economic impact on a substantial number of small entities for the following reasons. These events occur only once per year and are only a short duration, usually several hours. Additionally, traffic would be allowed to pass through the affected area with the permission of the Captain of the Port or Coast Guard patrol commander.

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

Assistance for Small Entities

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

them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander David Nichols, Eighth Coast Guard District legal office, (504) 589–6188.

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Environmental

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(h), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. This proposed rule fits paragraph 34(h) as it establishes and/or amends annual marine event regulations. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Indian Tribal Governments

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—REGATTAS AND MARINE PARADES

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

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

2. Amend Table 1 of § 100.801 by as follows:

a. The seven ''Groups'' identified in Table 1 are designated as I through VII, respectively, as set out below;

b. Add new unit VIII Marine Safety Office Port Arthur as set out below;

c. At the end of newly designated unit IV, add the entries for Independence Day Fireworks, Mobile, AL; Blue Angels Air Show, Pensacola, FL; Fort-to-Fort Swim, Pensacola, FL; Keesler Air Force Base Air Show, Biloxi, MS; and Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL as set out below;

d. At the end of newly designated unit VII, add the entry for East-West Powerboat Shootout, Corpus Christi, TX as set out below;

e. In newly designated unit IV, revise the entries for Annual Labor Day Fireworks and Independence Day Fireworks, Destin, FL as set out below;

f. In newly designated unit VI, revise the entry for Neches River Festival, Beaumont, TX as set out below.

g. In the new unit VIII, add the entries Rubber Ducky Derby, Beaumont, TX, and Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX as set out below.

§ 100.801 Annual Marine Events in the Eighth Coast Guard District.

* * * * *

TABLE 1 OF § 100.801

I. Group Upper Mississippi River:

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II. Group Ohio Valley:

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III. Group Lower Mississippi River:

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IV. Group Mobile:

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Annual Labor Day Fireworks

Sponsor: City of Destin, FL
Date: 1 Day—Day of or Day before Labor Day
Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL

TABLE 1 OF § 100.801—Continued

* * * * * * *

Independence Day Fireworks, Destin, FL

Sponsor: City of Destin, FL
Date: 1 Day—4th of July
Regulated Area: Destin East Pass between and including buoys 5 to 11, Destin, FL

* * * * * * *

Independence Day Fireworks, Mobile, AL

Sponsor: The Mobile Register
Date: 1 Day—4th of July
Regulated Area: From the shore of the east bank out 500 feet into the Mobile River between latitudes 30 degrees 41 minutes 20 seconds North and 30 degrees 41 minutes 15 seconds North

Blue Angels Air Show, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL
Date: 2 Days—2nd weekend in July
Regulated Area: A five nautical mile radius from a center point located 1,500 feet from the Pensacola Beach water tower in a direction perpendicular to the beachfront

Fort-to-Fort Swim, Pensacola, FL

Sponsor: Naval Air Station Pensacola, FL
Date: 1 Day—1st weekend in August
Regulated Area: Fort Pickens pier to Barrancas Beach, crossing the Gulf Intracoastal Waterway at statute mile 180 between buoys 13, 14, 15, and 16

Keesler Air Force Base Air Show, Biloxi, MS

Sponsor: Keesler Air Force Base, Biloxi, MS
Date: 2 Days—1st weekend in November
Regulated Area: Bounded by the following coordinates: (1) Latitude 30 degrees, 24 minutes, 36 seconds North, longitude 088 degrees, 56 minutes, 00 seconds West; (2) latitude 30 degrees, 25 minutes, 30 seconds North, longitude 088 degrees, 55 minutes, 20 seconds West; (3) latitude 30 degrees, 25 minutes, 10 seconds North, longitude 088 degrees, 54 minutes, 55 seconds West

Annual Krewe of Billy Bowlegs Pirate Festival, Okaloosa County, FL

Sponsor: The Krewe of Billy Bowlegs of Okaloosa County, Inc.
Date: 2 Days—1st weekend in June
Regulated Area: Santa Rosa Sound, east of the Brooks Bridge to Fort Walton Yacht Club at Smack Point on the western end of Choctowatchee Bay and Cinco Bayou

* * * * * * *

V. Group New Orleans:

* * * * * * *

VI. Group Galveston:

Neches River Festival, Beaumont, TX

Sponsor: Neches River Festival, Inc.
Date: 2 Days—2nd, 3rd, or 4th Weekend in April
Regulated Area: Neches River from Collier's Ferry Landing to Lawson's Crossing at the end of Pine St., Beaumont, TX

* * * * * * *

VII. Group Corpus Christi:

* * * * * * *

East-West Powerboat Shootout, Corpus Christi, TX

Sponsor: EM Marketing Company, Inc. and the Corpus Christi Offshore Racing Association
Date: 2 Days—1st or 2nd weekend in June
Regulated Area: Bounded by the following coordinates: (1) Latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (2) latitude 27 degrees, 49 minutes, 24 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West; (3) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 23 minutes, 00 seconds West; (4) latitude 27 degrees, 45 minutes, 00 seconds North, longitude 097 degrees, 21 minutes, 22 seconds West

VIII. Marine Safety Office Port Arthur:

Rubber Ducky Derby, Beaumont, TX

Sponsor: C P Rehabilitation Center
Date: 1 Day—2nd, 3rd, or 4th Saturday in April
Regulated Area: All waters of the Neches River, bank to bank, from the Trinity Industries Dry Dock to the northeast corner of the Port of Beaumont's dock number 5

Port Arthur Fourth of July Firework Demonstration, Port Arthur, TX

Sponsor: The City of Port Arthur and Lamar State College
Date: 1 Day—4th of July
Regulated Area: All waters of the Sabine-Neches Canal, bank to bank, from Wilson Middle School to the northern terminus of Old Golf Course Road

Dated: August 27, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–22812 Filed 9–14–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7056–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Aladdin Plating Superfund Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Aladdin Plating Superfund Site (Site) located in Scott and South Abington Townships, Lackawanna County, Commonwealth of Pennsylvania, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that the remedial action for the site has been successfully executed.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before October 17, 2001.

ADDRESSES: Comments may be mailed to: Patrick McManus (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029.

Comprehensive information, including the deletion docket, on this Site is available for viewing at the Site information repositories at the following locations: Regional Center for Environmental Information, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, 215–814–5254 or 800–553–2509, Monday through Friday 8 a.m. to 4:30 p.m.; Scott Township Municipal Building, Route 457, Olyphant, PA 18447, 570–254–6969; South Abington Township Building, 104 Shady Lane, Montdale, PA 18410, 570–586–2111.

FOR FURTHER INFORMATION CONTACT: Patrick McManus (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029. Telephone 215–814–3198 or 800–553–2509, e-mail address: *mcmanus.pat@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

The U.S. Environmental Protection Agency, Region III announces its intent to delete the Aladdin Plating Superfund Site from the NPL, appendix B of the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), 40 CFR part 300, and requests public comments on this proposed action. EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that future conditions warrant such action at the site.

EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that remedial activities conducted at the Site have been successfully executed.

EPA will accept comments on the proposal to delete this Site for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Aladdin Plating Superfund Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP established the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) The responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

Even when a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA will conduct a review of the site at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment.

If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site:

1. EPA Region III has recommended deletion and has prepared the relevant documents. All appropriate response actions required under CERCLA have been implemented.

2. PADEP has concurred with the deletion decision.

3. Concurrent with this Notice of Intent to Delete, an advertisement in a local newspaper presents information on the Site and announces the commencement of the thirty (30) day public comment period on the deletion package.

4. The EPA Region III Office has made all relevant documents supporting the proposed deletion available for the public to review in the Site information repositories identified above.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the EPA will prepare a Responsiveness Summary

to address any significant public comments received.

A deletion occurs when the EPA Region III Regional Administrator places a final notice, a Notice of Deletion, in the **Federal Register**. Generally, the NPL will reflect deletions in the final update. Public notices and copies of the Responsiveness Summary will be made available to the public by the EPA Regional Office.

IV. Basis for Intended Site Deletion

The following summary provides the EPA's rationale for the proposal to delete this Site from the NPL.

Site Location

The Aladdin Plating Superfund Site is located near Scranton, Pennsylvania, on Layton Road in Scott and South Abington Townships, Lackawanna County, Commonwealth of Pennsylvania, approximately 1.5 miles north of the town of Chinchilla. The Site is surrounded on all sides by residential properties. The Site comprises approximately 6 acres on a hillside. The topography slopes steeply away from the Site on three of its sides.

A residential community of approximately fifty homes is located to the south and east within one-half mile of the Site. The area between the Site and Griffin Reservoir, which is north of the Site, is wooded and is sparsely populated. The nearest residential wells are within 500 feet of the Site.

Site History

Site contamination resulted from electroplating activities conducted from 1947 to 1982 by the Aladdin Electroplating Company. This company was primarily involved in chromium electroplating, but also conducted electroless nickel plating and decorative electroplating using copper and nickel. In addition to these three metals, various plating baths used at the facility contained sulfuric, chromic, and hydrochloric acids, as well as caustic and cyanide solutions. Liquid wastes generated by the company presumably contained all of these materials.

Historically, these liquid wastes were deposited into two unlined surface impoundments located on-site. The liquid wastes flowed downhill via an open drainage ditch from the electroplating building to the surface impoundments. These impoundments overflowed on occasion. Drums were also used for storage of plating solutions and disposal of plating wastes. Liquid wastes were discharged from floor drains directly to the soil through perforated pipe extending from the building in the direction of the surface impoundments. This practice continued until 1982, when a fire virtually destroyed the electroplating building and ended plating operations.

In 1987, an emergency removal action was conducted at the Site, during which the electroplating wastes remaining on-site in drums, vats, etc., were removed, and the fire-damaged electroplating building was demolished (due to contamination and unsafe conditions).

Based on information that had been collected by EPA before 1987, the Aladdin Plating Superfund Site was placed on the NPL on July 22, 1987. The investigation of the site was divided into two parts: soils (operable unit 1) and groundwater (operable unit 2).

Record of Decision—Soils

EPA issued a Record of Decision (ROD) for operable unit 1 of the Aladdin Plating Superfund Site in September 1988. The ROD was based on all of the soil sampling that had been conducted by EPA, which had revealed extensive chromium contamination in the soils. The ROD outlined a remedial action for source control.

The major components of the Remedial Action included:

1. Cleanup of contaminated soil to a cleanup level of 50 parts per million (ppm) of chromium, the level determined to be protective of groundwater.
2. Excavation and off-site stabilization of all chromium-contaminated soil.
3. Disposal of the stabilized soil in an appropriate off-site landfill.
4. Replacement of excavated soil with clean fill.
5. Future study of groundwater.

This cleanup action was begun on November 16, 1989, and removal of contaminated soil continued through May 1991. The soil was transported to EPA-approved hazardous waste disposal facilities in Alabama (phase 1) and Michigan (phase 2), where the soil was stabilized and/or solidified and then placed in permitted hazardous waste landfills. The area addressed in operable unit 1 measured approximately 400 feet by 1500 feet, and a total of more than 29,000 cubic yards of soils were removed from the Site (both phases).

Record of Decision—Groundwater

The second operable unit involved the study of groundwater. The liquid wastes discharged by the electroplating facility had caused contamination of the shallow water-bearing zone in the immediate area of the former plating building and impoundments. An extensive Remedial Investigation/Feasibility Study (RI/FS) was conducted at the Site and completed in January 1993. Based on this RI/FS, a ROD was issued on December 30, 1993, which determined that there was no current threat to human health or the environment from this contamination in its undisturbed condition. However, there was a concern that it could migrate into aquifers used for drinking water supplies in the area. Therefore, the remedy for operable unit 2 consisted of the following:

1. Installation of four new monitoring wells (completed).
2. Rehabilitation of all the existing monitoring wells (completed).
3. Institutional controls on the Site property to prevent disturbance of the contaminated shallow groundwater beneath the Site (in place).

The ROD also required five years of quarterly sampling of home wells adjacent to the Site and all on-site monitoring wells, followed by annual monitoring of these wells for thirty years. However, after the ROD was issued, it was determined that this activity was not a remedial activity, but a removal assessment activity. Therefore, on January 21, 2000, an Explanation of Significant Differences was issued which incorporated this change to the ROD. These sampling activities are being conducted, and will continue to be conducted for thirty years, but they are being completed as removal assessment activities rather than as part of the remedial action.

The sampling of water from home wells has indicated that no significant chromium contamination has migrated to the home wells. To date, nineteen rounds of sampling of home wells and sixteen rounds of sampling of monitoring wells have been completed. The results of the monitoring well sampling indicate that chromium levels have decreased in the shallow water bearing zone near the location of the former electroplating building since the initial groundwater sampling in 1992. Additionally, it is evident that chromium contamination has not migrated beyond the areas found to be contaminated at that time and no significant chromium contamination has migrated to the home wells near the site. It appears that the soil remedial activities that were completed at the site has improved that shallow groundwater conditions. Based on this information, the conclusions in the ROD have been supported by the well sampling and appear to have been appropriate.

To implement the institutional controls required by the ROD, on September 29, 2000, EPA issued an Administrative Order for Remedial Action (the Order) requiring the Site property owner to file a Notice of Use

Restriction (the Notice) and a copy of the Order with the Recorder of Deeds for Lackawanna County to ensure that the documents are available for public review accompanying the deed to the property. The Notice explains the existence of contamination at the Site, provides an advisory that there shall be no disturbance of the surface of the property, and explains that EPA has access to the Site at all reasonable times for the purpose of conducting any activity relating to Site responses. The Order also requires the owner to refrain from any activity that could disturb the soil on the property or result in the migration of chromium contamination from the Site. On February 14, 2001, the Site owner presented the properly executed documents to the Recorder of Deeds for Lackawanna County to file accompanying the deed to the property.

With the implementation of the institutional controls, the full remedy called for in the ROD of December 30, 1993, has been implemented.

Five-Year Review

A five-year review for the Site was completed on September 29, 1999. At that time, the remedy was not considered to be protective because the institutional controls were not yet in place. As stated above, the institutional controls are now in place. Five-year reviews for the Site will continue to be conducted. The next Review is scheduled to be completed by September 30, 2004.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket on which EPA relied to make this recommendation of deletion from the NPL are available to the public in the information repositories.

Applicable Deletion Criteria

EPA is proposing deletion of this Site from the NPL. PADEP concurred with EPA that all appropriate responses under CERCLA have been implemented. Documents supporting this action are available from the docket. EPA believes that the criteria stated in section II(i) and (ii) for deletion of this Site have been met. Therefore, EPA is proposing the deletion of the Aladdin Plating Superfund Site from the NPL.

Dated: September 5, 2001.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. 01–22998 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010823216–1216–01; I.D. 071601A]

RIN 0648–AP32

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Delay of the Implementation Date of the Year-4 Default Management Measures for Small-Mesh Multispecies

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend the regulations that implement Amendment 12 to the Northeast Multispecies Fishery Management Plan (FMP) to change the date of the Year-4 default management measures for small-mesh multispecies (silver hake (whiting), red hake and offshore hake), from May 1, 2002, to May 1, 2003. Delaying the implementation date for an additional year would be in conformance with the original intent of Amendment 12 to the FMP. As specified in the FMP, this action is necessary to provide at least 2 full years of data on the fishery so that the Whiting Monitoring Committee (WMC) may fully assess the effectiveness of the current management measures and recommend alternative default measures, if appropriate.

DATES: Comments on this proposed rule must be received on or before October 17, 2001.

ADDRESSES: Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on whiting.'' Comments may also be sent via facsimile (fax) to (978) 281–9371. Comments will not be accepted if submitted via e-mail or the Internet.

This action is based upon analyses conducted in support of Amendment 12 to the FMP. Copies of the Amendment 12 document, its Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA) and the July 1, 1999, supplement to the IRFA prepared by NMFS, the Final Supplemental Environmental Impact Statement (FSEIS), and other supporting documents for Amendment 12 are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery-Mill 2, Newburyport, MA 01950. The Final Regulatory Flexibility Analysis for Amendment 12 consisted of the IRFA, public comments and responses contained in the final rule implementing Amendment 12 (65 FR 16766, March 29, 2000), and the summary of impacts and alternatives in that final rule.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, at 978–281–9279.

SUPPLEMENTARY INFORMATION:

Background

Amendment 12 was developed to address the overfished condition of red hake and the southern stock of whiting, to reduce fishing mortality on northern whiting, which was approaching an overfished condition, and to establish management measures for offshore hake. The final rule implementing Amendment 12, which was partially approved by NMFS on behalf of the Secretary of Commerce on September 1, 1999, was published on March 29, 2000 (61 FR 16766), and became effective on April 28, 2000. The New England Fishery Management Council (Council) intended for the measures in Amendment 12 to achieve the target fishing mortality rates (F) for whiting within 4 years of implementation, and to rebuild whiting and red hake stocks within 10 years.

Under Amendment 12, fishing with small mesh is regulated in the North Atlantic region through the establishment of three large ''Regulated Mesh Areas.'' In the Gulf of Maine/Georges Bank (GOM/GB) Regulated Mesh Area, vessels may fish for whiting with nets that have less than the minimum mesh size of 6-inch (15.24-cm) diamond mesh or 6.5-inch (16.51-cm) square mesh when participating in certain exempted fisheries; each net has slightly differing requirements. The GOM/GB exempted fisheries for whiting include: The Small Mesh Northern Shrimp Fishery, the Cultivator Shoal Whiting Fishery, the Small Mesh Area 1/Small Mesh Area 2 Exemptions, and the Raised Footrope Trawl Whiting Fishery. The Cultivator Shoal Whiting Fishery has a 3-inch (7.62-cm) minimum mesh size, and the Raised Footrope Trawl Whiting Fishery has a 2.5-inch (6.35-cm) minimum mesh size. In the Southern New England Regulated Mesh Area, vessels are exempt from the minimum mesh size requirement throughout the area when fishing for

exempted species, which include whiting and offshore hake. Finally, in the Mid-Atlantic Regulated Mesh Area, vessels may fish for whiting and offshore hake with nets of mesh less than the minimum size when not fishing under a multispecies day-at-sea (DAS), provided that the vessel does not possess or land regulated multispecies.

The first 3 years of management under Amendment 12 include three possession limits, depending upon the minimum mesh size used. Vessels may possess and land up to a combined total of 3,500 lb (1,588 kg) of whiting and offshore hake, when fishing with mesh less than 2.5 inches (6.35 cm). Vessels may possess and land up to a combined total of 7,500 lb (3,402 kg) of whiting and offshore hake, when fishing with mesh equal to or greater than 2.5 inches (6.35 cm) and less than 3.0 inches (7.62 cm). Vessels may possess and land up to a combined total of 30,000 lb (13,608 kg) of whiting and offshore hake, when fishing with mesh equal to or greater than 3.0 inches (7.62 cm). These possession limits were intended to provide an incentive for vessels to utilize the larger 3-inch (7.62-cm) mesh when fishing for whiting. Since red hake is primarily an incidental species caught in whiting and other small-mesh fisheries, the measures to protect whiting are expected to simultaneously protect red hake. Offshore hake, a species similar to whiting, was included in the management measures to provide basic protection for the species and to ensure that misidentification of offshore hake is accounted for.

Amendment 12 establishes the WMC to review the effectiveness of management measures and to recommend adjustments. Such reviews will occur annually, beginning in 2001. The Council expected that the measures in Years 1, 2, and 3 would reduce exploitation by at least 50 percent of the required amount, and that annual adjustments would indicate whether further management measures were needed. To ensure attainment of the FMP's mortality objectives, the default measures were developed for Year 4. The Council expected, and Amendment 12 specified, that the Whiting Monitoring Committee (WMC) would meet during the third year to determine if the Year-4 default measures would be necessary. Furthermore, during the third year, and based upon the effectiveness of the first three years of management, the WMC was charged with considering and recommending, if appropriate, small-mesh multispecies measures for Year 4, other than the default measures, to achieve the F targets.

The Year-4 default measures prohibit vessels from using nets with mesh size less than 3 inches (7.62 cm)(square or diamond) in most fisheries operating within the three Regulated Mesh Areas in New England and Mid-Atlantic waters, and impose a 10,000-lb (4,536-kg) combined possession limit in most fisheries on whiting and offshore hake. In addition, the existing possession limit for whiting and offshore hake in the Small Mesh Northern Shrimp Fishery will be reduced from an amount equal to the total weight of shrimp on board (not to exceed 3,500 lb (1,588 kg)) to 100 lb (45.3 kg). Under the regulations that implement Amendment 12, these measures are scheduled to become effective May 1, 2002, unless superseded by revised measures.

The Council voted at its December 1998 meeting that May 1, 1999, would begin Year 1 of Amendment 12, with the expectation that the Amendment would be implemented by the autumn of 1999. The Council submitted Amendment 12 to NMFS in April 1999. Based upon the Council's assumption that the Amendment would be implemented in the fall of 1999, the regulations implementing Amendment 12 specified that the Year-4 default management measures would become effective on May 1, 2002. However, the implementing regulations did not become effective until April 28, 2000. Thus, Year 1 of Amendment 12 was only 3 days in duration (April 28 - April 30, 2000), rather than 8 to 10 months, as originally anticipated by the Council. As a result, under the current regulations, the WMC review process cannot be carried out as was intended in Amendment 12. Therefore, this action proposes to adjust the date on which the default measures will become effective, unless superseded, in order to be consistent with Amendment 12 and the Council's intent that a 3-year period be allotted to achieve the target fishing mortality rate before restrictive default measures currently specified for Year 4 would become effective. This proposed action is necessary to ensure that adequate data are available to determine whether the Year-4 default measures are necessary. Delay of the default measures by 1 year would not change the rebuilding timeframe of 10 years contemplated by the Council or the current regulations. However, this action would push back the rebuilding schedule by one year to be consistent with the rebuilding schedule established in Amendment 12. The proposed regulatory change would not jeopardize the ability or likelihood of attaining the rebuilding objectives contained in Amendment 12. Any loss in rebuilding as a result of this action can be compensated for through adjustments to the small-mesh multispecies management measures by means of the annual adjustment or 4-year review process to insure that the established F targets are achieved.

Classification

This rule proposes to amend regulations that implement Amendment 12 to the FMP. This action is categorically excluded from the requirement to prepare an environmental assessment because the proposed rule would only adjust the timeframe for implementation of measures that were fully considered in the EIS prepared for Amendment 12. The FSEIS prepared for Amendment 12 concluded that, although short-term negative impacts will result from lowered allowed catches of small-mesh multispecies, the management actions implemented by Amendment 12 would have long-term positive impacts on affected physical, biological, and human environments.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Amendment 12 to the Northeast Multispecies Fishery Management Plan (FMP) proposed initial management measures for small-mesh multispecies (silver hake (whiting), red hake, and offshore hake) to be in effect for 3 years, with more stringent default measures to be implemented in Year 4. The New England Fishery Management Council (Council) intended to review data from the initial years of the management program to determine, prior to implementation of the Year-4 default measures, whether the default measures were still necessary. However, due to delays in the initial implementation of Amendment 12, the regulations inadvertently created a 3-day fishing year for Year 1. Therefore, this rule proposes to delay the implementation date of the restrictive Year-4 default management measures for one year from May 1, 2002, to May 1, 2003. This proposed action is needed to provide information on the fishery based on at least 2 full years of small-mesh multispecies management measures, so that the Council may fully assess during Year 3 the effectiveness of the existing management measures and recommend alternative measures, other than the intentionally restrictive Year-4 default measures, if appropriate.

Under the existing Year-4 default measures, which are currently scheduled to become effective on May 1, 2002, vessels would be prohibited from fishing with mesh smaller than 3 inches (square or diamond) in most New England and Mid-Atlantic fisheries. In addition, a 10,000-lb combined possession limit would be implemented for whiting and offshore hake. Delay in implementation of these Year-4 default measures is consistent with the Council's original intent of Amendment 12. Therefore, this proposed action is necessary to ensure that adequate data are available to determine whether the current restrictive default measures are necessary. Delaying the implementation date of the default measures by one year would not jeopardize the ability or likelihood of attaining the rebuilding objectives contained in Amendment 12.

NMFS and the Council prepared an economic analysis for Amendment 12, which indicated that implementation of the amendment, including the restrictive Year-4 default measures, would have a significant economic impact on a substantial number of small entities. The analysis indicated that 1,156 participating small entities reported landings of one or more combined pounds of whiting, red hake, and offshore hake during the calendar years 1995 to 1997. The management measures proposed for Years 1-3 were estimated to reduce gross revenues from all species by more than 5 percent for 81 vessels (7 percent of small mesh multispecies participants). If the default measures were to be implemented, 222 vessels (approximately 20 percent of small mesh multispecies fishery participants) were estimated to experience a reduction in annual gross revenues of 5 percent or more. Short- and long-run profitability analyses of small-mesh multispecies commercial fishing vessels indicated that management measures proposed under Amendment 12 would force some vessels to cease operations. In the short-run, vessels may be assumed to maintain business operations, provided operating costs can be paid. In the long-run, vessels may be able to maintain business operations only if all costs (fixed and operating) could be paid from gross receipts. Estimated profitability for the Years 1-3 and Year-4 default management measures indicated that 25 vessels (2 percent), or more, of the vessels may not be able to operate at positive long-run profit upon implementation of the Amendment 12 measures. A total of 573 vessels were estimated to operate at positive profit under both the Year 1-3 and Year-4 default measures.

This proposed action, which would delay the implementation date of Year-4 default measures, does not change the results of the economic analysis prepared for Amendment 12. It would only delay by one year the implementation date of Year-4 default measures. As such, it would not result in any significant economic impact on a substantial number of small entities. The proposed action itself has no impacts on small entities that were not already analyzed in connection with the implementation of Amendment 12. This rule merely adjusts the implementation timeframe of the default measures to be consistent with the timeframe analyzed in the economic analysis prepared for Amendment 12. In fact, the proposed action would allow fishermen to maintain current levels of gross revenues before Year-4 default measures are implemented, if at all. This action is strongly supported by both the New England and Mid-Atlantic Fishery Management Councils, as well as by the commercial fishing industry.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 12, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.14, paragraph (z)(2) introductory text is revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(z) * * *

(2) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, beginning May 1, 2003, it is unlawful for an owner or operator of a vessel issued a valid Federal multispecies permit to do any of the following:

* * * * *

3. In § 648.80, the first sentence of paragraph (a)(3)(i)(A); paragraphs (a)(3)(i)(B), (a)(4)(i)(B) and (a)(4)(i)(C); the first sentence in each of paragraphs (a)(7)(i)(B), (a)(8)(i)(A), and (a)(8)(i)(B); paragraph (a)(9)(i)(D)(*1*) and (a)(9)(i)(D)(*2*); the first sentence in each of paragraphs (a)(14)(i)(B) and (a)(14)(i)(C); paragraph (b)(3)(i)(A); the first sentence of paragraph (b)(3)(i)(B); and paragraph (c)(2)(iii) are revised to read as follows:

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

* * * * *

(a) * * *

(3) * * *

(i) * * *

(A) Through April 30, 2003, an owner or operator of a vessel fishing in the northern shrimp fishery described in this section under this exemption may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to an amount equal to the total weight of shrimp possessed on board or landed, not to exceed 3,500 lb (1,588 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter. * * *

(B) Beginning May 1, 2003, an owner or operator of a vessel fishing for northern shrimp may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to 100 lb (45.36 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

* * * * *

(4) * * *

(i) * * *

(B) Through April 30, 2003, an owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Herring; longhorn sculpin; squid; butterfish; Atlantic mackerel; dogfish, and red hake—up to 10 percent each, by weight, of all other species on board; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or

up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Beginning May 1, 2003, an owner or operator of a vessel fishing in this area is subject to the mesh size restrictions specified in paragraph (a)(4)(i)(D) of this section and may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 10,000 lb (4,536 kg), except for the allowable incidental species listed in paragraph (a)(4)(i)(B) of this section.

* * * * *

(7) * * *

(i) * * *

(B) *Small-mesh multispecies.* Beginning May 1, 2003, an exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of small-mesh multispecies bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of small-mesh multispecies caught as bycatch is, or can be reduced to, less than 10 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. * * *

* * * * *

(8) * * *

(i)(A) Unless otherwise prohibited in § 648.81, through April 30, 2003, a vessel subject to the minimum mesh size restrictions specified in paragraph (a)(2) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (a)(3)(ii) or (a)(8)(ii) of this section and § 648.86(d) from July 15 through November 15, when fishing in Small-mesh Area 1, and from January 1 through June 30, when fishing in Small-mesh Area 2. * * *

(B) Unless otherwise prohibited in § 648.81, beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(8)(i)(A) of this section, nets may not have a mesh size of less than 3 in (7.62 cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length. * * *

* * * * *

(9) * * *

(i) * * *

(D)(*1*) Through April 30, 2003, the following species may be retained, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.72 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

(*2*) Beginning May 1, 2003, all nets must comply with a minimum mesh size of 3 in (7.62 cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length. Vessels may retain the allowable incidental species listed in paragraph (a)(9)(i)(D)(*1*) of this section.

* * * * *

(14) * * *

(i) * * *

(B) Up to and including April 30, 2003, all nets must comply with a minimum mesh size of 2.5-inch (6.35-cm) square or diamond mesh, subject to the restriction as specified in paragraph (a)(14)(i)(D) of this section. * * *

(C) Beginning May 1, 2003, in addition to the requirements specified in paragraph (a)(14)(i)(B) of this section, all nets must comply with a minimum mesh size of 3-inch (7.62 cm) square or diamond mesh, subject to the restrictions as specified in paragraph (a)(14)(i)(D) of this section. * * *

* * * * *

(b) * * *

(3) * * *

(i) * * *

(A) Through April 30, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the mesh size and possession limit restrictions specified under § 648.86(d).

(B) Beginning May 1, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may not use nets with mesh size less than 3 in (7.62 cm), unless exempted pursuant to paragraph (b)(4) of this section, and may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake—up to 10,000 lb (4,536 kg), and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the possession limit restrictions specified under § 648.86. * * *

* * * * *

(c) * * *

(2) * * *

(iii) *Small mesh beginning May 1, 2003.* Beginning May 1, 2003, nets may not have a mesh size of less than 3 in (7.62 cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length.

* * * * *

4. In § 648.86, the headings to paragraphs (d) and (e) are revised to read as follows:

§ 648.86 Multispecies possession restrictions.

* * * * *

(d)*Small-mesh multispecies through April 30, 2003.*

* * * * *

(e)*Small-mesh multispecies beginning on May 1, 2003*—

* * * * *

5. In § 648.90, the last sentence of paragraph (a)(2) is revised to read as follows:

§ 648.90 Multispecies framework specifications.

(a) * * *

(2) * * * In addition, for the 2003 fishing year, the WMC must consider,

and recommend as appropriate, management options other than the default measures for small-mesh multispecies management (mesh and possession limit restrictions for small-mesh multispecies beginning May 1, 2003).

* * * * *

[FR Doc. 01–23177 Filed 9–12–01; 4:01 pm]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 180

Monday, September 17, 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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding forum of the Alaska Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 5:00 p.m. on Thursday, October 25, 2001, at the Hilton Anchorage Hotel, 500 West Third Avenue, Anchorage, Alaska 99501. The purpose of the factfinding forum is to gather information from representatives of Native Alaskan villages on civil rights concerns in administration of justice, education and employment.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 10, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–23094 Filed 9–14–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting with briefing of the Florida Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Friday, September 28, 2001, at the Hyatt Regency Tampa, Two Tampa City Center, Tampa, Florida 33602. The purpose of the meeting with briefing is to receive information from minority business leaders, St. Petersburg city officials, public housing tenants, students and officials of the University of South Florida regarding the US Department of Housing and Urban Development's Hope VI program in Tampa and St. Petersburg; and the City contracts in Tampa, and the University of South Florida's athletic program.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 10, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–23093 Filed 9–14–01; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–862]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Foundry Coke Products From The People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order and amendment to final determination.

EFFECTIVE DATE: September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Alex Villanueva, Marlene Hewitt, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0193, 482–6412, 482–1385, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (April 2000).

Scope of Investigation

For purposes of this investigation, the product covered is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4 inch) sieve, of a kind used in foundries.

The foundry coke products subject to this investigation were classifiable under subheading 2704.00.00.10 (as of Jan. 1, 2000) and are currently classifiable under subheading 2704.00.00.11 (as of July 1, 2000) of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act, the Department made its final determination that foundry coke from the People's Republic of China (''PRC'') is being sold at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value: Foundry Coke Products from the People's Republic of China (''PRC'') (''Foundry Coke Final'')*, 66 FR 39487 (July 31, 2001). We received ministerial error allegations from respondents and upon consideration of these allegations, we issued an Amended Final Determination. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Foundry Coke from the PRC (''Foundry Coke Amended Final'')*, 66 FR 45962 (August 31, 2001).

On August 30, 2001, CITIC Trading Co., Ltd (''CITIC''), an exporter of the

merchandise subject to the above-referenced investigation, submitted a ministerial error allegation with respect to the *Foundry Coke Amended Final*. Respondent argued that in calculating the margin, the Department arrived at an incorrect total U.S. price. According to the respondent, the Department used the U.S. price for only the first shipment when calculating the total U.S. price. Moreover, the respondent argued that the Department should have calculated the total price on a weighted-average of both the first and second shipments. We did not receive comments on the respondent's ministerial error allegation of August 30, 2001, from any other interested parties. We agree with the respondent that the Department did not reference the correct U.S. price when calculating the margin and should have used the weighted-average U.S. price when calculating the total U.S. price. Accordingly, we have revised the margin calculation program using the appropriate weighted-average U.S. price between both shipments. *See Analysis Memo for the Amended Final Determination of the Antidumping Duty Investigation of Foundry Coke Products from the PRC: CITIC*, August 31, 2001 at 2.

On September 5, 2001, in accordance with section 735(d) of the Act, the International Trade Commission (''the Commission'') notified the Department of its final determination pursuant to section 735(b)(1)(A)(e) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of foundry coke from the PRC. These antidumping duties will be assessed on all unliquidated entries of foundry coke form the PRC entered, or withdrawn from the warehouse, for consumption on or after March 8, 2001, the date on which the Department published its Notice of Preliminary Determination of Sales at Less Than Fair Value: Foundry Coke From the People's Republic of China. (66 FR 13885). On of after that date, Customs must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rates apply to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted average/ margin (percent)
Shanxi Dajin International (Group) Co. Ltd	101.62
Sinochem International Co., Ltd	105.91
Minmetals Townlord Technology Co. Ltd	75.58
CITIC Trading Company, Ltd	48.55
PRC-Wide Rate	214.89

This notice constitutes the antidumping duty order with respect to foundry coke from the PRC. Interested parties may contact the Department's Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act.

Dated: September 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–23174 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review and Determination Not To Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results and partial rescission of antidumping duty administrative review and determination not to revoke in part.

SUMMARY: On November 7, 2000, the Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on heavy forged hand tools (HFHTs) from the People's Republic of China (PRC). The reviews cover five manufacturer/exporters with respect to the following classes or kinds of merchandise, Fujian Machinery & Equipment Import & Export Corporation (FMEC) (axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks), Liaoning Machinery Import & Export Corporation (LMC) (bars/wedges), Shandong Machinery Import & Export Corporation (SMC) (axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks), Shandong Huarong General Group Corporation (Huarong) (axes/adzes and bars/wedges) and Tianjin Machinery Import & Export Corporation (TMC) (axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks). The period of review (POR) is February 1, 1999, through January 31, 2000. Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled *Final Results of Reviews.*

EFFECTIVE DATE: September 17, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Esther Chen, Office of AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4195 and (202) 482–2305, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

On November 7, 2000, the Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on HFHTs from the PRC. *See Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Reviews and Notice of Intent Not To Revoke in Part of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China* 65 FR 66691 (November 7, 2000) (*Preliminary Results*). We conducted verifications of LMC, SMC and Huarong after publication of the preliminary results. *See* Memorandum to the File from Jeff Pedersen re: Verification of Huarong (June 26, 2001); Memorandum to the File from Jeff Pedersen re: Verification of LMC (June 26, 2001); and Memorandum to the File from Jeff

Pedersen re: Verification of SMC (June 26, 2001). Only after the verification reports were completed did we invite parties to comment on our preliminary results of review. Ames True Temper and its Woodings-Verona operations (petitioner) originally filed its case brief on July 16, 2001. Because the original case brief submitted by the petitioner contained new factual information, the petitioner filed an expurgated version of the brief on August 17, 2001. The petitioner filed its rebuttal brief on July 24, 2001. LMC, Huarong, SMC, and TMC (respondents) filed their case brief on July 18, 2001, and their rebuttal brief on August 3, 2001. No party requested a public hearing. Following the period for briefing, the Department placed on the record, and solicited comments on, proposed surrogate values for electricity and wooden pallets. The petitioner provided comments on August 22, 2001. The Department's analysis of the comments raised in these submissions are addressed in the Issues and Decision Memorandum from Bernard T. Carreau, Deputy Assistant Secretary, Import Administration, to Richard W. Moreland, Acting Assistant Secretary for Import Administration (Decision Memorandum), dated concurrently with this notice, which is hereby adopted by this notice.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

Although the HTSUS subheading is provided for convenience and customs purposes our written description of the scope of the orders is dispositive.

Partial Rescission of Review

In our preliminary results, we determined that during the POR, (1) Huarong did not export hammers/sledges and picks/mattocks, and (2) LMC did not export axes/adzes, hammers/sledges and picks/mattocks. Our review of Customs import data indicated that there were no entries of subject merchandise made by these manufacturers/exporters during the POR. Therefore, we preliminarily rescinded the review of Huarong with respect to hammers/sledges and picks/mattocks, and LMC with respect to axes/adzes, hammers/sledges and picks/mattocks. We have determined that no changes to our decision to rescind are warranted for purposes of these final results. Therefore, we are rescinding those reviews with respect to these manufacturers/exporters and products.

Determination Not To Revoke TMC, Huarong and LMC

As discussed in the *Preliminary Results,* Huarong requested revocation with respect to the bars/wedges HFHTs orders, LMC requested revocation with respect to the bars/wedges HFHTs orders, and TMC requested revocation with respect to the hammers/sledges and picks/mattocks HFHTs orders. After consideration of the criteria outlined at section 351.222(b) of the Department's regulations, the Department's practice, the comments of the parties, and the evidence on the record, we have determined that these respondents have not met the requirements for revocation from these respective orders. Section 351.222(b)(2) of the Department's regulations notes that the Secretary may revoke an antidumping order in part if the Secretary concludes, *inter alia,* that one or more exporters or producers covered by the order have sold the merchandise at not less than normal value (''NV'') for a period of at least three consecutive years. With respect to Huarong and LMC, we note that in the instant review, both respondents failed verification with respect to the bars/wedges order and that both respondents have failed to establish their entitlement to a separate rate with respect to this class or kind of merchandise. As a result, both respondents' final results margins are based on adverse facts available and are above *de minimis.* Therefore, neither Huarong nor LMC have met the regulatory requirements for revocation. Further, with regard to TMC, the Department notes that TMC does not have three consecutive reviews with zero or *de minimis* margins for either of the requested classes or kinds of merchandise, *See Heavy Forged Hand Tools From the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Reviews,* 65 FR 50499 (August 18, 2000); *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, Final Results and Partial Rescission of Antidumping Reviews* 64 FR 43659 (August 11, 1999). Thus, we find that TMC, Huarong and LMC do not qualify for revocation from the respective orders based upon section 351.222(b) of the Department's regulations.

Facts Available

1. Application of Facts Available

Section 776(a)(2) of the Act provides that:

> if an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

Moreover, section 776(b) of the Act provides that:

> if the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. As outlined in section 776(b) of the Act, adverse facts available in the investigation; (3) any previous review under section 751 of the Act or determination under section 753 of the Act; or (4) any other information placed on the record.

FMEC

The Department sent FMEC an antidumping questionnaire, but the

company did not respond. *See* Letter from the Department to FMEC (July 10, 2000). As described in the preliminary results, the Department found that FMEC was part of the ''PRC-wide'' entity and utilized facts available to determine the preliminary rates for the PRC-wide entity because information necessary to determine that margin on a calculated basis was not available. In addition, the Department used an adverse inference in selecting the margin for the PRC-wide entity because it found that that entity had failed to act to the best of its ability in responding to the Department's request for information. No parties have commented on this issue, nor has any additional information been placed on the record; therefore, we have continued to treat FMEC as part of the PRC-wide entity for these final results and to assign FMEC the PRC-wide rates for this review. *See HFHTs Preliminary Results* (for further discussion of our application of facts available).

Huarong

Pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department has determined that it is appropriate to apply the Facts available for purposes of determining the dumping margin for Huarong in the instant review. Specifically, Huarong failed to report the great majority of its U.S. market sales to the Department. Thus, pursuant to section 776(a)(2)(A) of the Act, the Department has determined that Huarong has withheld information that was requested by the Department. For further discussions of this issue please see relevant portions of the Decision Memorandum and the proprietary memorandum regarding Application of Adverse Facts Available to Shandong Huarong General Group Corporation (Huarong AFA Memorandum), dated concurrently with this notice. In addition, pursuant to section 776(a)(2)(C) of the Act, we have determined that Huarong has significantly impeded this review. Due to the proprietary nature of this discussion, please *see* the relevant portions of the Decision Memorandum and the proprietary Huarong AFA Memorandum.

We further determine that Huarong has failed to satisfy several of the requirements enunciated by section 782(e) of the Act. Pursuant to section 782(i) of the Act, the Department conducted an on-site verification of Huarong's data at Huarong's headquarters in China. Upon arrival at verification, the Department found that Huarong had prepared almost no documents requested of it in the Department's verification outline. As a result of the verification team having to devote extensive amounts of time to examining issues pertaining to the unreported U.S. sales, and difficulties in verifying the accuracy of the reported factors of production input levels, there was insufficient time for the verifiers to conduct a full factors of production verification. As a consequence of our findings at verification, we determined that Huarong did not act to the best of its ability in responding to the Department's requests for information pursuant to section 782(e)(4) of the Act.

For the reasons stated above, the application of section 782(e) of the Act does not overcome section 776(a)'s direction to use facts otherwise available for purposes of determining a dumping margin for Huarong. Thus, the use of facts available is warranted for Huarong in this case. Moreover, we determine that, due to the nature of Huarong's verification failures, and the inadequacy of its cooperation, the integrity of this company's reported data on the whole is compromised. Therefore, we determine that Huarong has not adequately demonstrated its entitlement to rates separate from the government entity. As a consequence Huarong will receive the PRC-wide entity rates.

Moreover, as discussed in detail in the Decision Memorandum and the Huarong AFA Memorandum, pursuant to section 776(B) of the Act, we have determined that Huarong did not cooperate by acting to the best of its ability to comply with the Department's requests for information.

LMC

Pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department has determined that it is appropriate to apply the facts available for purposes of determining the dumping margin for LMC in the instant review. Pursuant to 776(a)(2)(A), we have determined that LMC has withheld significant information that was requested by the Department such that the Department is unable to calculate a dumping margin with respect to this company. Pursuant to 776(a)(2)(C), we further determined that LMC has significantly impeded the Department's ability to accurately determine a margin of dumping for LMC in the instant administrative review. Due to the proprietary nature of this issue, for further discussions please see the relevant portions of the Decision Memorandum and the proprietary memorandum regarding Application of Adverse Facts Available to Liaoning Machinery Import & Export Corporation (LMC AFA Memorandum), dated concurrently with this notice.

Pursuant to section 782(i) of the Act, the Department conducted an on-site verification of the information submitted by LMC at its sales headquarters in the PRC. In analyzing LMC's record information pursuant to section 782(e) of the Act, we have determined significant portions of LMC's reported data could not be verified in accordance with subsection 782(e)(2). Upon arrival at verification, the Department discovered that LMC had prepared *none* of the documentation requested in the April 9, 2001 sales verification outline. Moreover, during verification, it became evident that LMC could not provide the information necessary to verify its own submissions. As a consequence of our findings at verification, pursuant to section 782(e)(4) of the Act, we determined that LMC did not act to the best of its ability in responding to the Department's requests for information. Due to the proprietary nature of this issue, please see the relevant portions of the Decision Memorandum and the proprietary LMC AFA Memorandum.

For the reasons discussed above, the application of section 782(e) of the Act does not overcome section 776(a)'s direction to use facts otherwise available to determine a margin of dumping for LMC in this administrative review. Thus the use of facts available is warranted for LMC in this case. Moreover, we determine that, due to the nature of LMC's verification failures, and the inadequacy of its cooperation, the integrity of LMC's company reported data on the whole is compromised. Therefore, we determine that LMC has not adequately demonstrated its entitlement to rates separate from the government entity. As a consequence LMC will receive the PRC-wide entity rates. Moreover, as discussed in detail in the Decision Memorandum and the LMC AFA Memorandum, the Department has determined, pursuant to section 776(B) of the Act, that LMC did not cooperate by acting to the best of its ability to comply with the Department's requests for information.

SMC

In the instant review, SMC responded fully to the Department's questionnaire with respect to the antidumping duty order on hammers/sledges from the PRC. However, with respect to the questionnaire regarding the remaining three HFHT orders, SMC only responded with respect to the separate rate portion of the questionnaire. SMC failed to provide any sales or factors of production data with respect to sales of

axes/adzes, bars/wedges and picks/mattocks. Therefore, as in the preliminary results, we are basing SMC's margins for the final results of review with respect to these three classes or kinds of merchandise on adverse facts available. *See* the *Preliminary Results* for a full discussion of this issue. However, because SMC's data with respect to the separate rate issue is complete and was successfully verified, we determine that SMC has adequately established its continued entitlement to a separate rate for these three classes or kinds of merchandise. As adverse facts available for SMC for axes/adzes we have applied a margin of 18.72 percent, a calculated margin from the 1995–1996 POR; for bars/wedges we have applied a calculated margin of 47.88 percent, a calculated margin from the 1992–1993 POR; and for picks/mattocks we have applied a margin of 98.77 percent, the rate currently applicable to SMC and the PRC-wide entity, which is a calculated margin from the 1995–1996 POR.

2. Selection of Adverse Facts Available

For a discussion of the Department's selection of the adverse facts available rates to be applied to the appropriate classes or kinds of merchandises for SMC and the PRC-wide entity, *see* the Decision Memorandum. We have determined the adverse facts available rates as follows: for axes/adzes we have applied a calculated margin of 18.72 percent, the margin from the 1995–1996 POR; for bars/wedges we have applied a calculated margin of 47.88 percent, the margin from the 1992–1993 POR; for hammers/sledges we have applied a calculated margin of 27.71 percent, the margin from the 1992–1993 POR; and for picks/mattocks we have applied a margin of 98.77 percent, the rate currently applicable to SMC and the PRC-wide entity, which is the margin from the 1995–1996 POR.

3. Corroboration

For a discussion of the Department's corroboration of the adverse facts available rates to be applied to SMC and the PRC-wide entity, *see* the Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Decision Memorandum. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Record Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on Import Administration's Web site at *www.ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Separate Rates Determination

As discussed above, FMEC, Huarong, and LMC have not demonstrated their entitlement to a rate separate from the PRC-wide entity. Therefore, for these final results of review, we are treating them as part of the PRC-wide entity. *See* Decision Memorandum. As in the preliminary results, TMC and SMC are entitled to separate rates.

Changes Since the Preliminary Results

In calculating the Final Results, the Department has made the following changes since the Preliminary Results.

1. The Department has used total adverse facts available for determining the margins for Huarong and LMC. *See* Comment 1 of the Decision Memorandum.

2. The Department has updated the surrogate values for factors of production, as appropriate, based on data contemporaneous with the POR where such data exists and is found not to be aberrational. *See* Comment 11 of the Decision Memorandum.

3. In valuing scrap railroad rails and wheels, the Department has omitted any values from HTS category 7204.49.01 in the final results, and used only values from HTS category 7204.49.09. *See* Comment 12 of the Decision Memorandum.

4. In valuing the scrap resulting from the HFHTs production process of the respondents' factories, the Department has omitted any values from HTS category 7204.49.01 in the final results, and used only values from HTS category 7204.49.09. *See* Comment 13 of the Decision Memorandum.

5. The Department has used a 1998 pallet wood value from the Indonesian publication Indonesian Foreign Trade Statistics. *See* Comment 14 of the Decision Memorandum.

6. The Department has used one truck freight rate, the rate used in the Bulk Aspirin FOP Valuation, for all instances in this review where truck freight costs were incurred. *See* Comment 16 of the Decision Memorandum.

7. The Department has used more contemporaneous data in deriving a surrogate value for electricity than that used in the *Preliminary Results*. *See* Comment 17 of the Decision Memorandum.

8. The Department has capped the surrogate inland freight cost based on the shorter of the reported distances from the closest PRC seaport to the factory or the domestic supplier to the factory, on an input-specific basis. *See* Comment 19 of the Decision Memorandum.

9. The Department has selected as facts available different PRC-wide rates for axes/adzes, bars/wedges and hammers/sledges to replace the rates invalidated by a judicial decision issued after the preliminary results. *See* Comment 22 of the Decision Memorandum.

10. The Department has recalculated the results using HTS category 7207.20.09 for the steel inputs for mauls, and using the price the factory paid the market economy supplier for hammers. *See* Comment 24 of the Decision Memorandum.

11. The Department has corrected TMC's error in reporting the volume of plastic strip. *See* Comment 25 of the Decision Memorandum.

Final Results of Reviews

We determine that the following percentage weighted-average margins exist for the period February 1, 1999, through January 31, 2000:

Manufacturer/exporter		Margin (percent)
Tianjin Machinery Import & Export Corporation		
Axes/Adzes	2/1/99–1/31/00	2.66
Bars/Wedges	2/1/99–1/31/00	0.56
Hammers/Sledges	2/1/99–1/31/00	0.00
Picks/Mattocks	2/1/99–1/31/00	0.02
Shandong Machinery Import & Export Corporation		
Axes/Adzes	2/1/99–1/31/00	18.72

Manufacturer/exporter		Margin (percent)
Bars/Wedges	2/1/99–1/31/00	47.88
Hammers/Sledges	2/1/99–1/31/00	0.54
Picks/Mattocks	2/1/99–1/31/00	98.77
PRC-wide rates: [1]		
Axes/Adzes	2/1/99–1/31/00	18.72
Bars/Wedges	2/1/99–1/31/00	47.88
Hammers/Sledges	2/1/99–1/31/00	27.71
Picks/Mattocks	2/1/99–1/31/00	98.77

[1] Based on the results of this review the following companies are no longer eligible for separate rates for the following classes or kinds of merchandise: FMEC, Huarong, and LMC.

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Where the importer-specific assessment rates calculated in these final results are above *de minimis* (i.e., at or above 0.5 percent), the Department will issue appraisement instructions directly to the Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent, and therefore, *de minimis*, the Department shall require no deposit of estimated antidumping duties; (2) for previously reviewed or investigated companies with a separate rate not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates shown above; (4) for all non-PRC exporters of the subject merchandise, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: September 7, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Verification Failures
2. Misreported LMC Sales
3. Inability to Use Accounting System
4. Differences Between Reported and Verified Consumption Rates
5. Alleged Failure to Identify Steel Input
6. Failure to Report Commissions
7. LMC's Failure to Report Certain Sales
8. Whether the Department Should Use a Steel Bar or Steel Billet Surrogate Value
9. Surrogate Value for Steel Bar
10. Surrogate Value for Steel Billet
11. Whether the Department Should Update and Correct Surrogate Values
12. Whether the Department Should Use HTS Category 7204.49.01 to Value Railroad Rails and Wheels Input
13. Surrogate Value for Scrap
14. Surrogate Value for Pallets
15. Surrogate Value(s) for Wooden and Fiberglass Handles
16. Surrogate Value for Truck Freight
17. Surrogate Value for Electricity
18. Financial Ratios
19. The Sigma Rule
20. Shakeproof Methodology
21. LIMAC Rate
22. PRC-wide Rate
23. Clerical Error
24. Error in the Preliminary Results for TMC
25. Reported Factors for Plastic Strip for Axes and Cartons for Bars/Wedges

[FR Doc. 01–23173 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091201A]

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: Marine Recreational Fishery Statistics Survey.

Form Number(s): None.

OMB Approval Number: 0648–0052.

Type of Request: Regular submission.

Burden Hours: 34,887.

Number of Respondents: 667,729.

Average Hours Per Response: 7 minutes for telephone survey of fishing household, 7 minutes for telephone survey of vessel operator fishing effort, 4.5 minutes for intercept survey of anglers, 3 minutes for economic telephone survey of households, 60 minutes for an in-person economic survey of vessel operators, 8 minutes for a telephone economic survey of vessel operators, 8 minutes for economic intercept questions and telephone follow-up survey of anglers, 15 minutes for economic intercept questions and

follow-up mail survey of anglers, 2 minutes for a vessel directory survey, 2 minutes for a vessel operator verification call, 1.5 minutes for an intercept survey verification call, 1 minute for a telephone contact of non-fishing households, .5 minutes for a telephone contact of non-households, and 1 minute for a biological data collection.

Needs and Uses: This survey conducts random telephone interviews of residents of coastal county households to obtain data on marine recreational fishing efforts and conducts random field interviews of anglers returning from fishing trips to obtain data on the average catches of different fish species per angler fishing trip. These data are used to calculate bi-monthly estimates of marine recreational fishing participation, effort, and catch by species. The effort and catch estimates are used in the development, implementation, and monitoring of fishery management programs by the NMFS, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies.

Affected Public: Individuals or households.

Frequency: On occasion.

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: September 7, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–23180 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 16, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 12, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Early Childhood Longitudinal Study (ECLS)—Kindergarten Cohort, Third Grade Followup.

Frequency: One time.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 22,253.

Burden Hours: 14,990.

Abstract: Starting in the Fall and Spring of the 1998–99 school year with a cohort of kindergartners, this cohort was contacted again in the Fall and in Spring of their first grade year. This clearance is to collect data from the full sample, including a pilot test of the third grade direct assessment, conduct interviews with their parents, their teachers and school administrators during the Spring of their third grade school year. This package also requests clearance for field test activities to prepare for the Spring 2004 assessment when the majority of these students will be in fifth grade.

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 Kathy Axt at (703) 776–7742 or via her internet address *Kathy.Axt@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. 01–23162 Filed 9–14–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090701E]

Endangered Species; Permits

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

ACTION: Receipt of an application for a scientific research permit (1351).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific

research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for a scientific research permit from Dr. Frank A. Chapman, of the Department of Fisheries and Aquatic Sciences, University of Florida (UF).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on October 17, 2001.

ADDRESSES: Written comments on any of the new applications or modification requests should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or modification request. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Endangered Species Division, F/PR3, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–1401, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (phone: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov) or Lillian Becker, Silver Spring, MD (phone: 301-713-2319, fax: 301–713–0376).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10 (a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Fish

Endangered Shortnose Sturgeon (*Acipenser brevirostrum*).

New Applications Received

Application 1351

The applicant has requested a 5–year permit to identify the physical, chemical, and biological parameters necessary for optimal survival and growth of shortnose sturgeon. Laboratory investigations and experimental culture provide the foundation to identify the physical, chemical and biological parameters necessary for optimal survival and growth of wild populations. The research activities proposed in this investigation address the goals and objectives of the shortnose sturgeon recovery plan. They will also serve to complement the knowledge base of sturgeon species and assist the National Fish Hatcheries to optimally maintain and reproduce shortnose sturgeon stocks.

Dated: September 10, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–23179 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091201A]

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: Emergency Beacon Registrations.

Form Number(s): None.

OMB Approval Number: 0648–0295.

Type of Request: Regular submission.

Burden Hours: 2,500.

Number of Respondents: 10,000.

Average Hours Per Response: 25.

Needs and Uses: An international system exists to use satellites to detect and locate ships, aircraft, or individuals in distress if they are equipped with an emergency radio beacon. Persons purchasing such a beacon must register it with NOAA. The data provided in the registration can assist in identifying who is in trouble and also suppressing the consequences of false alarms.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, Federal, State, Local, or Tribal Government.

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: September 7, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–23181 Filed 9–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–585–000]

Egan Hub Partners, L.P.; Notice of Tariff Filing

September 7, 2001.

Take notice that on August 31, 2001, Egan Hub Partners, L.P. (Egan Hub) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

Third Revised Sheet No. 3
First Revised Sheet No. 94C

Egan Hub states that the purpose of this filing is to amend its tariff, as suggested by the Commission in its

April 12, 2001, Order Denying Clarification and Rehearing in Docket No. CP95–218–004, to include a generic waiver of the ''shipper must have title'' rule and a general statement that it will only transport for others on offsystem capacity pursuant to its existing tariff and rates.

Egan Hub states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23138 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–583–000]

Algonquin Gas Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets listed on Appendix A of the filing, to become effective on October 1, 2001.

Algonquin states that the purpose of this filing is to implement the tracking of the ACA Unit Surcharge authorized by the Commission to be applied to rates for the fiscal year 2002 for recovery of the Annual Charge for fiscal year 2001. Algonquin states that the ACA Unit Surcharge authorized by the Commission for fiscal year 2002 is $0.0021 per dth, which is a decrease of $0.0001 per dth from the previous surcharge.

Algonquin states that copies of this filing were served on all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docketι'' 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.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 01–23134 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–88–006]

Alliance Companies, et al; Notice of Filing

September 7, 2001.

Take notice that on August 31, 2001, Ameren Services Company (on behalf of Union Electric Company and Central Illinois Public Service Company), American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company), Consumers Energy Company and Michigan Electric Transmission Company, The Dayton Power and Light Company, The Detroit Edison Company and International Transmission Company, Exelon Corporation (on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.), FirstEnergy Corp. (on behalf of American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company), Illinois Power Company, Northern Indiana Public Service Company, and Virginia Electric and Power Company (collectively, the ''Alliance Companies''), submitted a compliance filing addressing the various compliance matters discussed by the Commission's July 12, 2001, Order on RTO Filing (''July 12th Order'') in the above-referenced proceedings.

In compliance with the July 12th Order, simultaneously with this filing, the Alliance Companies have submitted a rate filing to address outstanding Alliance RTO OATT issues. This compliance filing explains the changes to the terms and conditions of the Alliance RTO OATT made to address all outstanding non-rate tariff issues, raised but not resolved in a prior order in these proceedings, including issues raised regarding the Alliance RTO energy imbalance proposal and generator interconnection procedures. This filing also addresses other outstanding compliance issues, including: (i) a proposal for compensation to embedded transmission owners that participate in the Alliance RTO, (ii) details for the development of an independent market monitoring plan, (iii) a revised proposal for a stakeholder advisory process, and (iv) revisions to the Operating Protocol, the Planning Protocol, and the Pricing Protocol, as required by the July 12th Order.

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 and protests should be filed on or before October 9, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to

the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23145 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RT01–88–006]

Alliance Companies, et al; Notice of Filing

September 7, 2001.

Take notice that on August 31, 2001, pursuant to section 205 of the Federal Power Act, 16 U.S.C. 824d (2000), and section 35.13 of the regulations of the Federal Energy Regulatory Commission (''Commission''), 18 CFR 35.13, Ameren Services Company (on behalf of Union Electric Company and Central Illinois Public Service Company), American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company), Consumers Energy Company and Michigan Electric Transmission Company, The Dayton Power and Light Company, The Detroit Edison Company and International Transmission Company, Exelon Corporation (on behalf of Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.), FirstEnergy Corp. (on behalf of American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company), Illinois Power Company, Northern Indiana Public Service Company, and Virginia Electric and Power Company (collectively, the ''Alliance Companies''), tendered for filing proposed wholesale electric transmission rates for the Alliance Regional Transmission Organization (''Alliance RTO''), and the Alliance RTO open access transmission tariff (''OATT'').

The Alliance Companies seek Commission authorization of the proposed rates to be effective as of December 15, 2001, Day 1 of operations of the Alliance RTO (the ''Transmission Service Date''). The Alliance Companies have revised the Alliance RTO OATT to reflect the outstanding compliance items, as described in the Alliance Companies' compliance filing submitted contemporaneously with this section 205 rate filing, as well as certain other changes. These additional changes generally are required to reflect the status of the Alliance RTO's expected operations on the Transmission Service Date and to assist customers using the OATT by creating greater consistency in the terms and conditions of the rate schedules applicable across all of the respective pricing zones.

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 and protests should be filed on or before October 9, 2001 . Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23146 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–573–000]

Black Marlin Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Black Marlin Pipeline Company (Black Marlin) tendered for filing to its FERC Gas Tariff, First Revised Volume No. 1, Tenth Revised Sheet No. 4. The tariff sheet is proposed to be effective October 1, 2001.

Black Marlin states that the purpose of the instant filing is to reflect a decrease in the Annual Charge Adjustment (ACA) Charge in the commodity portion of Black Marlin's rates. Pursuant to Order No. 472, the Commission has assessed Black Marlin its ACA unit Rate of $.0021/dt, effective October 1, 2001.

Black Marlin states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23125 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–1523–065, OA97–470–060 and ER97–4234–058]

Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool; Notice of Filing

September 10, 2001.

Take notice that on July 17, 2001, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing with the Federal Energy Regulatory Commission a compliance filing and refund report.

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 and protests should be filed on or before September 24, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–23142 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–570–000]

Colorado Interstate Gas Company; Notice of Request for Waiver

September 7, 2001.

Take notice that on August 31, 2001, Colorado Interstate Gas Company filed requesting the Commission to grant waiver of Section 20.1(b)(iii) of the General Terms and Conditions of its Tariff to permit the true-up adjustment filing pertaining to the Gas Quality Control Surcharges for its Valley Line to be made on or before December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23122 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–572–000]

Colorado Interstate Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Colorado Interstate Gas Company (CIG), tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission), the following tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1, to become effective October 1, 2001;

1st Rev. 31st Revised Sheet No. 11

CIG states that the tariff sheet is being filed to revise the Annual Charge Adjustment (ACA) from $0.0022. To $0.0021 per dth for the fiscal year beginning October 1, 2001.

CIG states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23124 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–574–000]

Colorado Interstate Gas Company; Notice of Fuel Reimbursement Filing

September 7, 2001.

Take notice that, on August 31, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twenty-Second Revised Sheet No. 11A, reflecting an increase in its fuel reimbursement percentage for Lost,

Unaccounted-For and Other Fuel Gas from 1.30% to 1.35%, reflecting a decrease in the fuel reimbursement percentage for Transportation Fuel Gas from 2.59% to 2.37%, and reflecting an increase in the fuel reimbursement percentage for Storage Fuel Gas from 1.31% to 1.40% effective October 1, 2001.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies, and that the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23126 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–439–000]

Columbia Gas Transmission Corporation; Notice of Application

September 7, 2001.

Take notice that on August 31, 2001, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed in Docket No. CP01–43–000, an application, pursuant to Sections 7(b) and (c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations for abandonment authorization and a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, compression and appurtenant facilities in New Jersey and Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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).

Columbia proposes to construct and operate the facilities in order to accommodate deliveries to a power plant being constructed by Mantua Creek Generating Company, L.P. (Mantua Creek) in Gloucester County, New Jersey. Specifically, Columbia proposes to construct 2.1 miles of 20-inch lateral pipeline in Gloucester County, New Jersey, 12.6 miles of pipeline loop (including 5.1 miles of 20-inch pipeline in Delaware County, Pennsylvania, and 7.5 miles of 20-inch pipeline in Gloucester County, New Jersey), 8.8 miles of 24-inch replacement pipeline in Chester County, Pennsylvania, and 0.3 mile of 24-inch replacement pipeline in Chester County. Columbia proposes to abandon 8.8 miles of 10-inch line in Chester County (to be replaced by the 8.8 miles of 24-inch line noted above) and 0.3 mile of 14-inch line in Chester County (to be replaced by the 0.3 mile of 24-inch line noted above).

Columbia also proposes to construct and operate a 6,000 horsepower (hp) compressor unit at the existing Eagle Compressor Station in Chester County, Pennsylvania, a 6,000 hp compressor unit at the existing Downingtown Compressor Station in Chester County, Pennsylvania, and a new measuring and regulating (M&R) station on the power plant property in Delaware County, Pennsylvania. Columbia proposes to provide firm transportation service for Mantua Creek, delivering 165,000 Dekatherms of natural gas per day to Mantua Creek's plant. Columbia estimates the total cost of the proposed facilities at $40,714,700, and requests rolled-in rate treatment for the project. Columbia requests that the Commission issue a certificate by April 1, 2002.

Any questions regarding this application should be directed to Fredric J. George, Certificates, at (304) 357–2359, Columbia Gas Transmission Company, PO Box 1273, Charleston, West Virginia 25325–1273.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 28, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Comments and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the Commission's website at *http://www.ferc.fed.us/efi/doorbell.htm.*

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and ion landowners and communities. For example, the Commission considers the extent to which the applicant may

need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important to file comments or to intervene as early in the process as possible.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23097 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–580–000]

Dauphin Island Gathering Partners; Notice of Tariff Filing and Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Dauphin Island Gathering Partners (DIGP) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, with an effective date of October 1, 2001:

Fourth Revised Sheet No. 6

DIGP states that this filing is submitted pursuant to Section 154.402(c) of the Commission's Regulations pursuant to FERC Order No. 472 in Docket No. RM87–3–000. DIGP states that it has revised Sheet No. 6 to reflect the ACA unit charge of $0.0021 per Dekatherm as specified by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23132 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–440–000]

Dominion Transmission, Inc.; Notice of Application

September 10, 2001.

Take notice that on August 31, 2001, Dominion Transmission, Inc. (DTI), 445 West Main Street, Clarksburg, West Virginia, 26301, filed an application pursuant to Section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity, authorizing DTI to construct and operate a new storage well within the existing limits of DTI's Racket-Newberne Storage Reservoir (Racket) in Gilmer County, West Virginia. The application is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (please call (202) 208–2222 for assistance).

The well DTI seeks to construct and operate will be in the Racket reservoir in southern Troy District, Gilmer County, West Virginia, and is a replacement well for well 5003, which was plugged and abandoned in 1996. The well is expected to replace the deliverability lost from the abandonment of well 5003. Project costs are estimated to be $572,534.

DTI also seeks specific and explicit certification of the existing Racket operations and facilities in order to remove any potential uncertainty due to the ''grandfathered'' status of this long existing storage field. The Racket reservoir was converted to storage operations in 1947.

Any questions regarding the application are to be directed to Sean R. Sleigh, Certificates Manager, Dominion Transmission, Inc., 445 West Main Street, Clarksburg, West Virginia 26301, at (304) 627–3462 or fax (304) 627–3305.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before October 1, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of

environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–23141 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–586–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Twentieth Revised Sheet No. 4 to become effective on October 1, 2001.

East Tennessee states that the purpose of this filing is to implement the tracking of the ACA Unit Surcharge authorized by the Commission to be applied to rates for the fiscal year 2002 for recovery of the Annual Charge for fiscal year 2001. East Tennessee states that the ACA Unit Surcharge authorized by the Commission for fiscal year 2002 is $0.0021 per dth, which is a decrease of $0.0001 per dth from the previous surcharge.

East Tennessee states that copies of this filing were served on all affected customers of East Tennessee and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23137 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–581–000]

Eastern Shore Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing its Annual Charge Adjustment (ACA) filing proposed to be effective October 1, 2001.

Eastern Shore states that the revised tariff sheets are being filed pursuant to Section 32 of the General Terms and Conditions of Eastern Shore's FERC Gas Tariff, Second Revised Volume No. 1, to reflect a change of the ACA charge to $0.0021 per dt (the currently effective ACA charge is $0.0022 per dt) based on the Commission's Annual Charge Billing for Fiscal Year 2001.

Eastern Shore states that copies of its filing has been mailed to its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23133 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–576–000]

El Paso Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff to become effective October 1, 2001:

Second Revised Volume No. 1A
Twenty-First Revised Sheet No. 20
Twentieth Revised Sheet No. 23

Twenty-Fifth Revised Sheet No. 24
Twentieth Revised Sheet No. 26
Twentieth Revised Sheet No. 27
Sixteenth Revised Sheet No. 28
Seventh Revised Sheet No. 37
Seventh Revised Sheet No. 38
Third Revised Volume No. 2

Forty-Ninth Revised Sheet No. 1–D.2
Forty-Third Revised Sheet No. 1–D.3

El Paso states that the tariff sheets are being filed to revise the Annual Charge Adjustment (''ACA'') from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

El Paso states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23128 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC01–145–000 and EL01–110–000]

EME Homer City Generation L.P.; Notice of Filing

September 7, 2001.

Take notice that on August 28, 2001, EME Homer City Generation, L.P. (Applicant) filed with the Federal Energy Regulatory Commission, and application pursuant to section 203 of the Federal Power Act for authorization of the disposition of jurisdictional facilities in connection with a sale and leaseback transaction involving the Home City Electric Generating Station, an 1,884–MW coal-fired generating plant located in Indiana County, Pennsylvania. Applicant also requests the Commission to issue an order disclaiming jurisdiction over certain passive participants in the transaction.

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 and protests should be filed on or before September 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23098 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–536–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2001.

Take notice that on August 31, 2001, Florida Gas Transmission Company (''FGT'') tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (''Tariff''), the tariff sheets listed in Appendix A to the filing, to become effective October 1, 2001.

FGT states that the purpose of the instant filing is to reflect the electronic contracting and capacity release capability that will be implemented on the FGT system on October 1, 2001. Concurrent with these tariff changes FGT is implementing a new contracting and capacity release system that will, among other things, enable FGT and its shippers to comply with GISB timelines and the Commission's policies on contracting. FGT anticipates that this electronic contacting capability will replace current facsimile and mail methods for exchange of contractual documents. FGT is currently working with its shippers to transition to the new system and will continue to accept written requests, contracts and amendments during the transition period. FGT states that the proposed tariff modifications permit shippers to request service and execute service agreements electronically on FGT's Web site located at www.fgt.enron.com. The instant filing also includes minor corrections, as well as changes to update or clarify certain provisions in conformance with the electronic processes provided for herein.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23110 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–538–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2001.

Take notice that on August 31, 2001, Florida Gas Transmission Company (''FGT'') tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1 Tariff effective October 1, 2001, the following tariff sheets:

Forty-Ninth Revised Sheet No. 8A
Forty-First Revised Sheet No. 8A.01
Forty-First Revised Sheet No. 8A.02
Forty-Fifth Revised Sheet No. 8B
Thirty-Eighth Revised Sheet No. 8B.01

FGT states that the tariff sheets listed above are being filed pursuant to Section 27 of the General Terms and Conditions (''GTC'') of FGT AEs Tariff which provides for the recovery by FGT of gas used in the operation of its system and gas lost from the system or otherwise unaccounted for. The fuel reimbursement charges pursuant to Section 27 consist of the Fuel Reimbursement Charge Percentage (''FRCP''), designed to recover current fuel usage on an in-kind basis, and the Unit Fuel Surcharge (''UFS''), designed to recover or refund previous under or overcollections on a cash basis. Both the FRCP and the UFS are applicable to Market Area deliveries and are effective for seasonal periods, changing effective each April 1 (for the Summer Period) and each October 1 (for the Winter Period).

FGT states that it is filing herein to establish an FRCP of 2.47% to become effective October 1, 2001 based on the actual company fuel use, lost and unaccounted for volumes and Market Area deliveries for the period from October 1, 2000 through March 31, 2001. The proposed FRCP of 2.47%, to become effective October 1, 2001, is an increase of 0.07 % from the currently effective FRCP of 2.40%. FGT is also filing herein to establish a Winter Period UFS of $0.0021 per MMBtu to become effective October 1, 2001, an increase of $0.0077 per MMBtu from the currently effective UFS of ($0.0056).

FGT states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23111 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–541–000]

Iroquois Gas Transmission System, L.P.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 4A . The proposed effective date of this revised tariff sheet is October 1, 2001.

Iroquois states that, pursuant to Section 154.02 of the Commission's regulations and Section 12.2 of the General Terms and Conditions of its tariff, it is filing the referenced tariff sheet to reflect a decrease in the Annual Charge Adjustment surcharge to $0.0021 per Dth.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23112 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–334–001]

KN Wattenberg Transmission LLC; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001, KN Wattenberg Transmission LLC (KNW) tendered for filing as part of its FERC Gas Tariff, Pro Forma Revised Volume No. 1, the pro forma tariff sheets listed on Appendix A to the filing.

KNW states that it is filing the above-referenced tariff sheets in compliance with the Commission's Order No. 637 and in order to replace the original pro forma tariff sheets it previously filed to comply with the directives in Order No. 637.

KNW states that a copy of this filing has been served upon all parties on the official service list for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23106 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–569–000]

KN Wattenberg Transmission L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, KN Wattenberg Transmission L.L.C. (KNW) endered for filing an original and six copies of the following tariff sheet:

First Revised Volume No. 1
Fourth Revised Sheet No. 6

KNW is filing the above-referenced tariff sheet in order to reflect the Commission's authorized ACA charge to be in effect for the twelve-month period effective October 1, 2001.

KNW states that copies of this filing are being mailed of its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23121 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–548–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001 Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective October 1, 2001:

First Revised Sheet No. 7
First Revised Sheet No. 8
First Revised Sheet No. 12
First Revised Sheet No. 13
First Revised Sheet No. 14

Maritimes states that the purpose of this filing is to update Maritimes rates for the inclusion of the applicable Annual Charge Adjustment (ACA) pursuant to Section 21 of the General Terms and Conditions of Maritimes FERC Gas Tariff. Maritimes states that its initial ACA Unit Surcharge authorized by the Commission is $0.0022 per Dth. Maritimes also proposes to remove the Gorham Energy Lateral and the Haverhill/Essex County Lateral rates that are no longer applicable from its MNLFT Rate Schedule.

Maritimes states that copies of this filing were mailed to all customers of Maritimes and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23113 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–565–000]

Midwestern Gas Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of Midwestern Gas Transmission Company's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

Thirteenth Revised Sheet Number 5

Midwestern states the purpose of this filing is to update Midwestern's tariff to reflect the Annual Charge Adjustment (ACA) factor effective for the twelve-month period beginning October 1, 2001 pursuant to Section 154.402 of the Commission's regulations and Article XVIII of the General Terms and Conditions of Midwestern's tariff. Midwestern states that its new ACA factor will be $0.0021 per Dth. This new factor was specified by the Commission at the time the Commission calculated the annual charge bill for fiscal year 2001, and is a decrease from its current ACA factor of $0.0001 per Dth.

Midwestern state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23117 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–579–000]

MIGC, Inc.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001 MIGC, Inc., (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Revised Sheet No. 4 to become effective October 1, 2001.

MIGC states that the purpose of the filing is to revise the ACA unit charge to $.0021 per Dth applicable to the Commission's fiscal year commencing October 1, 2001 as provided for in 18 CFR 54.402(c) and as set forth on Original Sheet No. 5 of its FERC Gas Tariff, First Revised Volume No. 1.

MIGC states that copies of this filing are being mailed to its customers and state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23131 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–578–000]

Mojave Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Mojave Pipeline Company (''Mojave'') tendered for filing and acceptance by the Federal Energy Regulatory Commission (''Commission'') the following tariff sheet to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective October 1, 2001:

Sixth Revised Sheet No. 11

Mojave states that the tariff sheet is being filed to revise the Annual Charge Adjustment (''ACA'') from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

Mojave state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23130 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–399–004]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing with an effective date of January 1, 2002.

National Fuel states that the filing is to comply with the Commission's order issued August 1, 2001, in Docket No. RP00–399–000, et al., to file actual tariff sheets reflecting certain revisions to its July 17, 2000, and June 4, 2001 filings in compliance with Order No. 637.

National Fuel states that copies of this filing were served upon its customers, interested state commissions and the parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–23144 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–80–001]

National Grid USA; Notice of Filing

September 7, 2001.

Take notice that on August 27, 2001, National Grid USA tendered for filing with the Federal Energy Regulatory Commission (Commission), supplements to its Petition for Declaratory Order filed with the Commission in the above-captioned proceeding on May 15, 2001. This was in response to the Commission's July 26, 2001 Order issued in the above-captioned proceeding.

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 and protests should be filed on or before September 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23100 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2251–001]

New York Independent System Operator, Inc.; Notice of Filing

September 7, 2001.

Take notice that on August 28, 2001, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff in order to establish the criteria by which it will evaluate the need to reestablish Regulation penalties and to define factor Kpi, a factor used in the calculation of availability payments made to Suppliers of Regulation service, pursuant to the Commission's order issued on July 25, 2001, in the above-captioned docket.

The NYISO has requested an effective date of July 25, 2001, for the filing.

The NYISO has served a copy of this filing upon the parties on the official service lists maintained by the Commission for the above-captioned dockets.

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 and protests should be filed on or before September 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23099 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–563–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 7, 2001.

Take notice that on August 31, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective October 1, 2001:

Second Revised Sheet Number 202
Original Sheet Number 302
Sheet Numbers 303–399

Northern Border is filing tariff sheets to clarify, consistent with Commission's policy, the specific types of discounts that may be granted by Northern Border in a manner to be consistent with FERC-approved discounts on other pipelines.

Northern Border state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23115 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–564–000]

Northern Border Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet to become effective October 1, 2001:

First Revised Sheet Number 99

Northern Border states that the purpose of this filing is to update Northern Border's tariff to reflect the Annual Charge Adjustment (ACA) factor effective for the twelve-month period beginning October 1, 2001 pursuant to Section 154.402 of the Commission's regulations and Section 16 of the General Terms and Conditions of Northern Border's tariff. Northern Border states that its new ACA factor will be $0.0021 per Dth. This new factor was specified by the Commission at the time the Commission calculated the annual charge bill for fiscal year 2001, and is a decrease from its current ACA factor of $0.0001 per Dth.

Northern Border states that copies of this filing are being mailed to its customers, state commission and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Dockett'' 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23116 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–568–000]

Northern Natural Gas Company; Notice of Tariff Filing Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

Fifth Revised Volume No. 1

57 Revised Sheet No. 50
58 Revised Sheet No. 51
25 Revised Sheet No. 52
55 Revised Sheet No. 53
7 Revised Sheet No. 56
19 Revised Sheet No. 59
3 Revised Sheet No. 59A
22 Revised Sheet No. 60
3 Revised Sheet No. 60A

Original Volume No. 2

166 Revised Sheet No.1C
42 Revised Sheet No. 1C.a

The filing establishes the revised Annual Charge Adjustment (ACA) rate effective October 1, 2001, for Northern's transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to Part 382 of the Commission's Regulations.

Northern states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23120 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP84–257–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 10, 2001.

Take notice that Northern Natural Gas Compnay (Northern) on August 31, 2001, tendered for filing to become part of Northern's FERC Gas Tariffs, the following tariff sheets proposed to be effective on Octorber 1, 2001:

Fifth Revised Volume No. 1

Ninth Revised Sheet No. 5

Original Volume No. 2

14 Revised Sheet No. 1A.3
First Revised Sheet No. 2189

The above sheets represent cancellation of Rate Schedule X–109 from Nothern's Original Volume No. 2 FERC Gas Tariff, and its associated deletion from the Table of Contents in Northern's Volume Nos. 1 and 2 tariffs.

Copies of the filing were served upon the company's customers and interested state Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commision, 888 First Street, NE., Washington, DC 20426 in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests must be filed on or before October 1, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection. 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. 01–23139 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–409–012]

Northwest Pipeline Corporation; Notice of Refund and Surcharge Offset Reports

September 7, 2001.

Take notice that on August 31, 2001, Northwest Pipeline Corporation (Northwest) tendered for filing its Refund and Surcharge Offset Reports in connection with its Docket No. RP95–409 and Docket Nos. RP93–5 and RP93–96 general rate proceedings.

Northwest states that the purpose of this filing is to provide the derivation of the refunds and surcharge offsets including applicable interest for each of its customers during the effective periods of the above referenced proceedings.

Northwest states that it has served a copy of this filing upon each person designated on the official service lists compiled by the Secretary in these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23104 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–438–000]

Northwest Pipeline Corporation; Notice of Application

September 10, 2001.

Take notice that on August 30, 2001 Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in Docket No. CP01–438–000, an application, pursuant to sections 7(c) and 7(b) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's regulations for: (1) A certificate of public convenience and necessity authorizing Northwest to construct and operate additional pipeline loop and compression facilities (referred to as the Rockies Expansion Project) designed to expand its physical north flow capacity in the Green River, Wyoming to Stanfield, Oregon corridor sufficient to replace 175,000 Dth/d of existing, north flow design day displacement capacity for Rate Schedule TF–1 service from the Muddy Creek Compressor Station in Wyoming to the Stanfield interconnect with PG&E Gas Transmission—Northwest and all 191,000 Dth/d of displacement capacity from the Green River Compressor Station to Muddy Creek; (2) permission and approval to abandon certain compression facilities and the existing north flow design day displacement capacity under Rate Schedule TF–1 which will be replaced by the proposed new facilities and physical capacity; (3) a determination that the Rockies Expansion Project qualifies for rolled-in rate treatment; (4) approval of a pro forma Rate Schedule TF–3, and related tariff revisions, providing for a new, subordinate firm north flow transportation service, under Northwest's existing Part 284 blanket certificate, which will be dependent upon the existing contract demand design day displacement capacity available within the Blanco, New Mexico to Muddy Creek, Wyoming corridor on Northwest's system; and (5) permission and approval to abandon all of Northwest's remaining north flow design day displacement capacity for existing Rate Schedule TF–1 services in the Blanco, New Mexico to Muddy Creek, Wyoming corridor, contingent upon approval of the proposed new Rate Schedule TF–3 service, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may 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).

Specifically, the proposed Rockies Expansion Project facilities include: (1) Approximately 91.1 miles of pipeline (46.1 miles of 30-inch and 45 miles of 24-inch), and associated block valves, to loop six unlooped segments of Northwest's mainline, along with new taps and appurtenances to connect two existing meter stations to the proposed pipeline loops, located in Sweetwater and Lincoln Counties, Wyoming and Bear Lake, Caribou, and Bannock Counties, Idaho; and (2) compressor unit additions, replacements, uprates and/or modifications at seven existing compressor stations, located in Sweetwater and Lincoln Counties, Wyoming and Bear Lake, Bannock, Power, Cassia, and Twin Falls Counties, Idaho, which will provide a net increase of 24,924 ISO horsepower on a north flow design day. Northwest requests that the Commission issue a preliminary determination on non-environmental issues by March 1, 2002 and a final certificate order by September 1, 2002.

The estimated cost of the proposed facilities is approximately $154.3 million. Northwest requests rolled-in rate treatment for the facilities, since, Northwest contends, the project is designed to benefit existing customers by reducing displacement reliance and ameliorating capacity constraints. Northwest states that shippers representing 86% of the current base, long-term, firm Rate Schedule TF–1 contract demand on Northwest's system have formally committed to support (or non-oppose) Northwest's installation of facilities and their rolled-in rate treatment. Northwest further states that the illustrative rolled-in rate impact is approximately $0.035 per Dth.

Northwest explains that the Rockies Expansion Project is necessary to replace displacement capacity that will no longer be available after the October 31, 2003 expiration of an existing contract-specific flow obligation for 144 MDth/d from Stanfield to the southern end of Northwest's system and to

generally mitigate the need for Northwest to invoke operational flow orders under its tariff to compensate for shortfalls in displacement capacity required to serve existing primary firm, north flow transportation obligations.

Northwest states that the proposed new Rate Schedule TF–3 is designed to allow displacement-dependent north flow firm service to remain available in the Blanco to Muddy Creek corridor; but such service will be subordinate to Rate Schedule TF–1 primary firm services. It is said that the related proposed abandonment of all the existing Rate Schedule TF–1 displacement capacity in the Blanco to Muddy Creek corridor will mean that certain capacity currently contracted or available for TF–1 service will be available prospectively only for the proposed Rate Schedule TF–3 service.

Any questions regarding this application should be directed to Mr. Gary Kotter, Manager, Certificates, Northwest Pipeline Corporation, PO Box 58900, Salt Lake City, Utah 84158–0900 or call (801) 584–7117.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before October 1, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–23140 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG01–29–000]

Pine Needle LNG Company, LLC; Notice of Filing

September 7, 2001.

On August 31, 2001, Pine Needle LNG Company, LLC submitted its revised standards of conduct.

Pine Needle LNG Company, LLC states that it served copies of the filing on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. (18 CFR 385.211 or 385.214) All such motions to intervene or protest should be filed on or before September 24, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23101 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–557–000]

Southern Natural Gas Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised

Volume No. 1, the following revised sheets, with an effective date of October 1, 2001:

Fifty-fifth Revised Sheet No. 14
Seventy-sixth Revised Sheet No. 15
Fifty-fifth Revised Sheet No. 16
Seventy-sixth Revised Sheet No. 17
Thirty-ninth Revised Sheet No. 18
Ninth Revised Sheet No. 22

The proposed tariff sheets implement the Federal Energy Regulatory Commission's (Commission) revised Annual Charge Adjustment (ACA) effective October 1, 2001. The revised ACA surcharge is .21¢ per Dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23114 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–471–001]

Southwest Gas Storage Company; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 29, 2001, Southwest Gas Storage Company (Southwest) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets as listed on Appendix A attached to the filing.

Southwest states that the purpose of this filing is to comply with the Commission's Order on Order No. 637 Compliance Filing issued on July 30, 2001. Specifically, the proposed changes (1) clarify that replacement shippers may nominate at the first opportunity after the award of capacity, (2) implement a crediting mechanism to credit OFO penalty revenue to its shippers and (3) establish a mechanism to credit existing shippers with the value of gas retained upon termination of a storage contract.

Southwest states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23107 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP01–530–000]

Steuben Gas Storage Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 30, 2001, Steuben Gas Storage Company (''Steuben''), 9 Greenway Plaza, Houston, Texas 77046, tendered for filing Fourth Revised Sheet No. 5 from its FERC Gas Tariff, Original Volume No. 1 and Sixth Revised Sheet No. 1(A) from its FERC Gas Tariff Original Volume No. 2, to be effective October 1, 2001.

Steuben state that the purpose of the filing is to reflect a decrease in the ACA rate adjustment to Steuben's commodity rates effective October 1, 2001. The tariff sheets reflect a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0021 per Dth for fiscal year 2001.

Steuben states that copies of this filing are being mailed to its customers, state commission and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23109 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–577–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of October 1, 2001:

Twenty-Fourth Revised Sheet No. 20
Fourteenth Revised Sheet No. 21
Twenty-Fifth Revised Sheet No. 21A
Thirty-First Revised Sheet No. 22
Twenty-Fifth Revised Sheet No. 22A
Eleventh Revised Sheet No. 23A
Ninth Revised Sheet No. 23C
Fourth Revised Sheet No. 23E
Eighteenth Revised Sheet No. 26
Seventeenth Revised Sheet No. 26A
Twenty-Seventh Revised Sheet No. 26B
Tenth Revised Sheet No. 27
Fourth Revised Sheet No. 29A

Tennessee states that the purpose of the filing is to reflect a decrease in the ACA rate adjustment to Tennessee's commodity rates for the period October 1, 2001 through September 30, 2002. The tariff sheets reflect a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0021.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23129 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–584–000]

Texas Eastern Transmission, LP; Notice of Tariff Filing Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, the revised tariff sheets listed on Appendix A of the filing, to become effective on October 1, 2001.

Texas Eastern states that the purpose of this filing is to implement the tracking of the ACA Unit Surcharge authorized by the Commission to be applied to rates for the fiscal year 2002 for recovery of the Annual Charge for fiscal year 2001. Texas Eastern states that the ACA Unit Surcharge authorized by the Commission for fiscal year 2002 is $0.0021 per dth, which is a decrease of $0.0001 per dth from the previous surcharge.

Texas Eastern states that copies of this filing were served on all affected customers of Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23136 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–566–000]

Texas Gas Transmission Corporation; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective October 1, 2001:

Thirty-Eighth Revised Sheet No. 10
Twenty-First Revised Sheet No. 10A
Fourth Revised Sheet No. 10A.01
Twenty-Fourth Revised Sheet No. 11A
Twenty-Second Revised Sheet No. 11B
Thirty-Sixth Revised Sheet No. 12
Fourth Revised Sheet No. 12.01
Sixteenth Revised Sheet No. 13

The revised tariff sheets are being filed pursuant to Section 23 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1, which affords Texas Gas the right to recover the costs billed to Texas Gas by the Federal Energy Regulatory Commission via the FERC ACA Unit Charge method. That unit charge, as determined by the Commission, is $.0021/MMBtu as set forth on Texas Gas's Annual Charges Bill for fiscal year 2001, to be effective October 1, 2001.

Texas Gas state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23118 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–032]

TransColorado Gas Transmission Company; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Thirty-Second Revised Sheet No. 21, Twenty-Fourth Revised Sheet No. 22 and Fifth Revised Sheet No. 22A, to be effective September 1, 2001.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

The tendered tariff sheets propose to revise TransColorado's Tariff to reflect three amended negotiated-rate contracts and the deletion of one expired contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23105 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–245–003]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

September 7, 2001.

Take notice that on August 31, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets, which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to become effective September 1, 2001.

Transco states that the purpose of the instant filing is to place into effect on September 1, 2001, the end of the suspension period in this proceeding, the rates filed therein on March 1, 2001, adjusted (i) to eliminate the costs associated with facilities not in service as of August 31, 2001, the end of the RP01–245 test period; and (ii) to incorporate, as appropriate, intervening filings which have been made effective subsequent to the March 1, 2001 filing in this docket.

Transco states it is serving copies of the instant filing to its customers, interested State Commissions, and other interested parties to Docket No. RP01–245.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23108 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–567–000]

Transwestern Pipeline Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Transwestern Pipeline Company (Transwestern), tendered for filing changes in its FERC Gas Tariff Second Revised Volume No. 1, the following tariff sheets proposed to be effective October 1, 2001:

Second Revised Volume No. 1

125 Revised Sheet No. 5
30 Revised Sheet No. 5A
22 Revised Sheet No. 5A.02
22 Revised Sheet No. 5A.03
27 Revised Sheet No. 5B

The filing establishes the revised Annual Charge Adjustment (ACA) rate effective October 1, 2001 for Transwestern's transportation rates. The ACA rate is designed to recover the charge assessed by the Commission pursuant to Part 382 of the Commission's Regulations.

Transwestern states that copies of the filing have been mailed to its customers, state Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be

viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23119 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–582–000]

Tuscarora Gas Transmission Company; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective October 1, 2001:

Fourth Revised Sheet No. 4
Fourth Revised Sheet No. 5

Tuscarora asserts that the purpose of this filing is to reflect a decrease in the Annual Charge Adjustment (ACA) for jurisdictional transportation customers in accordance with the Commission's Statement of Annual Charges and Section 12 of the General Terms and Conditions of Tuscarora's FERC Gas Tariff.

Tuscarora states that copies of this filing were mailed to customers of Tuscarora and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23135 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–571–000]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Wyoming Interstate Company, Ltd. (WIC) tendered for filing and acceptance by the Federal Energy Regulatory Commission(Commission) the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 2, to become effective October 1, 2001:

Thirteenth Revised Sheet No. 4A
First Revised Sheet No. 4E

WIC states that the tariff sheets are being filed to revise the Annual Charge Adjustment (ACA) from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23123 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–575–000]

Young Gas Storage Company, Ltd.; Notice of Tariff Filing and Annual Charge Adjustment

September 7, 2001.

Take notice that on August 31, 2001, Young Gas Storage Company, Ltd. (Young), tendered for filing and acceptance by the Federal Energy Regulatory Commission (Commission) the following tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective October 1, 2001;

Ninth Revised Sheet No. 4

Young states that the tariff sheet is being filed to revise the Annual Charge Adjustment (''ACA'') from $0.0022 to $0.0021 per dth for the fiscal year beginning October 1, 2001.

Young state that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 14, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23127 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1042–004, *et al.*]

System Energy Resources, Inc., *et al.*; Electric Rate and Corporate Regulation Filings

September 7, 2001.

Take notice that the following filings have been made with the Commission:

1. System Energy Resources, Inc.

[Docket Nos. ER95–1042–004]

Take notice that on August 29, 2001, System Energy Services, Inc. (Energy Services), as agent for System Energy Resources, Inc. (SERI) submitted for filing six copies of the Unit Power Sales Agreement (UPSA), SERI Rate Schedule FERC No. 2, in compliance with the above-captioned dockets and in compliance with Federal Energy Regulatory Commission (FERC or the Commission) Order No. 614, and a black-lined copy of the UPSA. This filing also includes six copies of SERI's Master Nuclear Decommissioning Trust Agreement (Trust Agreement), which has been redesignated from supplements to SERI Rate Schedule FERC No. 2 to a new rate schedule, SERI Rate Schedule FERC No. 4, and a black-lined copy of the Trust Agreement. Further enclosed for filing are six copies of SERI's Grand Gulf Accelerated Recovery Tariff For Entergy Mississippi, Inc. (''GGART–M''), which has been redesignated from supplements to SERI Rate Schedule FERC No. 2 to a new rate schedule, SERI Rate Schedule FERC No. 5, along with a black-lined copy of the GGART–M. Finally, enclosed for filing are six copies of a Stipulation and Agreement (Stipulation), which has been redesignated from a supplement to SERI Rate Schedule FERC No. 2 to a new rate schedule, SERI Rate Schedule FERC No. 6, along with a black-lined copy of the Stipulation.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. New York State Electric & Gas CorporationDocket Nos.

[Docket Nos. ER97–1523–066, OA97–470–061 and ER97–4234–059]

Take notice that on August 29, 2001, New York State Electric & Gas Corporation (''NYSEG'') filed Notices of Cancellation of NYSEG's Electric Rate Schedule FERC Nos. 67, 70 and 80 to become effective November 18, 1999, and in compliance with Commission Order 614 original tariff sheets.

NYSEG requests all necessary waivers of the Commission's notice and any other requirements necessary to make the cancellation of Electric Rate Schedule FERC Nos. 67, 70 and 80 between NYSEG and NYPA effective as of November 18, 1999. The effectiveness of the Notices of Cancellation is conditioned upon the Commission's acceptance for filing of the Amended and Restated Transmission Service Agreement between NYSEG and NYPA (filed in Docket Nos. ER97–1523–062, OA97–470–057 and ER97–1523–062) effective as of November 18, 1999, in accordance with its provisions.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Oklahoma Gas and Electric Company

[Docket Nos. ER01–1567–001 and ER01–1568–001]

Take notice that on August 29, 2001, in compliance with the letter order issued in these dockets on April 11, 2001, as modified by letter orders issued on May 29, 2001 and August 23, 2001, Oklahoma Gas and Electric Company filed a Power Supply Agreement with the Municipal Energy Agency of Mississippi with proposed designations, as required by the Commission's Order No. 614.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER01–2964–000]

Take notice that on August 29, 2001, Commonwealth Edison Company (ComEd) submitted for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement for Firm Point-to-Point Transmission Service (Service Agreement) with GEN SYS Energy under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of August 1, 2001, and accordingly requests waiver of the Commission's notice requirements.

A copy of this filing has been sent to GEN SYS Energy.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas And Electric Company

[Docket No. ER01–2965–000]

Take notice that on August 29, 2001, Louisville Gas and Electric Company (LG&E) filed with the Federal Energy Regulatory Commission (Commission or FERC), a termination notice for power sales service between LG&E and Tenaska Power Services Co. The terminated services are FERC Electric Tariff Original Volume 1 Service Agreement 606.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New York Independent System Operator, Inc.

[Docket No. ER01–2967–000]

Take notice that on August 29, 2001, the New York System Operator, Inc. (NYISO) tendered for filing with the Federal Energy Regulatory Commission (Commission), proposed revisions and additions to its Independent Access Transmission Tariff (OATT) designed to provide rules for the allocation of responsibility for the cost of new interconnection facilities. The NYISO has requested that the Commission act on this filing in an expedited manner, waive its usual 60-day notice period requirement and make the filing effective no later than September 26, 2001.

The NYISO has served a copy of this filing on all persons that have filed interconnection applications or executed Service Agreements under the NYISO OATT, on the New York Public Service Commission, and on the electric utility regulatory agencies in New Jersey and Pennsylvania. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO Technical Information Exchange list.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. FirstEnergy Solutions Corp.

[Docket No. ER01–2968–000]

Take notice that on August 29, 2001, FirstEnergy Solutions Corp. (Solutions) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to 18 CFR 35.16 a Notice of Succession to rate schedules of FirstEnergy Services Corp. (Services)

Solutions states that the Notice of Succession is being filed to implement a change in the corporate name of Services that is to take effect on September 1, 2001. Solutions has asked

to make the Notice of Succession effective concurrently with the change of its corporate name.

Comment date: September 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. NRG Audrain Generating LLC

[Docket No. ER01–2969–000]

Take notice that on August 28, 2001, NRG Audrain Generating LLC (NRG Audrain) submitted with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to Section 35.16 of the Commission's regulations, 18 CFR 35.16. As a result of the name change, NRG Audrain is succeeding to the FERC Electric Tariff of Duke Energy Audrain, LLC, effective May 11, 2001.

Comment date: September 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Electric Power Company

[Docket No. ER01–2970–000]

Take notice that on August 30, 2001, Southwestern Electric Power Company (SWEPCO) submitted for filing a revised Power Supply Agreement between SWEPCO and Rayburn Country Electric Cooperative, Inc. (Rayburn Country) (the Restated Agreement), which restates, integrates and amends the March 1, 1991 Power Supply Agreement between SWEPCO and Rayburn Country. SWEPCO has designated the Restated Agreement as SWEPCO First Revised Rate Schedule No. 111.

SWEPCO requests an effective date of June 15, 2000 for the Restated Agreement. Accordingly, to the extent necessary, SWEPCO seeks waiver of the Commission's filing requirements. SWEPCO has served copies of the filing on Rayburn Country and the Public Utility Commission of Texas. Copies of the filing are available for public inspection in SWEPCO's offices in Shreveport, Louisiana.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company, LLC (AE Supply)

[Docket No. ER01–2971–000]

Take notice that on August 30, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (AE Supply), filed with the Federal Energy Regulatory Commission (Commission or FERC) a First Revised Rate Schedule FERC No. 9 (First Revised Schedule) with the Potomac Edison Company dab Allegheny Power in order for Allegheny Power to continue to supply its Virginia load requirements and to provide default service when Virginia implements customer choice. AE Supply has requested a waiver of notice to make the First Revised Schedule effective on January 1, 2001.

Copies of the filing have been provided to the customer and to the Virginia State Corporation Commission.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and West Texas Utilities Company

[Docket No. ER01–2972–000]

Take notice that on August 30, 2001, Central Power and Light Company (CPL), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) (collectively, the AEP Operating Companies) submitted for filing with the Federal Energy Regulatory Commission (Commission), service agreements establishing the Electric Reliability Council of Texas (ERCOT) as a customer under the AEP Operating Companies respective Coordination Sales and Reassignment of Transmission Rights Tariffs, CPL FERC Electric Tariff, Second Revised Volume No. 8; PSO FERC Electric Tariff, First Revised Volume No. 5; SWEPCO FERC Electric Tariff, First Revised Volume No. 5; and WTU FERC Electric Tariff, First Revised Volume No. 8.

The AEP Operating Companies have requested an effective date of July 31, 2001 for the agreements with ERCOT and, accordingly, seek waiver of the Commission's notice requirements.

The AEP Operating Companies have served a copy of the filing on ERCOT and on the Public Utilities Commission of Texas.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER01–2973–000]

Take notice that on August 30, 2001,Wisconsin Public Service Corporation (WPSC), tendered for filing with the Federal Energy Regulatory Commission (Commission), a revised, unexecuted service agreement with Manitowoc Public Utilities (Manitowoc) under WPSC's W–2A Tariff, ''Partial Requirements Service to Interconnected Utility Customers.'' WPSC is filing this modified service agreement because Manitowoc has ceased taking bundled service under the W–2A Tariff. Instead, Manitowoc will purchase electric generation from WPSC under the W–2A Tariff and will purchase transmission service from the American Transmission Company, L.L.C. (ATCLLC). WPSC requests that the Commission make the revised service agreement effective on August 1, 2001, the date on which Manitowoc began taking transmission service from the ATCLLC.

Copies of the filing were served upon Manitowoc and the Public Service Commission of Wisconsin.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Mirant Chalk Point, LLC

[Docket No. ER01–2974–000]

On August 30, 2001, Mirant Chalk Point, LLC (Mirant Chalk Point) filed with the Federal Energy Regulatory Commission (Commission), the following energy and capacity sales agreement for sales under Mirant Chalk Point's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1269–000.

Mirant Chalk Point request an effective date of August 1, 2001.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Mirant Peaker, LLC

[Docket No. ER01–2975–000]

On August 30, 2001, Mirant Peaker, LLC (Mirant Peaker) filed with the Federal Energy Regulatory Commission (Commission), the following energy and capacity sales agreement for sales under Mirant Peaker's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1276–000.

Mirant Peaker request an effective date of August 1, 2001.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Mirant Potomac River, LLC

[Docket No. ER01–2976–000]

On August 30, 2001, Mirant Potomac River, LLC (Mirant Potomac) filed with the Federal Energy Regulatory Commission (Commission), the following energy and capacity sales agreement for sales under Mirant Potomac's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1277–000.

Mirant Potomac request an effective date of August 1, 2001.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. American Electric Power Service Corporation

[Docket No. ER01–2977–000]

Take notice that on August 30, 2001, American Electric Power Service Corporation (AEPSC) submitted for filing with the Federal Energy Regulatory Commission (Commission), Service Agreement for ERCOT Regional Transmission Service between AEPSC and the following customers: AES New Energy, Inc., Calpine Power America LP, Coral Power, L.L.C., Dynegy Energy Marketing, L.P., Enron Energy Services, Inc., Enron Power Marketing, Inc., Entergy Solutions, LTD, Entergy Solutions Select Ltd., First Choice Power, Inc., FPL Energy Power Marketing, Inc., Green Mountain Energy company, Mutual Energy CPL, LP, Mutual Energy SWEPCO, LP, Mutual Energy WTU, LP, Occidental Power Marketing, L.P., Reliant Energy Solutions, LLC, Reliant Energy Retail Services, LLC, Sempra Energy Solutions, Shell Energy Services Company, L.L.C. StarEN Power, LLC, Strategic Energy, LLC d/b/a expert Energy, The New Power Company, TXI Power Company, TXU Energy Services Company, Utility Choice, LLC, and XERS INC. d/b/a Xcel Energy.

SAEPSC seeks an effective date of July 31, 2001 for all of these agreements and accordingly seeks waiver of the Commission's notice requirement. This date coincides with the first day of implementation of the pilot retail choice program in Texas and the establishment of single control area operations in ERCOT.

AEPSC has serviced copies of the filing on all of the customers and the Public Utility Commission of Texas.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Portland General Electric Company

[Docket No. ER01–2978–000]

Take notice that on August 30, 2001, Portland General Electric Company submitted for filing with the Federal Energy Regulatory Commission (Commission) six copies of Service Agreement No.115 to the Portland General Electric FERC Electric Tariff, Second Revised Volume No. 8, which is PGE's Open Access Transmission Tariff. This Service Agreement is a Transmission Service Agreement (TSA) between PGE's transmission function and PGE's merchant function.

PGE requests that this TSA be made effective as of August 1, 2001, which is the service commencement date under the TSA.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas And Electric Company/Kentucky Utilities Company

[Docket No. ER01–2979–000]

Take notice that on August 30, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Netting Agreement between the Companies and The Detroit Edison Company.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. American Electric Power Service Corporation

[Docket No. ER01–2980–000]

Take notice that on August 30, 2001, American Electric Power Service Corporation (AEPSC) submitted for filing with the Federal Energy Regulatory Commission (Commission), Service Agreements for ERCOT Ancillary Services between AEPSC and the following customers: Big Country Electric Cooperative, Inc., The City of Hearne, Texas, The City of Weatherford, Texas, Coleman Country Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Medina Electric Cooperative, Inc., Pedernales Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., South Texas Electric Cooperative Inc., Southwest Texas Electric Cooperative, Inc., Taylor Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc.

AEPSC seeks an effective date of August 1, 2001 for all of these agreements and, accordingly seeks waiver of the Commission's notice requirement.

AEPSC has served copies of the filing on all of the customers and the Public Utility Commission of Texas.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Mirant Mid-Atlantic, LLC

[Docket No. ER01–2981–000]

On August 30, 2001, Mirant Mid-Atlantic, LLC (Mirant Mid-Atlantic) filed with the Federal Energy Regulatory Commission (Commission) the following energy and capacity sales agreement for sales under Mirant Mid-Atlantic's Market-Based Rate Tariff, which was accepted for filing in Docket No. ER01–1273–000.

Energy and Capacity Sales Agreement dated as of August 1, 2001, between Mirant Mid-Atlantic, LLC, and Mirant Americas Energy Marketing LP.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Old Dominion Electric Cooperative

[Docket No. ER01–2982–000]

Take notice that on August 30, 2001, Old Dominion Electric Cooperative (Applicant) filed with the Federal Energy Regulatory Commission (Commission), an Application Submitting Rate Schedules Pursuant To Market-Based Rate Authority And Request For Waivers, submitting for filing an addendum to Rate Schedule NOVEC1–OD, which is currently in effect pursuant to the Service Agreement between Applicant and Northern Virginia Electric Cooperative accepted for filing in Docket No. ER00–1512–000, and a new Rate Schedule NOVEC2–OD, for service to new load at a new delivery point.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. MidAmerican Energy Company

[Docket No. ER01–2986–000]

Take notice that on August 30, 2001, MidAmerican Energy Company (MidAmerican), 401 Douglas Street, P. O. Box 778, Sioux City, Iowa 51102 tendered for filing with the Federal Energy Regulatory Commission (Commission), a change to its Open Access Transmission Tariff (OATT) consisting of First Revised Sheet Nos. 42, 51, 104, and 202–208 of First Revised Volume No. 8.

MidAmerican states that the changes in the tariff sheets are to comply with the Commission's order in Docket No. ER01–2207–000, dated July 25, 2001, adopting the Mid-Continent Area Power Pool (MAPP) amended Schedule F to incorporate the North American Electric Reliability Council (NERC) transmission loading relief (TLR) procedures for curtailments of firm transmission, including generation to load service.

MidAmerican proposes that First Revised Volume No. 8 become effective on July 16, 2001, and requests a waiver of the Commission's notice requirements.

The proposed change has been mailed to all Transmission Customers having service agreements under the OATT, the Iowa Utilities Board and the Illinois Commerce Commission, the South Dakota Public Utilities Commission.

Comment date: September 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. New York Independent System Operator, Inc.

[Docket No. ER01–2988–000]

Take notice that on August 31, 2001, the New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission), revisions to its Open Access Transmission Tariff (OATT) and its Market Administration and Control Area Services (Services Tariff) to modify and establish a common time period in the OATT and the Services Tariff for a customer to challenge the accuracy of final billing invoices. The NYISO has requested an effective date of November 1, 2001 for the filing.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's OATT and Services Tariff.

Comment date: September 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Illinois Power Company

[Docket No. ES01–42–000]

Take notice that on August 31, 2001, Illinois Power Company submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term debt, from time to time, in an amount not to exceed $500 million.

Comment date: September 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. United States Department of Energy Bonneville Power Administration

[Docket No. NJ01–10–000]

Take notice that on August 24, 2001, the Bonneville Power Administration (Bonneville) filed an amendment to its December 14, 2000 filing of its proposed Open Access Transmission Tariff with the Federal Energy Regulatory Commission (Commission).

Comment date: September 24, 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. 01–23096 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

September 7, 2001.

a. Application Type: Application to Amend License for the Horseshoe Bend Hydroelectric Project.

b. Project No: 5376–062.

c. Date Filed: August 22, 2001.

d. Applicant: Horseshoe Hydroelectric Company.

e. Name of Project: Horseshoe Bend Hydroelectric Project.

f. Location: The project is located on the Payette River in Boise County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Kathy Buchanan, Horseshoe Bend Hydroelectric Company, P.O. Box 9106, Boise, ID 83701. Tel: (208) 345–7515.

i. FERC Contact: Any questions on this notice should be addressed to Mr. Vedula Sarma at (202) 219–3273 or by e-mail at *vedula.sarma@ferc.fed.us.*

j. Deadline for filing comments and/or motions: October 9, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Please include the project number (5376–062) on any comments or motions filed.

k. Description of Filing: The licensee is proposing construction of facilities in two phases to prevent sediment from entering or accumulating in the power canal and reducing its flow capacity. The Phase I facilities include (a) widening of the entrance of the canal bottom width from 79-foot to 360-foot, (b) installation of a 540-foot long elevated sill (crest elevation at 2600.7 feet), (c) a diverging channel downstream of the sill, (d) a sluiceway on the river side of the sill, trash racks over sluice way boxes etc. Features of the Phase II include (a) a desanding/settling basin in the canal area, desander sluice boxes end-to-end across the canal bed, access ramp for maintenance of desander and other facilities. Phase II facilities will be constructed only if required after evaluating the effectiveness of Phase I facilities.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. 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).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. This notice also consists of the following standard paragraphs:

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each

representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23102 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions to Intervene, and Protests

September 7, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Transfer of License.

b. Project No.: 7000–013.

c. Date Filed: August 31, 2001.

d. Applicants: Newton Falls, Inc. (Transferor) and Newton Falls Holdings, LLC (Transferee).

e. Name of Project: Newton Falls.

f. Location: On the Oswegatchie River near the Town of Clifton, St. Lawrence County, New York. The project does not utilize Federal or tribal lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Stephen C. Palmer and Robert M. Ivanauskas, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 2007–5116, (202) 424–7500; Malcom D. Young, Smith Gambrell & Russell, LLP, Suite 3100, Promenade II, 1230 Peachtree Street, N.E., Atlanta, Georgia 30309–3592, (404) 815–3774.

i. FERC Contact: Regina Saizan, (202) 219–2673.

j. Deadline for filing comments and or motions: (September 22, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Please include the Project Number (7000–013) on any comments or motions filed.

k. Description of Transfer: The project consists of two dams and four generating units having a total installed capacity of 2,220 kW. Adjacent to the project is a paper mill that was shut down last year. The project will be sold to transferee as part of a larger transaction that includes the paper mill and the surrounding land, which consists of approximately 5000 acres.

The transfer application was filed within five years of the expiration of the license for the project. In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 FR 23,756; FERC Stats. and Regs., Regs. Preambles 1986–1990 30,854 at p.31,437), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (id. at p. 31,438 n. 318).

l. Location of the Application: Copies of this filing are on file with the Commission and are available for public inspection. 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). A copy is also available for inspection and reproduction at the addresses in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, 214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–23103 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request for Extension of Time To Commence Project Construction

September 10, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Time.

b. *Project No.:* 10371–007.

c. *Date Filed:* September 4, 2001.

d. *Applicant:* CPS Products, Inc.

e. *Name and Location of Project:* The proposed Bear Creek Hydroelectric Project, FERC No. 10371–007, is to be located on Bear Creek in Skagit County, north of Concrete, Washington.

f. *Pursuant to:* Public Law 105–192 (1998).

g. *Applicant Contact:* Thomas R. Childs, President, CPS Products, Inc., P.O. Box 1691, Bellingham, WA 98227, (360) 734–0923.

h. *FERC Contact:* Pete McGovern, (202) 219–2867, or e-mail address: peter.mcgovern@ferc.fed.us

i. *Deadline for filing comments and or motions:* (October 10, 2001).

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR

385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the project number (10371–007) on any comments or motions filed.

j. *Description of the Request:* The licensee has requested that the deadline for commencement of construction of the Bear Creek Hydroelectric Project be extended to December 9, 2003. The deadline for completion of construction for FERC Project No. 10371 would be extended to December 9, 2005.

k. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. 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). A copy is also available for inspection and reproduction at the address in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–23143 Filed 9–14–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00323; FRL–6800–1]

Characterizing and Presenting Summary Chemical Exposure Assessment Results; Notice of a Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will convene a workshop to obtain the individual opinions of technical experts and interested stakeholders on suggested summaries for presenting exposure assessment results. The workshop will be of interest to companies and consortia who have signed up for the Voluntary Children's Chemical Evaluation Program (VCCEP) as well as to those who may want to voluntarily present exposure assessment results. A short overview of the VCCEP will be given at the beginning of the workshop but the emphasis will be on describing and presenting exposure assessment results. There will be a roundtable discussion by invited participants followed by an opportunity for public comment. Following the workshop, EPA will take the information received into consideration in revising the summaries for presenting exposure assessment results and make the revised summaries available to the public. EPA is planning a subsequent workshop to discuss methodologies for conducting exposure assessments.

DATES: The workshop will commence at 10 a.m. on Tuesday, September 25, 2001, and end at 4 p.m. on Wednesday, September 26, 2001.

ADDRESSES: The workshop will be held at the Holiday Inn - National Airport, 2650 Jefferson Davis Highway, U.S. Rte. #1, Arlington, VA, (703) 684–7200.

FOR FURTHER INFORMATION CONTACT: For technical information related to the Workshop for Presenting Chemical Exposure Assessment Results contact: Patrick Kennedy, Economics, Exposure and Technology Division (7406), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 260–3916; e-mail: kennedy.patrick@epa.gov. Questions regarding registration and logistics should be directed to EPA's contractor, ERG, at (781) 674–7374.

You may obtain electronic copies of this document and related documents from the EPA Internet site at http://www.epa.gov/opptintr/chemrtk. Draft guidance for exposure summaries and examples are also available at this EPA internet site. You may access the **Federal Register** documents directly at http://www.epa.gov/fedrgstr.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those chemical manufacturers, importers, and processors who produce or use chemical substances that are covered by the Toxic Substances Control Act (TSCA), individuals or groups concerned with chemical testing and children's health, and animal welfare groups. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Purpose of the Meeting

The purpose of this workshop is to obtain the individual opinions of technical experts and interested stakeholders on suggested summaries for presenting exposure assessment results. To facilitate the discussion at the workshop, EPA will be introducing suggested summary sheets that could be used to present exposure assessment results and associated descriptions for the information in the summaries. In addition, examples, including those provided by industry, will be made available and discussed at the workshop to illustrate the principles of consistency, transparency, completeness, and quality in presenting exposure assessment results. The draft summaries and examples will be made available via the EPA Internet Site at http://www.epa.gov/opptintr/chemrtk.

To enable the discussion, EPA has invited technical experts from industry, non-governmental organizations, and government agencies, including EPA, to discuss the exposure assessment summary documents in a roundtable format. The invited participants were selected to provide a balanced

representation of stakeholder interests. Presentation of the suggested summaries and examples for presenting exposure assessment results will be made by EPA and other invited participants and roundtable discussion by invited participants will follow. Opportunity for public comment from anyone who wishes to provide oral remarks will be provided at the conclusion of the roundtable discussion. Oral comments from the public may be limited to 5 minutes per individual to allow all those who wish to comment the opportunity to speak. Written comments may also be submitted to EPA via fax transmission to ERG at (781) 674–2906 until one week prior to the meeting.

The exposure summaries can be used as a road map or index for organizing and presenting exposure information. Information that is provided will vary from one chemical to the next. Other considerations, including hazard data for a particular chemical, may motivate submitters of exposure information to provide additional data elements and omit information on elements suggested on the summary sheets. EPA is planning a subsequent workshop to discuss methodologies for conducting exposure assessment studies. This workshop is planned for November or December 2001; details will be posted on the EPA internet site at http://www.epa.gov/opptintr/chemrtk. EPA is not asking participants in the workshop to reach agreement or provide any collective recommendations on the summaries for presenting exposure assessment results. EPA's intent is to obtain technical information and the individual perspective of invited participants based upon their unique backgrounds and experiences. Accordingly, EPA does not intend to organize this workshop as an advisory committee as defined in the Federal Advisory Committee Act, 5 U.S.C. App.

There is no charge for attending this workshop. EPA has contracted with Eastern Research Group, Inc., (ERG), 110 Hartwell Avenue, Lexington, Massachusetts, 02421, to provide registration and logistical support. To ensure that all interested parties can be accommodated, please preregister by calling ERG's conference registration line at (781) 674–7374 or fax a registration request to (781) 674–2906. You may also send an e-mail registration request to ERG at meetings@erg.com. Upon registration, you will be sent an agenda and a logistical fact sheet.

List of Subjects

Environmental protection Pesticides and Toxics.

Dated: September 4, 2001.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 01–23091 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–42079; FRL–6777–1]

West Virginia State Plan for Certification of Applicators of Restricted Use Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent.

SUMMARY: The State of West Virginia has submitted to EPA several statutory, regulatory, and programmatic amendments to its State Plan for Certification and Training of Applicators of Restricted Use Pesticides. The proposed amendments establish new requirements for the certification and recertification of pesticide applicators, and issuance of pesticide business licences, categorizes private applicators, raises competency standards and time intervals between re-examination attempts for initial certification, requires training for registration of non-certified employees, codifies commercial categories and subcategories, and updates citations concerning civil penalties to include private applicators. The plan also contains a speciality subcategory for predator control. Persons certified in this subcategory will not only be required to demonstrate a practical knowledge of predator control, but also must demonstrate a knowledge of the specific label requirements and use restrictions of the 1080 Livestock Protection Collar and M-44 Device. Notice is hereby given of the intention of the Regional Administrator, Region III to approve the revised Plan for the Certification of Applicators of Restricted Use Pesticides. EPA is soliciting comments on the proposed amendments.

DATES: Comments, identified by docket control number OPP–42079, must be received on or before October 17, 2001.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–42079 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Magda Rodriguez-Hunt, Waste and Chemicals Management Division, 3WC32, 1650 Arch Street, Philadelphia, PA 19103–2099; telephone number: (215) 814–2128; e-mail address: rodriguez-hunt.magda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those involved in agriculture and anyone involved with the distribution and application of pesticides for agricultural purposes. Others involved with pesticides in a non-agricultural setting may also be affected. In addition, it may be of interest to others, such as, those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of the Amended State Plan, Other Related Documents, and Additional Information?

To obtain copies of the amended West Virginia Certification Plan, other related documents, or additional information contact:

1. Magda Rodriguez-Hunt at the address listed under **FOR FURTHER INFORMATION CONTACT.**

2. Robert Frame, Pesticide Regulatory Programs, West Virginia Department of Agriculture, 1900 Kanawha Boulevard, East, Charleston, WV 25305–0190; telephone number: (304) 558–2209; e-mail address: rframe@ag.state.wv.us.

3. Jeanne Heying, Office of Pesticide Programs, Field and External Affairs Division (7506C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., 20460; telephone number: (703) 308–3240; e-mail address: heying.jeanne@epa.gov.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically to Magda Rodriguez-Hunt at the address

listed under **FOR FURTHER INFORMATION CONTACT**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–42079 in the subject line on the first page of your response. Electronic comments can be submitted by e-mail or you can submit a computer disk. When submitting comments electronically do not submit any information that you consider to be confidential business information (CBI). Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–42079.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has reviewed the revised West Virginia Certification Plan and finds it in compliance with FIFRA and 40 CFR part 171 and is announcing its intention to approve the amended plan and seeks public comment.

List of Subjects

Environmental protection, Education, Pests and pesticides.

Dated: August 31, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–23089 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7057–2]

Red Panther Pesticide Superfund Site/ Clarksdale, MI;Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under sections 104, 106(a), 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), approximately 24 parties (Respondents) entered into an Administrative Order on Consent (AOC) with the Environmental Protection Agency (EPA), whereby the Respondents agreed to perform response activities at the Red Panther Pesticide Superfund Site (Site) located in Clarksdale, Coahoma County, Mississippi. Section VII of the AOC provides for the reimbursement of EPA's past and future response costs by the Respondents. Under the terms of the AOC, section VII is subject to section 122(i) of CERCLA, which requires EPA to publish notice of the proposed settlement in the **Federal Register** for a thirty (30) day public comment period. EPA will consider public comments on section VII of the AOC for thirty days. EPA may withhold consent to all or part of section VII of the AOC if comments received disclose facts or considerations which indicate that section VII of the AOC is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: August 20, 2001.

Anita L. Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–23084 Filed 9–14–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

National Emergency

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the Commission will accept all filings that were due on September 11, 2001 on September 12, 2001.

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

FOR FURTHER INFORMATION CONTACT: Magalie Roman Salas, Secretary, FCC, (202) 418–0300.

SUPPLEMENTARY INFORMATION: Due to the national emergency that occurred on September 11, 2001, the Federal Communications Commission closed its offices early in the morning. According to § 1.4(e)(1), all filings, paper and electronic, that were due on September 11, 2001, are due on September 12, 2001, the Commission's next official work day after the early closing. In addition, September 11th does not count in computing filing periods that are less than seven days. See CFR 1.4(g).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23268 Filed 9–14–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–01–12]

Grants to Indian Tribal Organizations for the Native American Caregiver Support Program

AGENCY: Administration on Aging (AoA), HHS.

ACTION: Announcement of availability of funds and opportunity to apply under the Older Americans Act (OAA), title VI, Part C, Native American Caregiver Support Program.

Applicant Eligibility and Requirements: The AoA will accept applications for funding in fiscal year (FY) 2002 under the OAA, title VI, part C, Native American Caregiver Support Program from all title VI, part A grantees who are not currently receiving funding. In addition, federally recognized Indian tribal organizations that are not now participating in title VI, part A, however are applying separately for title VI, part A funds as a new grantee for the project period April 1, 2002–March 31, 2005 are eligible to apply. Successful applications will be funded if funds allow. Current title VI, part C grant recipients do not need to reapply for the Native American Family Caregiver Support Program.

Availability of Funds: Approximately $5 million dollars will be available in Fiscal Year 2002 to fund both current and new title VI, part C grants.

DATES: The deadline date for the submission of applications is January 18, 2002.

FOR FURTHER INFORMATION CONTACT: M. Yvonne Jackson, Ph.D.; Office for American Indian, Alaskan Native, and Native Hawaiian Programs; Administration on Aging; Department of Health and Human Services; Cohen Building; Room 4743; 330 Independence Avenue, SW., Washington, DC 20201; telephone (202) 619–2713; fax (202) 260–1012; e-mail: *Yvonne.Jackson@aoa.gov.*

SUPPLEMENTARY INFORMATION

1. Background and Program Purpose

The Administration on Aging (AoA) is responsible for administering title VI, part C of the OAA, which provides for grants to help families caring for an older relative with a chronic illness or disability. The program will help tribes in providing multifaceted systems of support services for family caregivers and for grandparents or older individuals who are relative caregivers.

2. Eligibility of an Indian Tribal Organization or Indian

To be eligible to receive a grant, a tribal organization must have an application approved under title VI, part A. For those applying for the project period April 1, 2002–March 31, 2005 funding for title VI, part C will be contingent upon approval of one's title VI, part A application. A tribal organization must meet the requirements as contained in section 631 of the OAA. This section states that in providing services under subsection (a), a tribal organization shall meet the requirements specified for an area agency on aging and for a State in the provisions of subsections (c), (d), and (e) of section 373 and of section 374. References in such provision to a State program shall be considered to be references to a tribal program.

3. Available Funds

Distribution of funds among tribal organizations is subject to the availability of appropriations to carry out title VI, part C. Information on estimated grant amounts is given below as a guide to possible funding levels for tribes representing the following documented numbers of Indian elders over age 60 as stated in your most recently approved title VI, part A or B application.

Estimated Grant Amounts:

$10,000 for populations of 50–100 elders
15,000 for populations of 101–200 elders
20,000 for populations of 201–300 elders
25,000 for populations of 301–400 elders
30,000 for populations of 401–500 elders
35,000 for populations of 501–1500 elders
40,000 for populations of 1501+ elders

4. Application Process

Applicants should submit applications, describing their proposed plans for their Caregiving Program as described in ''Content of the Application.''

The project period for this grant will be April 1, 2002–March 31, 2005. A three-year project period was chosen to reduce the paperwork burden on the grantees and to align this grant with the AoA title VI, part A grants.

Funding will be based on the numbers of eligible elders age 60 and over as stated in your most recently approved title VI, part A or part B application.

The progress reports, consisting of a narrative and Financial Status Report (Standard Form 269), will be reviewed for compliance with the program requirements. Failure to submit the required reports during the project period may result in loss of future funds and possibly termination of the grant within the project period.

Thirty days before the end of each budget period within the three-year project period grantees shall notify AoA about their desire to continue as a grantee. Failure to submit this documentation within the required timeframe may result in loss of grant funding. At the beginning of each budget period within the three-year project period grantees will be notified of the funding level for the following year.

One original application, signed by the principal official of the tribe, and two copies of the complete application, including all attachments, must be submitted to the Administration receipt point named under Address. Tribal resolutions may be included in the application, but are not required. Incomplete applications and applications postmarked after the closing date will not be considered for funding.

5. Content of the Application

Although these formula grants may build on existing services, these grants are not intended merely to augment services being provided through title VI, parts A and B. The Caregiver Support Program must demonstrate how it will provide the five basic components of the program either through these grant funds or coordinating with other programs and services to assure the components are provided. The five components are: (1) Information to caregivers about available services; (2) assistance to caregivers in gaining access to the services; (3) individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in making decisions and solving problems relating to their caregiving roles; (4) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and (5) supplemental services, on a limited basis, to complement the care provided by caregivers. Examples of services in the five service categories include:

Information: Group services, including public education, provision of information at community meetings, health fairs, and other similar meetings; mass media, including articles and notices in Tribal newspaper and newsletters and radio and TV announcements.

Assistance: Individual one-on-one contact for the purpose of linking the caregiver with opportunities and services that are available, and when possible, ensuring that the caregiver receives the services by establishing adequate follow-up.

Counseling/Support Groups/Training: Provision of advice, guidance and instruction about options and methods for providing support to caregivers in an individual or group setting.

Respite: Temporary, substitute supports or living arrangements to provide brief period of relief or rest for caregivers who are caring for a frail elder. It can be in the form of in-home respite care, adult day care respite, or institutional respite for an overnight stay on an intermittent, occasional, or emergency basis.

Supplemental Services: Other services, as defined by the Tribe, to support the needs of caregivers providing care to frail elders.

Provisions of the above five services must be addressed in the application. Money from this grant does not have to pay for each of these five service areas as long as you are able to demonstrate how these services will be coordinated and provided as a multifaceted program. The application needs to describe how the tribal organization will coordinate with the activities of other community agencies and voluntary organizations providing caregiver support services and activities.

The application needs to provide information on how older individuals with the greatest social and economic need and older individuals providing care and support to persons with mental retardation and related developmental disabilities will receive priority. Finally, the application needs to provide information about what quality standards and mechanisms will be established and how these standards and mechanisms will be used to monitor the program and provide assurances that the tribal organization will submit the required reports to the AoA in the format and time frames established by AoA.

The application may be submitted in a narrative format. Grantees are required to submit two progress reports consisting of a narrative and Financial Status Report (Standard Form 269), within each budget period. A Title VI Update with a reporting schedule will be provided after the title VI, part C grants are awarded.

6. Closing Date for Application

All applications must be postmarked on or before January 18, 2002. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark, or to obtain a legibly dated receipt for a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

7. Action on Applications

Awards will be made by the Assistant Secretary for Aging. Funding decisions will be announced as soon as possible.

Dated: September 10, 2001.

Catalog of Federal Domestic Assistance Program #93.655 Grants to Indian Tribes and Native Hawaiians. This Program Announcement is not subject to EO 12372.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–23170 Filed 9–14–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–01–13]

Grants to Indian Tribal Organizations for Supportive and Nutritional Services for Older Indians

AGENCY: Administration on Aging (AoA), HHS.

ACTION: Announcement of availability of funds and opportunity to apply under the Older Americans Act, Title VI, Grants for Native Americans, Part A—Indian Program.

Applicant Eligibility and Requirements: The AoA will accept applications for funding in fiscal year (FY) 2002 under the Older Americans Act, title VI, Grants for Native Americans, part A—Indian Program, from all current title VI, part A grantees, current grantees who wish to leave a consortium and apply as a new grantee, and eligible federally recognized Indian tribal organizations that are not now participating in title VI and would like to apply as a new grantee. Successful applications from new grantees will be funded if funds permit.

Availability of Funds: Approximately $23 million dollars may be available in Fiscal Year 2002 to fund these grants.

DATES: The deadline date for the submission of applications is January 18, 2002.

FOR FURTHER INFORMATION CONTACT: M. Yvonne Jackson, Ph.D.; Office for American Indian, Alaskan Native, and Native Hawaiian Programs; Administration on Aging; Department of Health and Human Services; Cohen Building; Room 4743; 330 Independence Avenue, SW., Washington, DC 20201; telephone (202) 619–2713; fax (202) 260–1012; email: *Yvonne.Jackson@aoa.gov.*

SUPPLEMENTARY INFORMATION:

1. Background and Program Purpose

The Administration on Aging (AoA) is responsible for administering title VI, part A of the Older Americans Act (OAA). Through this title grants are awarded to Indian tribal organizations representing federally recognized Tribes for providing nutritional and supportive services to Indian elders.

The 1978 Amendments to the Older Americans Act created title VI, Grants for Indian Tribal Organizations, to promote the delivery of supportive and nutritional services for Indian elders that are comparable to services provided under title III of the OAA. (Title III of the OAA, entitled Grants for State and Community Programs on Aging, is the nationwide program of supportive and nutritional services for persons over age 60 of all ethnic groups.)

In the OAA Amendments of 1987, the name of title VI was changed to Grants for Native Americans, and part B, Native Hawaiian Programs, was added.

Nutritional services and information and assistance services are required by the OAA. Nutritional services include congregate meals and home-delivered meals. Supportive services include information and assistance, transportation, chore services, and other supportive services that contribute to the welfare of older Native Americans.

2. Eligibility of an Indian Tribal Organization or Indian Tribe To Receive a Grant

To be eligible to receive a grant, a tribal organization or Indian tribe must meet the application requirements contained in sections 612(a), 612(b), and 612(c) of the OAA, which are: 612(a): (1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and (2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services. Section 612(b): an Indian tribe represented by an organization specified in subsection (a) shall be eligible for only 1 grant under this part for any fiscal year. Section 612(c): for purposes of title VI, part A, the terms Indian tribe and tribal organization have the same meaning as in section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b).

This announcement concerns all federally recognized Indian tribal organization, those currently participating in title VI, part A individually or as members of a consortium and those that are not currently participating in title VI, part A.

3. Available Funds

Distribution of funds among tribal organizations is subject to the availability of appropriations to carry out title VI, part A. As stated in section 614A(a) of the Act, the amount of the grant made under this part to a tribal

organization for FY 1992 and for each subsequent fiscal year shall not be less than the amount of the grant made under this part to the tribal organization for FY 1991. As stated in section 614A(b) of the Act, if the funds appropriated to carry out this part in a fiscal year subsequent to FY 1991 exceed the funds appropriated to carry out this part in FY 1991, then the amount of the grant (if any) made under this part to a tribal organization for the subsequent fiscal year shall be: (1) increased by such amount as the Assistant Secretary considers to be appropriate, in addition to the amount of any increase required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made under this part to the tribal organization for FY 1980; or (2) an amount the Assistant Secretary considers to be sufficient if the tribal organization did not receive a grant under this part for either FY 1980 or FY 1991.

Applications from current grantees who are a part of a consortium and wish to leave the consortium will be treated as new grant applications. Successful new grant applications for both current grantees who are leaving a consortium and tribal organizations that are not current grantees will be funded pending availability of additional funds.

Information on typical grant levels in FY 2001 is given below as a guide to POSSIBLE funding levels for Tribes representing the following documented numbers of Indian elders over age 60:

Population range (number of older Indians age 60 years and over, represented by the tribal organization)	Amounts of awards in FY 2001
50 to 100	$69,110
101 to 200	78,420
201 to 300	89,040
301 to 400	100,350
401 to 500	110,980
501 to 1500	128,550
1501+	168,800

4. Application Process

Applicants should submit applications, describing their proposed plans for nutritional and supportive services for older Indians for *project period April 1, 2002—March 31, 2005,* as described in section 5 below, Content of the Application.

A three-year project period was chosen in order to reduce the paperwork burden on the grantees. It is the intent of this agency to conduct on site monitoring at least once during the three-year project period.

The Program Performance and Financial Status reports, due on a semi-annual basis, will be reviewed for compliance with the program regulations. Failure to submit the required reports during the project period may result in loss of future funds and possibly termination of the grant within the project period.

Thirty days prior to the end of each budget period within the three-year project period grantees shall notify AoA as to their desire to continue as a grantee. Failure to submit this documentation within the required timeframe may result in loss of grant funding. At the beginning of each budget period within the three-year project period grantees will be notified of the funding level for the subsequent year.

One original application, signed by the principal official of the Tribe, and two copies of the complete application, including all attachments, must be submitted to U.S. Department of Health and Human Services; Administration on Aging; Margaret A. Tolson; Director; Grants Management Division; Room 4260; Cohen Building; 330 Independence Avenue, SW., Washington, DC 20201. Incomplete applications and applications postmarked after the closing date will not be considered for funding.

5. Content of the Application

The application must meet the criteria in sections 614(a) and (b) of the Act, and title 45 of the Code of Federal Regulations, Section 1326.19. The application may be presented in any format selected by the tribal organization. Contact the AoA Regional Office in your geographic area if you have questions concerning the content of the application. The application must include the following information:

A. Objectives and Need for Assistance

This section must include objectives, expressed in measurable terms, which are related to the supportive and nutrition service needs of the elders to be represented by the Tribal Organization. This section must also include a discussion of how the needs were determined.

B. Results or Benefits Expected

The application should describe the results or benefits expected from each service proposed.

C. Approach

(1) Description and Method of Delivery of Each Service

(a) *Nutrition:* Nutrition services are required. There should be a description of the methods, facilitates, and staff to be used in preparing, serving, and delivering meals, and the estimated number of persons to be served. The nutrition services provided, either directly or by way of a grant or contract, must be substantially in compliance with the provisions of part C, title III.

If no title VI, part A funds are to be used for nutrition services, the application must state how such services are provided in other ways, and how they are financed.

(b) *Information and Assistance:* Information and assistance services are required. They must be available for older Indians living in the title VI, part A service area and there should be a description of what information and assistance services will be provided and how they will be provided. The estimated number of individuals to be served should be stated. If no title VI, part A funds are to be used for information and assistance services, the application must state how such services are provided in other ways, and how they are financed.

(c) *Other Supportive Services:* The application must describe any other supportive services to be provided wholly or partly by title VI, part A funds. The description should include what supportive services will be provided and how they will be provided. The approximate number of persons to be served by each service should be stated.Legal assistance and ombudsman services may be provided, but are not required. However, if provided, they should be reported as Supportive Services.If a tribal organization elects to provide legal services, it must substantially comply with the requirements in title 45 of the Code of Federal Regulations Section 1321.71, and all legal assistance providers must comply fully with the requirements in Section 1321.71(d) through Section 1321.71(k).

Transportation of persons to nutrition sites or other places is to be considered as a Supportive Service.

(d) *Coordination with title III:* The application should provide a description of how title VI and title III resources and services are to be coordinated within the title VI service area, including information and assistance service.

(2) Evaluation Criteria

The application must discuss the criteria to be used to evaluate the results and successes of the program, based on the objectives and results or benefits expected indicated in Item A and B above. It will also explain the methodology that will be used to

determine if the needs identified and discussed are being met and if the results and benefits identified in Item B above are being achieved.

D. Geographic Location

The application must include an appropriate narrative description of the geographical area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients. A map of the designated service area may be included in the application.

E. Additional Information:

(1) Older Indians in the Title VI, Part A Service Area

The law requires that a tribal organization must represent at least 50 persons aged 60 years or over in order to be eligible for title VI funding. Therefore, the number of persons aged 60 or over living in the proposed title VI service area must be stated in the application. The tribal organization may use the Census Bureau population figures, or may develop its own population statistics, but they must be approved by the Bureau of Indian Affairs or your tribal enrollment clerk in order to establish eligibility, as required in section 614(b) of the Older Americans Act, as amended. The amount of the grant is based on this number of Indians or Alaskan Natives age 60 years or over in the proposed service area. Thus, the application should include only the number if Indians and Alaskan Natives age 60 years or over in the proposed service area and not the total population census of all tribal members, age 60 and above, unless all the tribal members live in the proposed service area. If there is overlap between two or more title VI, part A applicants, as stated under Geographic Location, the eligible elders can only be counted once and included in one application. The applicants are responsible for determining how the eligible elders will be counted. The same elder may not be counted by more than one applicant. This must be stated clearly in the application and signed by the principal official of the tribal organization.

As a separate matter, the regulations allow a Tribe to define, based on its own criteria, who the Tribe will consider to be an older Indian for purposes of eligibility to receive title VI services. If a Tribe selects a different definition of older Indian for service delivery, the application must state the age selected, and the number of Indian under age 60 eligible to be served. All Tribes in a consortium must use the same age for older Indian.

(2) Resolution

The tribal organization representing a federally recognized Tribe must submit an original copy of the Tribal council resolution authorizing participation in title VI, part A for the grant period April 1, 2002 to March 31, 2005. If the tribal organization represents a consortium of more than one Tribe, a resolution is required from each participating Tribe, specifically authorizing representation by the tribal organization for the purpose of title VI, part A of the Older Americans Act for the grant period April 1, 2002 to March 31, 2005.

(3) Program Assurance

Title VI, part A Program Assurances must be included in the application. The title VI, part A Program Assurances are those provisions identified in section 614(a) of the Older Americans Act, and in title 45 of the Code of Federal Regulations Section 1326.19(d), issued August 31, 1988 (see Appendix B). The tribal organization must state that it agrees to abide by all the provisions for the entire project period, April 1, 2002—March 31, 2005.

Copies of the title III and title VI current law and regulations, and of part 92, may be obtained from the Regional Administrator for the Administration on Aging. (See Appendix A)

(4) Certification Forms

Certifications are required of the applicant regarding (a) lobbying; (b) debarment, suspension, and other responsibility matters; and (c) drug-free workplace requirements. Please note that a duly authorized representative of the applicant organization must attest to the applicant's compliance with these certifications.

(5) Identifying Information

Applications must identify both the principal official of the tribal organization, and the proposed title VI program director: Name, Title, Address including Zip Code, Telephone Number, and, if available, the FAX number and E-mail address. The tribal organization's EIN (Employer Identification Number) must also be included.

If the applicant tribal organization is a consortium, the applicant must list the federally recognized tribes, which are included. The tribal resolution from each tribe in the consortium must be included in the application.

(6) Closing Date for Application

To be eligible for consideration, applications must be received or postmarked on or before January 18, 2002. (Applicants are cautioned to request a legibly dated U.S. Postal service postmark, or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

(7) Action on Applications

Awards will be made by the Assistant Secretary for Aging. Funding decisions will be announced as soon as possible.

Catalog of Federal Domestic Assistance Program #93.655 Grants to Indian Tribes and Native Hawaiians. This program Announcement is not subject to EO 12372.

Dated: September 10, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–23171 Filed 9–14–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in September 2001.

The agenda of the open portion of the meeting will include the Administrator's Report, CSAP Director's Report; presentations on CSAP's Geographical Information System, Strategic Plan, and data on a cost benefit analysis on smoking related health care costs vs tax revenues; and administrative matters and announcements. Public comments are welcome. If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

The agenda will include the review, discussion, and evaluation of individual grant applications. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, 10(d). If anyone needs special accommodations for persons with disabilities, please notify the contact listed below

A summary of this meeting and roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, Rockwall II building, Suite 901, 5600 Fishers Lane, Rockville,

Maryland 20857, Telephone: (301) 443–8455.

Substantive program information may be obtained from the contact person listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Dates: Thursday, September 13, 2001; Friday, September 14, 2001.

Meeting Place: Four Points Sheraton, 8400 Wisconsin Avenue,Bethesda, Maryland.

Closed: Thursday, September 13, 2001—8:30 a.m. to 12:00 Noon.

Open: Thursday, September 13, 2001—1:00 p.m. to 5:00 p.m., Friday, September 14, 2001—9:00 a.m. to 12:00 noon.

Contact: Yuth Nimit, Ph.D.,5515 Security Lane, Rockwall II Building, Suite 901,Rockville, Maryland 20852,Telephone: (301) 443–8455.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: September 10, 2001.

Toian Vaughn,

Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–23161 Filed 9–14–01; 8:45 am]

BILLING CODE 4162 –20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Amendment of Meeting Notice

Pursuant to Public Law 92–463, notice is hereby given of a correction of a notice of meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in September 2001.

Public notice was given in the **Federal Register** on August 29, 2001, Volume 66, Number 168, page 45689 that the CSAT National Advisory Council would be meeting in Closed Session on September 12, 2001 at the Bethesda Hyatt Hotel, One Bethesda Metro, Bethesda, Maryland. The dates of this meeting have subsequently changed to include a Closed Session on September 13, 2001, 8:30 a.m.—9:30 a.m. The agenda of the meeting has been changed to reflect the September 13 Closed Session Meeting. The contact for additional information remain as announced.

Dated: September 10, 2001.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–23160 Filed 9–14–01; 8:45 am]

BILLING CODE 4162–20–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–413 (Final) and 731–TA–913–918 (Final)]

Stainless Steel Bar From France, Germany, Italy, Korea, Taiwan, and the United Kingdom

AGENCY: International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–413 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–913–918 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) 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 subsidized and less-than-fair-value imports from Italy and less-than-fair-value imports from France, Germany, Italy, Korea, Taiwan, and the United Kingdom of stainless steel bar, provided for in subheadings 7222.11.00, 7222.19.00, 7222.20.00, and 7222.30.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, 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: July 27, 2001.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–205–3167), 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 these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Italy of stainless steel bar, and that such products 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) from France, Germany, Italy, Korea, and the United Kingdom.[2] The investigations were requested in a petition filed on December 28, 2000, by Carpenter Technology Corp., Wyomissing, PA; Crucible Specialty Metals, Syracuse, NY; Electralloy Corp., Oil City, PA; Empire Specialty Steel, Inc., Dunkirk, NY; Slater Steels Corp., Specialty Alloys Division, Fort Wayne, IN; and the United Steelworkers of America, AFL–CIO/CLC, Pittsburgh, PA.

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (i.e., cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.''

[2] Commerce's preliminary determination for Taiwan was negative.

Participation in the Investigations 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 these investigations 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 investigations 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 investigations.

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 these investigations available to authorized applicants under the APO issued in the investigations, 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 investigations. A party granted access to BPI in the preliminary phase of the investigations 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 these investigations will be placed in the nonpublic record on December 6, 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 these investigations beginning at 9:30 a.m. on December 20, 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 December 12, 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 December 17, 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. 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 December 13, 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 December 28, 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 investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 28, 2001. On January 14, 2002, 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 January 16, 2002, 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 investigations must be served on all other parties to the investigations (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: These investigations are 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: September 11, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–23163 Filed 9–14–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 11, 2001, a proposed Consent Decree in *United States* v. *Fullco Lumber Co., Inc., and David Howell*, Civil Action Number CV–01–J–1726–J was lodged with the United States District Court for the Northern District of Alabama.

In this action, the United States sought reimbursement of past response costs under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), for costs incurred by the United States for response actions performed at or in connection with the Fullco Lumber Co., Inc., Superfund Site located in Haleyville, Marion County, Alabama (the ''Site''). Under the proposed Consent Decree, Defendant Fullco Lumber Co., Inc. has agreed to pay a total of $320,000.00 plus interest through the date of the payment and Defendant David Howell has agreed to pay a total of $68,000.00, in reimbursement of the United States' past response costs. In addition to the above payments, Settling Defendants shall pay to EPA 100 percent of the net sales proceeds of the Transfer of the Property.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Fullco Lumber Co., Inc. and David Howell*, Civil Action Number CV–01–J–1726–J, D.J. Ref. 90–11–3–06897.

The Consent Decree may be examined at the Office of the United States Attorney, Suite 200, Robert S. Vance Federal Building, 1800 5th Avenue North, Birmingham, AL 35203, and at

U.S. EPA Region 4, 61 Forsyth Street, Atlanta, GA 30303. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $8.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Ellen Mahan,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23166 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under The Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

In accordance with 28 CFR 50.7 and 42 U.S.C. 9622(d)(2), notice is hereby given that on August 31, 2001, a Consent Decree in *United States* v. *JCI Jones Chemicals, Inc.,* Civil Action No. 01–CF–6426 T(F), was lodged with the United States District Court for the Western District of New York.

In this action the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), sought injunctive relief and recovery of past and future costs, under Sections 106, 107, 113 and 122 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9606, 9707, 9613 and 9622, regarding the Jones Chemicals, Inc. Superfund Site (the ''Site'') in the Village of Caledonia, Livingstone County, New York. Under the terms of the Consent Decree, JCI Jones Chemicals, Inc. (''Jones'') will pay $30,688.70 to the United States as reimbursement of past costs and agrees to reimburse the United States for all costs incurred in the future relating to the Site. Jones also agrees to perform the cleanup at the Site by implementing the remedy selected by EPA as set forth in the Record of Decision for the Site, which includes remediation of contaminated soil and ground water. The estimated costs of the cleanup that Jones will perform is $2.3 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *JCI Jones Chemicals, Inc.,* D.J. Ref. 90–11–3–07345.

The Consent Decree may be examined at the Office of the United States Attorney for the Western District of New York, 138 Delaware Avenue, Buffalo, New York, and at EPA Region 2, Office of the Environmental Protection Agency, 290 Broadway, New York, New York. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check payable to the Consent Decree Library in the amount of $55.25 (25 cents per page reproduction cost) for a copy including appendices, or $20.75 (25 cents per page reproduction cost) for a copy exclusive of appendices.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 01–23167 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy and 28 CFR 50.7, the Department of Justice gives notice that a proposed amendment to the Consent Decree previously approved and entered by the Court in the case captioned *United States* v. *Metropolitian Council,* Civil Action No. 99–CV–1105 (D. Minn.) was lodged with the United States District Court for the District of Minnesota on September 4, 2001. The United States filed a Complaint in 1999 alleging violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.,* by the Metropolitan Council (''Met'') at its wastewater treatment plant in St. Paul, Minnesota. The United States and Met settled those claims on terms set forth in a Consent Decree lodged with the Court on August 11, 2000. The court entered an Order on February 6, 2001 approving that Consent Decree, and signed the Consent Decree on March 16, 2001.

By agreement between the United States and Met, the existing Consent Decree would be amended to substitute a proposed Amended Appendix C, which would describe a modified Supplemental Environmental Project to be performed by Met under the Consent Decree. No other terms of the Consent Decree would change. The existing Appendix C to the Consent Decree requires that Met expend at least $1.6 million for a Supplemental Environmental Project to add a dry electrostatic precipitator to the air pollution control train of one of the new fluidized bed incinerators to be installed at Met's facility. The proposed Amended Appendix C describes an improved substitute Supplemental Environmental Project, requiring installation of a fabric filter system (rather than a dry electrostatic precipitator) to the air pollution control train of one of the new fluidized bed incinerators at Met's facility. Met and its consultants believe that the fabric filter technology outlined in the Amended Appendix C would result in increased removal of key pollutants, including particulate matter and mercury. Met and its consultants estimate that the total cost of the fabric filter technology would exceed $1.6 million, and would be approximately the same as the cost of a dry electrostatic precipitator. Based on its review of the information provided by Met, the Environmental Protection Agency agrees that the substitute Supplemental Environmental Project is appropriate.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed amendment to the existing Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States* v. *Metropolitan Council*, Civil Action No. 99–CV–1105 (D. Minn.), and DOJ Reference Number 90–5–2–1–2243.

A copy of the Consent Decree and proposed Amended Appendix C to the Consent Decree may be examined at: (1) The Office of the United States Attorney for the District of Minnesota, U.S. Courthouse—Room 600, 300 South Fourth Street, Minneapolis, Minnesota 55415 (contact Friedrich Siekert (612–664–5600)); and (2) the U.S. Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604 (contact Mary McAuliffe (312–886–6237)). Copies may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting copies, please refer to the above-referenced case name and DOJ Reference Numbers, and enclose a check made payable to the Consent Decree Library for $9.25 for the Consent Decree and the proposed Amended Appendix C to the Consent Decree (37 pages at 25 cents per page

reproduction cost) or a check for $0.25 for the Amended Appendix C alone.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23168 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *R&R Distributing Company, Inc.,* No. 1–00–0109 (M.D. Tenn.) was lodged on August 17, 2001, with the United States District Court for the Middle District of Tennessee. The consent decree settles claims for civil penalties and injunctive relief against R&R Distributing Company, Inc. for violations of Section 9006 of the Resource Conservation and Recovery Act (''RCRA''), as amended, 42 U.S.C. 6991e, the Federal requirements and standards relating to petroleum underground storage tanks (''UST'') promulgated pursuant to section 9003 of RCRA, 42 U.S.C. 6991b, and found at 40 CFR part 280, and the requirements and standards of the State of Tennessee's UST program approved by EPA pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, effective January 19, 1999. The State of Tennessee joined the case as a co-plaintiff and is participating in the settlement. Under the proposed consent decree R&R Distributing Company, Inc. will pay a civil penalty of $120,000 in installments over three years, plus interest at the rate applicable to judgments. The penalty will be equally divided between the United States and the State of Tennessee. Injunctive relief is not necessary because R&R has properly closed all the underground storage tanks except for those at four facilities, and has upgraded the underground storage tanks at those facilities. In addition, the State of Tennessee, as part of the settlement, will restore R&R's participation in the Underground Storage Tank Fund to achieve compliance with RCRA's financial assurance requirements for underground storage tank owners and operators.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *R&R Distributing Company, Inc.,* DOJ Ref.# 90–7–1–06684.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Tennessee, 110 Ninth Ave., S., Ste. A961, Nashville, Tennessee 37203–3870; and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, SW Atlanta, Georgia 30303. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–23165 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Request OMB emergency approval; petition for nonimmigrant worker.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with 5 CFR part 1320. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefor, OMB approval has been requested by September 12, 2001. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Karen Lee, Department of Justice Desk Officer, 725–17th Street, NW., Suite 10235, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted at facsimile to Ms. Lee at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning this the information collection. Comments are encouraged and will be accepted until November 13, 2001. During 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Reinstatement of currently approved collection.*

(2) *Title of the Form/Collection:* Petition for Nonimmigrant Worker.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–129. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-

profit. This form is used to petition for temporary workers and for the admission of treaty traders and investors. It is also in the process of an extension of stay or for a change of nonimmigration status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 368,948 responses at 2 hours and 45 minutes (2.75) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,014,607 annual hours hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20530.

Dated: September 11, 2001.

Richard A. Sloan,

Departmental Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–23152 Filed 9–14–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Freeman United Coal Mining Company

[Docket No. M–2001–081–C]

Freeman United Coal Mining Company, PO Box 4630, Springfield, Illinois 62708 has filed a petition to modify the application of 30 CFR 75.332(a)(2) (working sections and working places) to its Crown II Mine (I.D. No. 11–02236) located in Macaupin County, Illinois. The petitioner proposes to use one continuous miner to clean up the working face it previously mined while the other continuous miner on the super section starts to cut and load coal from another working face on the same working section, on the same split of air. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Peabody Coal Company

[Docket No. M–2001–082–C]

Peabody Coal Company, 1970 Barrett Court, PO Box 1990, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Camp #11 Mine (I.D. No. 15–08357) located in Union County, Kentucky. Due to hazardous rib conditions in certain areas of the return air course, traveling and examining this specific area would be unsafe. The petitioner proposes to establish evaluation points to monitor methane and oxygen concentrations immediately inby and outby portions of the specified return air course on a weekly basis. A certified person will examine the conditions of these evaluation points and record the results in a book maintained on the surface of the mine. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Corbin Colleries, Inc.

[Docket No. M–2001–083–C]

Corbin Colleries, Inc., Rt. 4 Box 142–K, Bluefield, West Virginia has filed a petition to modify the application of 30 CFR 75.1710–1 (canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Mine No. 2 (I.D. No. 44–06857) located in Tazewell County, Virginia. The petitioner proposes to operate self-propelled electric face equipment without cabs or canopies in seams heights of 48 inches or less. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners.

4. A B & J Coal Company, Inc.

[Docket No. M–2001–084–C]

A B & J Coal Company, Inc., PO Box 35, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.1710–1 (canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Mine No. 3 (I.D. No. 44–06974) located in Buchanan County, Virginia. The petitioner proposes to operate self-propelled electric face equipment without cabs or canopies in seams heights of 48 inches or less. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 17, 2001. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 6th day of September 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–23169 Filed 9–14–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Exemption Application No. D–10946]

Notice of Proposed Individual Exemption to Amend Prohibited Transaction Exemption (PTE) 99–45, Involving Donaldson, Lufkin & Jenrette Securities Corporation (DLJ), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, Department of Labor (the Department).

ACTION: Notice of technical correction.

On September 7, 2001, the Department published, in the **Federal Register** (66 FR 46826), a notice of proposed exemption amending PTE 99–45 (64 FR 61138, November 9, 1999), a securities exemption that had been issued to certain broker-dealer foreign affiliates (the Foreign Affiliates) of DLJ based in the United Kingdom and Australia. If granted, the proposed exemption would expand the scope of PTE 99–45 to include current and future Foreign Affiliates of Credit Suisse First Boston Corporation (CSFB), also located in the United Kingdom and Australia. CSFB is an affiliate of DLJ. The proposed exemption would be effective as of November 3, 2000.

On page 46827 of the proposed exemption, in the section captioned ''Supplementary Information,'' the Department hereby amends the proposal by inserting the following paragraph immediately preceding the final paragraph of that section:

However, to provide certainty as to the scope of the exemption, the Applicants request that PTE 99–45 be amended in order that it may also apply to CSFB and its current and future Foreign Affiliates in the United

Kingdom and Australia. In this regard, the Applicants state that CSFB or a Foreign Affiliate of CSFB will be subject to the same terms and conditions set forth in PTE 99–45.

In addition, on page 46827 of the proposal, in the section captioned ''Notice to Interested Persons,'' the Department is amending the termination date for the comment period from ''30 days'' from the date of publication of the proposed exemption in the **Federal Register** to ''45 days'' from such publication date. The revised time frame will then conform with the October 22, 2001 final date for the receipt of comments and hearing requests referenced on page 46827 in the **Dates** section of the proposal.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department at (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, DC, this 11th day of September, 2001.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare BenefitsAdministration, U.S. Department of Labor.

[FR Doc. 01–23156 Filed 9–14–01; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Integrative Biology and Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Proposal Review Panel for Integrative Biology and Neuroscience (10745).

Dates/Time: October 24–26, 2001, 8:30 a.m.–5:00 p.m.

Place: NSF, Room 680, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-open.

Contact Person: Dr. Judith Plesset, Program Director, Developmental Mechanism, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8417.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 26th, 2001; 10:00 a.m. to 11:00 a.m.—discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. Mary Clutter, Assistant Director, Directorate for Biological Sciences.

Closed Session: October 24th, 2001, 8:30 a.m. to 6:00 p.m.; October 25th, 2001, 8:30 a.m. to 6:00 p.m.; October 26th, 2001, 8:30 a.m. to 10:00 a.m. and 11:00 a.m. to 5:00 p.m. To review and evaluate the Developmental Mechanisms proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 11, 2001.

Susanne Bolton,

Committee Meeting Officer.

[FR Doc. 01–23176 Filed 9–14–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–400]

Carolina Power & Light Company; Shearon Harris Nuclear Power Plant; Exemption

1.0 Background

Carolina Power & Light Company, (CP&L, the licensee) is the holder of Facility Operating License No. NPF–63, which authorizes operation of the Shearon Harris Nuclear Power Plant (HNP). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of one pressurized water reactor located in Wake and Chatham Counties, North Carolina.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) § 55.59(a)(1) requires that each licensed operator successfully complete a requalification program developed by the licensee that has been approved by the Commission. This program is to be conducted for a continuous period not to exceed 24 months in duration and upon its conclusion must be promptly followed by a successive requalification program. In addition, pursuant to 10 CFR 55.59(a)(2), each licensed operator must also pass a comprehensive requalification written examination and an annual operating test.

By letter dated January 9, 2001, as supplemented on May 7, 2001, the licensee requested an exemption under 10 CFR 55.11 from the requirements of 10 CFR 55.59(a)(1) and (a)(2). The exemption requested will extend the current HNP requalification program from December 31, 2001, to March 31, 2002. The requested exemption would constitute a one-time extension of the requalification program duration.

3.0 Discussion

Pursuant to 10 CFR 55.11, the Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest.

The Commission has determined that, pursuant to 10 CFR 55.11, granting an exemption to the licensee from the requirements in 10 CFR 55.59(a)(1) and (a)(2) is authorized by law, will not endanger life or property, and is in the public interest. To require the licensee's operators and staff to support the comprehensive examination and operating tests schedule during the 24-month requalification cycle could have a detrimental effect on the public interest because it would remove qualified operators from extended shutdown for refueling, steam generator replacement, and power uprate modifications, which could interfere with the current HNP schedule. Further, this one-time exemption will provide additional operator support during plant shutdown conditions, which would provide a safety enhancement during plant shutdown operations, post-modification and maintenance testing. The affected licensed operators will continue to demonstrate and possess the required levels of knowledge, skills, and abilities needed to safely operate the plant throughout the transitional period via continuation of the current satisfactory licensed operator requalification program.

4.0 Conclusion

Accordingly, the Commission hereby grants the licensee an exemption on a one-time only basis from the requirements of 10 CFR 55.59(a)(1) and (a)(2) to allow the current HNP requalification program to be extended beyond the 24 months, but not to exceed 27 months and to expire on March 31, 2002. Upon completion of the

examinations on March 31, 2002, the follow-on cycle will end on March 31, 2004. Future requalification cycles will run from April 1 to March 31.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 38328).

This exemption is effective upon issuance and expires on March 8, 2003.

Dated at Rockville, Maryland, this 10th day of September 2001.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23150 Filed 9–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[50–458]

Entergy Operations, Inc.; River Bend Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the NRC) is considering issuance of an exemption from 10 CFR part 50, Appendix G for Facility Operating License No. NPF–47, issued to Entergy Operations, Inc. (the licensee), for operation of the River Bend Station, Unit 1 (RBS) located in West Feliciana Parish, Louisiana. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from certain provisions of 10 CFR part 50, Appendix G. Pursuant to 10 CFR part 50, Appendix G, pressure-temperature limits (P–T) are required to be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G, states, ''***[t]he appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G to 10 CFR part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (the Code), Section XI, Appendix G limits.

The proposed action would substitute ASME Code Case N–640 for specific requirements in 10 CFR part 50, Appendix G. Code Case N–640, ''Alternative Reference Fracture Toughness for Development of P–T Limit Curves Section XI, Division 1,'' permits the use of an alternative reference fracture toughness (K_{Ic} fracture toughness curve instead of the K_{Ia} fracture toughness curve) for RPV materials in determining the P–T limits. Since the K_{Ic} fracture toughness curve shown in ASME Code Section XI, Appendix A, Figure A–4200–1 provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness curve of ASME Code Section XI, Appendix G, Figure G–2210–1, using the K_{Ic} fracture toughness, as permitted by Code Case N–640, in establishing the P–T limits would be less conservative than the methodology currently endorsed by 10 CFR part 50, Appendix G. Considering this, an exemption to apply the Code Case would be required by 10 CFR 50.60. Accordingly, the licensee requested an exemption from the requirements in 10 CFR part 50, Appendix G.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limits is more technically correct than the K_{Ia} curve, since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process relative to an RPV. The ASME Code Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concludes that this increased knowledge permits relaxation of the ASME Code Section XI, Appendix G requirements by applying K_{Ic} fracture toughness, as permitted by Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

The proposed action is in accordance with the licensee's application for amendment and exemption dated January 24, 2001, as supplemented by letters dated July 2, and August 6 and 20, 2001, and is needed to support the technical specification (TS) amendment that is contained in the same submittal and is being processed separately. The proposed TS amendment will revise the P–T limits of TS 3.4.11, RCS [Reactor Coolant System] Pressure and Temperature Limits,'' related to the heatup, cooldown, and inservice test limitations for the RCS to a maximum of 16 Effective Full Power Years (EFPY). The proposed action replaces TS Figure 3.4–11, ''Minimum Temperature Required Vs. RCS Pressure,'' with recalculated RCS P–T limits based, in part, on the alternative methodology in Code Case N–640.

The Need for the Proposed Action

The revised P–T limits are needed to allow required reactor vessel hydrostatic and leak tests to be performed at a significantly lower temperature. These tests are to be performed during the upcoming refueling outage scheduled to commence in September 2001. The lower temperature for the tests can reduce refueling outage critical path time by reducing or eliminating the heatup time to achieve required test conditions.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption and associated license amendment described above would provide an adequate margin of safety against brittle failure of the RBS reactor vessel. The lower temperature, is also safer for test inspectors due to lower ambient drywell temperatures and could result in lower radiological dose due to increased inspection effectiveness at the lower temperature.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public 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

This action does not involve the use of any different resource than those previously considered in the ''Final Environmental Statement,'' NUREG–1073, January 1985, for the RBS.

Agencies and Persons Consulted

On August 13, 2001, the staff consulted with the Louisiana State official, Ms. Soumaya Ghosn of the Louisiana Department of Environmental Quality, Radiation Protection Division, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 24, 2001, as supplemented by letters dated July 2, and August 6 and 20, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public 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 PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 7th day of September, 2001.

For the Nuclear Regulatory Commission,

Robert E. Moody,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–23149 Filed 9–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–30]

Maine Yankee Atomic Power Company (MYAPC) Maine Yankee Independent Spent Fuel Storage Installation (ISFSI) Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from specific provisions of 10 CFR 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214 to MYAPC. The requested exemption would allow MYAPC to deviate from the requirements of Certificate of Compliance No. 1015 (the Certificate), Appendix A, Surveillance Requirement (SR) 3.1.2.1, ''CANISTER Vacuum Drying Pressure,'' and SR 3.1.3.1, ''CANISTER Helium Backfill Pressure,'' which provide the surveillance frequencies for verifying the drying pressure and backfill pressure are within limits. The requested exemption would allow the surveillances to be performed ''Prior to TRANSPORT OPERATIONS'' instead of ''Once within 10 hours . . . after completion of CANISTER draining,'' which is required by the Certificate.

Environmental Assessment (EA)

Identification of Proposed Action: By letter dated August 9, 2001, MYAPC requested an exemption from the requirements of 10 CFR 72.212(b)(2)(i), 72.212(b)(7), and 72.214 to deviate from the requirements of Certificate of Compliance No. 1015, Appendix A, SR 3.1.2.1 and SR 3.1.3.1. Staff has also considered an exemption from 10 CFR 72.212(a)(2). MYAPC is a general licensee, authorized by NRC to use spent fuel storage casks approved under 10 CFR Part 72, Subpart K.

MYAPC plans to use the NAC–UMS Cask System to store spent nuclear fuel, generated at the Maine Yankee Atomic Power Station, at an ISFSI located in Wiscasset, Maine, approximately 1200 feet north of the reactor plant. The Maine Yankee ISFSI has been constructed for interim dry storage of spent nuclear fuel.

By exempting MYAPC from 10 CFR 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214, MYAPC will be authorized to delay performance of SR 3.1.2.1, ''CANISTER Vacuum Drying Pressure,'' and SR 3.1.3.1, ''CANISTER Helium Backfill Pressure,'' which provide the surveillance frequencies for verifying the drying pressure and backfill pressure are within limits.

The surveillances, SR 3.1.2.1 and SR 3.1.3.1, shall be performed ''Prior to TRANSPORT OPERATIONS.''

The surveillance frequencies above would be in lieu of those in the current Certificate of Compliance No. 1015, Rev. 1, Appendix A, SR 3.1.2.1 and SR 3.1.3.1. The definition of TRANSPORT OPERATIONS is provided in section A 1.1 of Certificate of Compliance No. 1015, Rev. 1, Appendix A (ADAMS Accession #ML010260245). The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7.

On February 20, 2001, NRC approved Amendment 1 to the NAC–UMS Certificate of Compliance, which provided, in part, a change to Limiting Condition for Operation (LCO) 3.1.1 allowing longer times for spent fuel cask loading operations based on the reduced canister heat loads. The Amendment application did not include a corresponding revision to the surveillance frequences, in SR 3.1.2.1 and SR 3.1.3.1 and, as a result, the surveillance frequencies were not revised.

The NRC staff has reviewed the exemption request and determined that the revised surveillance frequencies are consistent with the safety analyses previously reviewed for Amendment 1, and would have no impact on the design basis and would not be inimical to public health and safety.

Need for the Proposed Action: NAC International, the owner of the NAC–UMS design, requested Amendment 2 to the Certificate on October 17, 2000. This application, as supplemented, would correct the inconsistencies with SR 3.1.2.1 and SR 3.1.3.1. However, the rulemaking on this amendment will not be completed in time to support the planned schedule for Maine Yankee cask loading. Therefore, this errror in not revising the inconsistent surveillance frequencies may provide insufficient surveillance frequency times to avoid unnecessarily entering into the Required Actions for the associated LCOs 3.1.2 and 3.1.3. The NRC is proposing to grant this exemption based on the staff's technical review of information submitted by MYAPC.

Environmental Impacts of the Proposed Action: The potential environmental impact of using the NAC–UMS system was initially presented in the EA for the Final Rule to add the NAC–UMS to the list of approved spent fuel storage casks in 10 CFR 72.214 (65 FR 62581 (October 19, 2000)).

The staff performed a safety evaluation of the proposed exemption.

The staff found that the proposed exemption is consistent with the analyses presented in the Safety Analysis Report for the NAC–UMS Cask System and does not reduce the ability of the system to perform its safety function. The staff has determined that changing the surveillance frequencies for verification of vacuum drying pressure and helium backfill pressure does not pose any increased risk to public health and safety.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Therefore, the staff has determined that there is no reduction in the ability of the system to perform its safety function, nor significant environmental impacts as a result of revising the surveillance frequencies for SR 3.1.2.1 and SR 3.1.3.1 from ''Once within 10 hours . . . after completion of CANISTER draining'' to ''Prior to TRANSPORT OPERATIONS.'' Therefore, the proposed action now under consideration would not change the potential environmental effects assessed in the initial rulemaking (65 FR 62581).

Alternative to the Proposed Action: Since there is no significant environmental impact associated with the proposed action, alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption. Denial of the exemption request will have the same environmental impact.

Agencies and Persons Consulted: On August 20, 2001, Mr. Dale Randall of the State of Maine, Department of Human Services, Division of Health Engineering was contacted about the Environmental Assessment for the proposed action. On August 23, 2001, Ms. Paula Craighead, State Nuclear Safety Advisor for the State of Maine was also contacted.

Ms. Craighead responded by letter dated August 24, 2001, (ADAMS Accession#ML012480279) with two comments on the proposed exemption request. The first comment was a request to place in the record of exemption the location of the definition of TRANSPORT OPERATIONS within Certificate of Compliance No. 1015, and to also indicate where the document could be found in the public record. This first comment has been incorporated into this notice, and will also be indicated in the exemption response. The second comment concerned ensuring written communication occurs between NRC and DOE on all matters concerning handling of spent fuel and Greater Than Class C material. On August 28, 2001, this second comment was discussed with Ms. Craighead. Ms. Craighead clarified that the State's concern was not that every related document be provided to DOE, but that communications relevant to DOE's activities occur. It was mutually agreed that the NRC will continue to involve DOE in relevant discussions and correspondence on spent fuel and Greater Than Class C material.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting an exemption from 10 CFR 72.212(a)(2), 72.212(b)(2)(i), 72.212(b)(7), and 72.214 so that MYAPC may load NAC–UMS Cask Systems with revised surveillance frequencies (as specified above) for verifying canister vacuum drying pressure and helium backfill pressure at the Maine Yankee ISFSI will not significantly impact the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

The request for exemption was docketed under 10 CFR part 72, Docket 72–30. For further details with respect to this action, see the exemption request dated August 9, 2001. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 6th day of September 2001.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Deputy Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–23151 Filed 9–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

Agency Holding the Meeting: Nuclear Regulatory Commission.

Date: Weeks of September 17, 24, October 1, 8, 15, 22, 2001.

Place: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

Status: Public and closed.

Matters to be Considered:

Week of September 17, 2001

There are no meetings scheduled for the Week of September 17, 2001.

Week of September 24, 2001–Tentative

Friday, September 28, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed).

9:30 a.m. Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607).

1:30 a.m. Briefing on Threat Environment Assessment (Closed–Ex. 1).

Week of October 1, 2001–Tentative

Thursday, October 4, 2001

9:25 a.m. Affirmation Session (Public Meeting) (if needed).

Week of October 8, 2001–Tentative

There are no meetings scheduled for the Week of October 8, 2001.

Week of October 15, 2001–Tentative

Thursday, October 18, 2001

9:00 a.m. Meeting with NRC Stakeholders—Progress of Regulatory Reform (Public Meeting) (Location—Two White Flint North Auditorium)

Week of October 22, 2001—Tentative

There are no meetings scheduled for the Week of October 22, 2001.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

Additional Information:

By a vote of 4–0 on September 5, the Commission determined pursuant to U.S.C. 552b(e) and 9.107(a) of the Commission's rules that ''Affirmation of Final Rule: 10 CFR part 63, Disposal of High-level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain Nevada'' be held on September 7, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/SECY/smj/schedule.htm.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: September 13, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–23205 Filed 9–13–01; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44776; File No. SR–CBOE–2001–35]

Self Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment No. 1 thereto by the Chicago Board Options Exchange, Inc. Relating to Marketing and Administrative Fees

September 7, 2001.

On June 18, 2001, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (Act) [1] and Rule 19b–4 thereunder,[2] the Chicago Board Options Exchange, Inc. (''CBOE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change to impose a one-time supplemental administrative charge against the interest payments that the CBOE's Designated Primary Market Makers received in their marketing fee accounts for fiscal year 2000. The CBOE submitted Amendment No. 1 to the proposed rule change on July 20, 2001.[3]

The proposed rule change was published for comment in the **Federal Register** on August 7, 2001.[4] The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, particularly section 6 of the Act [5] and the rules and regulations thereunder.[6] Moreover, the Commission finds that the proposed rule change is consistent with section 6(b)(4) of the Act [7] because it has been designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–CBOE–2001–35) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23153 Filed 9–14–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Christopher R. Hill, Legal Department, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated July 19, 2001.

[4] *See* Securities Exchange Act Release No. 44628 (July 31, 2001), 66 FR 41281 (August 7, 2001).

[5] 15 U.S.C. 78f.

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44777; File No. SR–CHX–2001–19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated relating to Governance Structure

September 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on September 4, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange is proposing amendments to its Certificate of Incorporation, Constitution and Rules, which would modify the Exchange's executive governance structure. Among other changes, the proposed amendments would permit the creation of a combined Chairman and Chief Executive Officer (''CEO'') position and permit the CEO to name a President, who could also serve on the CHX Board of Governors.

The text of the proposed rule change is available from the Office of the Secretary of the CHX or at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 proposed amendments, which have the support of the Exchange's Governance Committee and current Chairman, are intended, among other things, to permit the creation of a combined Chairman and CEO position. By giving the Board the flexibility to appoint a person to fulfill this combined role, these changes will give the Exchange another tool to meet the challenges facing self-regulatory organizations in the always-changing securities industry. Although the proposed changes can be seen in many of the Exchange's rules and constitutional provisions, they primarily would have the following impact on the Exchange's governance.

First the CEO would replace the President as the principal executive of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the Exchange. In the revised rules and constitutional provisions, all of the powers currently held by the President are transferred to the CEO. For example, where the Constitution now allows the President to serve on the Board, to appoint Exchange officers or to sell memberships and distribute proceeds from those sales, the power to engage in these activities would be held by the CEO.[3]

Second, the CEO would have the ability to name a President (who might also serve as Chief Operating Officer) as the next most senior executive. Many other corporations, including other national securities exchanges, have a similar structure. For example, the CEOs of both the New York Stock Exchange (''NYSE'') and Chicago Board Options Exchange (''CBOE'') can appoint a President to serve as a senior executive.[4]

Third, under the proposed changes, the Board would have the option to choose as Chairman either the CEO or any Governor who now is eligible to serve as Chairman. Under the current structure, the Board chooses its Chairman from among those Board members who are either serving as ''non-industry'' governors or as ''off-floor'' member governors.[5] The proposed changes would provide the Board another option—the CEO. By building this flexibility into the Constitution, the Board could decide that, given the challenges facing national securities exchanges today, that it should appoint a single person to act as a full-time Chairman and CEO and, in later years, still could choose to return to the existing part-time Chairman structure.[6]

The Board would increase in size by one person to allow the President, if any, to serve on the Board. The Exchange's Board currently is composed of the Vice Chairman of the Board, the President and 22 governors (10 member governors and 12 non-industry governors).[7] Under the proposed change, the Board would consist of the Vice Chairman, the CEO, the President, if any, and 22 governors (divided among member and non-industry governors as they are today). In other words, if the CEO appointed a President, the President would serve on the Board and increase the number of persons on the Board from 24 to 25.

Additional changes in this proposal would: (1) Allow the Vice Chairman, in addition to the Chairman and the Chief Executive Officer, to be able to call meetings of the Board or the members;[8] (2) permit the Chairman to become a voting member of all Committees on which he serves;[9] and (3) correct small inaccuracies and delete unnecessary provisions.[10]

The Exchange believes that the proposed changes to its Certificate of Incorporation, Constitution and Rules will afford the Exchange's Board of Governors the flexibility to make optimal use of strong executive talent, without limiting in any respect the governing authority of the Board of Governors or disturbing the balance between member and non-industry Board representation. Further, the Exchange submits that the proposed changes are consistent with governance structures customary in many other corporations, including other exchanges.

2. Statutory Basis

The proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).[11] In particular, the proposed rule is consistent with section 6(b)(5) of the Act[12] in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

The foregoing rule change is concerned solely with the administration of the Exchange and has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[13] and subparagraph (f)(3) of Rule 19b–4.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether 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 at

[3] *See, e.g.,* CHX Constitution Article II, Section 5 (sales of memberships); Article III, Section 2 (serving on the Board); and Article VI, Section 4 (appointment of officers).

[4] *See* NYSE Constitution Article VI, Sections 1 and 2; and CBOE Constitution Article VIII, Sections 8.1 and 8.2.

[5] An ''off-floor'' member governor is a member who is not primarily engaged in business on the Exchange's trading floor or a general partner or an officer of a member organization that is not primarily engaged in business on the trading floor. *See* CHX Constitution, Article III, Section 10(3)–(5). ''Non-industry'' governors include, among others, public governors (who must have no material business relationship with a broker or dealer) and officers or employees of an issuer of securities listed exclusively on the Exchange. *See* CHX Constitution, Article III, Sections 10(1)–(4).

[6] Under the current structure, the Board can and has selected well-qualified and dedicated chairmen who are engaged in other activities, including working in senior jobs at other organizations.

[7] The Vice Chairman of the Board is a member who is primarily engaged in business on the Exchange's trading floor or a general partner or officer in a member organization that is primarily engaged in business on the floor. *See* CHX Constitution, Article III, Sections 2 and 10(3).

[8] Permitting the Vice Chairman to call meetings is appropriate because, if the changes described above are approved without this change and the Board names the CEO as Chairman, there would be only one person (the Chairman/CEO) who would have power to call these meetings.

[9] Allowing the Chairman to vote on the committees on which he serves is appropriate to ensure that he is a fully functioning member of the committees on which he serves.

[10] For example, the Exchange's Certificate of Incorporation lists an outdated address for its Delaware registered office and its Rules refer to a Committee on Market Structure that has fulfilled its purpose of working to develop appropriate plans to integrate the Exchange into ''the emerging National Market System.'' *See* CHX Certificate of Incorporation, First Provision; CHX Rules, Article IV, Rule 6.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(3).

the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2001–19 and should be submitted by October 9, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23154 Filed 9–14–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44778; File No. SR–CHX–2001–11]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by The Chicago Stock Exchange, Incorporated Relating to Automatic Execution of Partial Orders for Dual Trading System Securities and Segmented Price Improvement of Orders

September 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on May 24, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the CHX rules relating to: (a) The Exchange's SuperMAX 2000 price improvement algorithm, to permit price improvement of partial orders; and (b) automatic execution sequences and algorithms relating to the trading of Dual Trading System issues on the Exchange, to permit automatic execution of partial orders at the order sending firm's election. Specifically, the Exchange proposes to amend portions of Article XX, Rule 37(a) and (b) and to add an Interpretation and Policy relating to Article XX, Rule 37(h). The text of the proposed rule change is available from the Office of the Secretary of the CHX or 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the CHX rule provisions relating to: (a) The Exchange's SuperMAX 2000 price improvement algorithm, to permit price improvement of partial orders; and (b) automatic execution sequences and algorithms relating to the trading of Dual Trading System issues on the Exchange, to permit automatic execution of partial orders at the order sending firm's election. Both changes are intended to make the Exchange and its specialists better able to accommodate the rapidly changing demands of the marketplace relating to price improvement and automatic execution of orders.

a. *Price Improvement of Partial Orders.* The proposed change to Article XX, Rule 37(h), which governs the Exchange's SuperMAX 2000 price improvement algorithm, would permit a specialist who enables SuperMAX 2000 for an issue to price improve an entire order, or to provide differing levels of price improvement for different portions of the order. For example, in the case of a 1500 share order for issue XYZ, the proposed change to the price improvement algorithm would enable the specialist to provide price improvement of $.02 per share for the first 500 shares, $.01 per share for the next 500 shares, and no price improvement (*i.e.,* execution at the BBO) for the last 500 shares. The differing levels of price improvement would be designated by the specialist and would be effected by a systems change, which the Exchange expects to implement October 1, 2001.

The purpose of the proposed rule change relating to the Exchange's SuperMAX 2000 price improvement algorithm is to increase the number of opportunities for customers to receive price improvement by permitting specialists to participate in SuperMAX 2000 without requiring them to price improve an entire order. Currently, the Exchange believes that there are specialists who might not desire to offer price improvement to large orders but may be willing to offer price improvement to portions of such orders; the amended rule would allow the specialist to provide the opportunity for more orders to receive price improvement (although in some cases to less than the entire order), while providing customers with more certainty that orders would receive price improvement up to the designated level(s).

b. *Automatic Execution of Partial Orders for Dual Trading System Issues.* The other proposed changes to Article XX, Rule 37 are designed to achieve consistency between Dual Trading System issues and Nasdaq/NM securities with respect to the automatic execution of orders.[3] The Exchange anticipates that these changes will provide customers with greater certainty and speed of execution, and will eliminate any current confusion caused by differing automatic execution parameters.

Specifically, the Exchange proposes to amend Article XX, Rule 37(b)(6), which governs the automatic execution rules relating to Dual Trading System issues. Under the current rule, if an order's size exceeds the automatic execution threshold, the entire order is placed in the specialist's book for manual execution. However, under the proposed amendment, customers could elect automatic execution of partial orders in instances where the size of the order is greater than the automatic execution threshold designated by the specialist. If the customer elects partial automatic execution, the order would be automatically executed up to the size of the automatic execution threshold, with the balance of the order placed in the specialist's book for manual execution.

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On October 13, 2000, the Commission approved the Exchange's proposed rule change relating to automatic execution of orders for Nasdaq/NM securities. *See* Securities Exchange Act Release No. 43443 (October 13, 2000), 65 FR 63660 (October 24, 2000). The approved rule change included provisions relating to automatic execution of partial orders for Nasdaq/NM securities and the automatic execution threshold established by the CHX specialist.

This feature has been available for Nasdaq/NM securities for several months and has been utilized by a number of customers; those customers who do not view partial executions as an advantage remain free to proceed under the current framework.

The Exchange also proposes to amend Article XX, Rule 37(a) and (b)(1) to make the automatic execution and auto acceptance thresholds designated by specialists for both Dual Trading System issues and Nasdaq/NM securities the same. Under the amended rule, the minimum automatic execution threshold for listed securities would be decreased to the current Nasdaq/NM level of 300 shares. Orders at or below the automatic execution threshold would be automatically executed regardless of the NBBO size. Specialists may also choose to automatically execute orders of a size greater than their automatic execution thresholds if the order size is less than or equal to the NBBO size. The automatic acceptance threshold for Nasdaq/NM securities would be increased to the current listed level of 5099 shares.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with section 6(b)[4] of the Act in general and in particular with section 6(b)(5)[5] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement of 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 Regarding the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2001–11 and should be submitted by October 9, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the Exchange's proposed rule change and believes for the reasons set forth below, that the proposal is consistent with the requirements of section 6(b) of the Act,[6] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[7] in that it will facilitate transactions in securities, promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of a free and open market. The Commission believes that the proposed rule change will enable specialists to provide price improvement to customer orders using the CHX's automated system.

Further, the Commission notes that it approved a proposed rule change on October 13, 2000 implementing the same changes with respect to trading in Nasdaq/NM securities.[8] That proposed rule change was published for comment, and the Commission received no comments. Therefore, the Commission finds good cause to approve the proposed rule change before the thirtieth day after the date of publication of notice of the filing as it will enable customers to receive price improvement sooner, and because the substance of the proposed rule change, as it applies to Nasdaq/NM securities, has already been subject to public comment.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–23155 Filed 9–14–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* note 3, *supra.*

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34003]

Burlington Northern and Santa Fe Railway Company—Construction and Operation Between Kamey and Seadrift, Texas

AGENCY: Surface Transportation Board.

ACTION: Notice of availability of draft environmental assessment and request for comments.

SUMMARY: The Burlington Northern and Santa Fe Railway Company (BNSF) has petitioned the Surface Transportation Board (Board) for authority to construct and operate a rail line approximately 7.8 miles in length in Calhoun County, Texas, to serve the Union Carbide Corporation's Seadrift industrial complex. The Board's Section of Environmental Analysis (SEA) has prepared a Draft Environmental Assessment (EA) for this project. Based on the information provided and the environmental analysis conducted to date, the EA preliminarily concludes that this proposal should not significantly affect the quality of the human environment if the recommended mitigation measures set forth in the EA are implemented. Accordingly, SEA recommends, that if the Board approves this project, BNSF be required to implement the mitigation set forth in the EA. Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. SEA will consider all comments received when making its final environmental recommendation to the Board. The Board will consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

DATES: The EA is available for public review and comment. Comments are due by October 15, 2001.

ADDRESSES: Comments (an original and 10 copies) regarding this EA should be submitted in writing to: Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423, to the attention of Phillis Johnson-Ball.

FOR FURTHER INFORMATION CONTACT: Phillis Johnson-Ball, (202) 565–1530 (TDD for the hearing impaired (1–800–877–8339). To obtain a copy of the EA, contact Da-to-Da Legal, 1925 K Street, NW., Washington, DC 20006, phone (202) 293–7776 or visit the Board's website at *www.stb.dot.gov.*

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23175 Filed 9–14–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–550 (Sub–No. 1X)]

R.J. Corman Railroad Company/ Allentown Lines, Inc.—Abandonment Exemption—in Lebanon County, PA

R.J. Corman Railroad Company/ Allentown Lines, Inc. (RJCN) has filed a notice of exemption under 49 CFR 1152 Subpart F-*Exempt Abandonments* to abandon: (1) the Cornwall Industrial Track between approximately milepost 0.9 and approximately milepost 3.66; and (2) the Lebanon Industrial Track between approximately milepost 18 and approximately milepost 18.6, a distance of approximately 3.36 miles, in Lebanon County, PA. The line traverses United States Postal Service Zip Codes 17042, 17046, 17016 and 17083.

RJCN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 17, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 27, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 9, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Kevin M. Sheys, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue—2nd Floor, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

RJCN has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RJCN shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by RJCN's filing of a notice of consummation by September 17, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23024 Filed 9–14–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB—33 (Sub—No. 181X)]

Union Pacific Railroad Company—Abandonment Exemption—in Lancaster County, NE

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon a 9.0-mile line of railroad over the Jamaica Industrial Lead from milepost 57.0 to the end of the line at milepost 66.0 in Lincoln, Lancaster County, NE. The line traverses United States Postal Service Zip Code 68523.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall

be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 17, 2001, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 27, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 9, 2001, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Suite 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by UP's filing of a notice of consummation by September 17, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: September 5, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–23023 Filed 9–14–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0153]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the insured's continuous entitlement to disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 16, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0153'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Disability Benefits Questionnaire, VA Forms 29–8313 and 29–8313–1.

OMB Control Number: 2900–0153.

Type of Review: Extension of a currently approved collection.

Abstract: The forms are used by the policyholder to report their conditions needed to continue disability insurance benefits. The information is used by VA to determine the insured's continuous entitlement to disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 15,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 60,000.

Dated: September 5, 2001.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–23095 Filed 9–14–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 66, No. 180

Monday, September 17, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 411

[CMS-1163-F]

RIN 0938-AK47

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities-Update; Final Rule

Correction

In rule document 01–18869, beginning on page 39562, in the issue of Tuesday, July 31, 2001, make the following correction:

§411.15 [Corrected]

On page 39600, in the first column, §411.15(p)(2)(i) should read, ''Physicians' services that meet the criteria of §415.102 of this chapter for payment on a fee schedule basis.

* * * * *''

[FR Doc. C1–18869 Filed 9–14–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
September 17, 2001

Part II

Department of Housing and Urban Development

24 CFR Part 200

Nonprofit Organization Participation in Certain FHA Single Family Activities; Placement and Removal Procedures; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR–4585–P–01]

RIN 2502–AH49

Nonprofit Organization Participation in Certain FHA Single Family Activities; Placement and Removal Procedures

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulatory placement and removal procedures for HUD's Nonprofit Organization Roster. The Roster lists nonprofit organizations that HUD has determined are qualified to participate in certain specified Federal Housing Administration (FHA) single family activities. These activities may include acting as a mortgagor; purchasing HUD's Real Estate Owned (REO) Properties (HUD Homes) at a discount; providing secondary financing; and imposing legal restrictions on conveyance as part of affordable housing programs. Presently, there are no regulatory procedures for placing a nonprofit organization on, nor for removing a poorly performing nonprofit organization from, the Roster. HUD believes that the establishment of these placement and removal procedures will better protect participants in the FHA single family programs and safeguard FHA insurance funds.

DATES: *Comments Due Date:* November 16, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9266, Washington, DC 20410–8000; phone (202) 708–2700 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Nonprofit organizations are important partners in HUD's efforts to further affordable housing opportunities for low and moderate income persons through the Federal Housing Administration (FHA) single family programs. FHA's single family regulations recognize a special role for nonprofit organizations in conjunction with the origination of new mortgages, disposition of homes by HUD, imposing legal restrictions on conveyance as part of affordable housing programs, and providing secondary financing.

The special role provided for nonprofit organizations in these regulations is intended only for those organizations that are financially viable and actively involved in the furthering of affordable housing in their communities. To this end, HUD has established the FHA Nonprofit Organization Roster. The Roster lists nonprofit organizations that HUD has determined are qualified to participate in certain specified FHA single family activities. FHA maintains the Roster to provide a means for mortgagees and the general public to verify if nonprofit organizations are qualified to participate in specified FHA activities. This Roster is an important part of the FHA Single Family Mortgage Insurance program because nonprofit organizations that are placed on the Roster are considered to be an asset to FHA in increasing homeownership opportunities and protecting FHA insurance funds.

II. This Proposed Rule

This proposed rule would establish regulatory placement and removal procedures for the FHA Nonprofit Organization Roster. The proposed rule would establish subpart F to part 200 of the FHA regulations. Two regulatory sections would be established by this proposed rule—§ 200.194 (which would prescribe the procedures for placement of a nonprofit organization on the Roster) and § 200.195 (which would set forth the removal process for a poorly performing nonprofit organization).

A. Placement Procedures

Section 200.194 would state the requirement that a nonprofit organization must be on the FHA Nonprofit Organization Roster in order to be recognized as a nonprofit organization under the regulations. The section would also require the nonprofit organization to complete an application for placement on the Roster in a form (or materials) prescribed by HUD (which may require an affordable housing program narrative for the activities the nonprofit organization proposes to carry out). The nonprofit organization would be required to specify in its application those FHA activities which it proposes to carry out.

HUD may approve the nonprofit organization to participate in all, or only some, of the FHA activities specified in its application. If the application is incomplete, HUD will provide the applicant with a period of time to correct the deficiencies. HUD will reject an application if the nonprofit organization fails to submit a program that complies with applicable regulations, Mortgagee Letters, or other standards or instructions issued by HUD. The placement of the nonprofit organization on the Roster would expire in two years. The nonprofit organization would be required to re-apply for placement on the Roster before the expiration of the two year period.

The proposed rule would not include substantive requirements to be met by a nonprofit organization. It would be in addition to, and not a substitute for, any substantive requirements stated in a specific applicable provision of the FHA regulations. For example, § 203.18(f)(3)(ii) requires a nonprofit mortgagor to meet the statutory requirements of section 203(g)(2)(B)(ii) of the National Housing Act (12 U.S.C. 1701 *et seq.*)—i.e., to be tax-exempt under section 501(c)(3) of the Internal Revenue Code and to intend to sell the mortgaged property to low- or moderate-income persons. Section 203.41(a)(5) (which is also referenced in § 203.32(b) for purposes of secondary financing) requires section 501(c)(3) status for a nonprofit organization, and also requires ''two years experience as a provider of low- or moderate-income housing; * * * a voluntary board; and * * * [that] no part of its net earnings inur[e] to the benefit of any member, founder, contributor or individual.'' This rule does not propose to alter those substantive requirements for nonprofit organizations that appear in current regulations.

B. Removal Procedures

Proposed § 200.195 would establish regulatory procedures for the removal of a poorly performing nonprofit organization from the Roster. The proposed removal procedures would supplement HUD's existing debarment, suspension and limited denial of participation remedies.

The proposed rule provides that HUD may remove a nonprofit organization from the Roster for any cause that it determines to be detrimental to FHA or its programs. Cause for removal includes, but is not limited to:

1. Failure to comply with applicable regulations, Mortgagee Letters or other written instructions and standards issued by HUD.
2. Failure to comply with applicable Civil Rights requirements.
3. Holding a significant number of FHA-insured mortgages that are in default, foreclosure, or claim status (in determining the number considered ''significant,'' HUD may compare the number of insured mortgages held by the nonprofit organization against the similar holdings of other nonprofit organizations). HUD intends to develop additional guidance on how it will determine what constitutes a ''significant'' number of defaults, foreclosures, or claims for purposes of possible removal from the Roster. HUD specifically invites public comment on what number should be considered ''significant,'' and on what additional information should be provided in this guidance.
4. Being debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD.
5. Failure to further all objectives described in the affordable housing program narrative.
6. Misrepresentation or fraudulent statements.
7. Failure to respond within a reasonable time to HUD inquiries, including recertification requests or other requests for further documentation.

HUD will provide the nonprofit organization with written notice of the proposed removal. This notice would state the reasons and the duration of the proposed removal. The nonprofit organization would be given not less than 20 days from the date of the removal notice to submit a written response appealing the proposed removal. The nonprofit organization would also have the right to submit a written request for a conference along with the written response. This procedure would not be applicable, however, if the nonprofit organization has been debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD.

A HUD official, designated by the Secretary, would review the nonprofit organization's appeal and send the nonprofit organization a final decision either affirming, modifying, or cancelling the removal from the Roster. The HUD official designated by the Secretary to review the appeal would not be someone involved in HUD's initial removal decision. HUD would respond with a decision within 30 days of receiving the appeal or, if the nonprofit organization has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the nonprofit organization.

If the nonprofit organization does not submit a timely written response, the removal would become effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If the nonprofit organization submits a written response, and the removal decision is affirmed or modified, the removal would become effective on the date of HUD's notice affirming or modifying its initial removal decision.

The proposed addition of § 200.195 would not prohibit HUD from debarring, suspending, issuing a limited denial of participation, seeking a false claims action, or taking such other action against a nonprofit organization as provided for in 24 CFR part 24 (entitled ''Government Debarment and Suspension and Governmentwide Requirements for Drug-Free Workplace (Grants)''), or from seeking any other remedy against a nonprofit organization available to HUD by statute or otherwise.

A nonprofit organization that has been removed from the Roster may apply for placement on the Roster after the period for the removal of the nonprofit organization from the Roster has expired.

III. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Paperwork Reduction Act

The information collection requirements described in proposed § 200.194 have been approved by the Office of Management and Budget (OMB) in connection with Mortgagee Letter 00–8, and assigned OMB Control Number 2502–0540. HUD invites public comment on the information collections contained in this proposed rule and Mortgagee Letter 00–8. All public comments will be considered in the development of the final rule and may result in revisions to the information collection requirements for the FHA Nonprofit Organizations Roster contained in the Mortgagee Letter. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

This proposed rule would establish placement and removal procedures for HUD's Nonprofit Organization Roster. The proposed rule would not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, in accordance with 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although many nonprofit organizations affected by this rule are small entities, compliance with the rule is not expected to have a substantive economic impact. The rule does not discriminate against small entities or disadvantage them competitively.

The proposed rule would establish the procedure by which a nonprofit organization, who has violated FHA single family mortgage insurance program requirements, may be removed from HUD's Nonprofit Organization Roster. Accordingly, to the extent that the proposed rule would impact small entities it will be as a result of actions taken by small entities themselves—that is, violation of single family program regulations and requirements. Further, the proposed rule would provide several procedural safeguards designed to

minimize any potential impact on small entities. For example, the rule grants a nonprofit organization, selected for removal from the Roster, the opportunity to provide a written response and to request a conference regarding a proposed removal. The rule also specifies that the official designated by HUD to review an appeal may not be the same HUD official involved in the initial removal decision.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance numbers for the principal FHA single family programs are 14.117 and 14.133.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 200 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z-21; 42 U.S.C. 3535(d).

2. Add subpart F to read as follows:

Subpart F—Placement and Removal Procedures for Participation in FHA Programs

Nonprofit Organizations

Sec.

200.194 Placement of nonprofit organization on Nonprofit Organization Roster.
200.195 Removal of nonprofit organization from Nonprofit Organization Roster.

Subpart F—Placement and Removal Procedures for Participation in FHA Programs

Nonprofit Organizations

§ 200.194 Placement of nonprofit organization on Nonprofit Organization Roster.

(a) *Nonprofit Organization Roster.* HUD maintains a roster of nonprofit organizations that are qualified to participate in certain specified FHA activities. In order to be recognized as a nonprofit organization for purposes of single family regulations in this chapter, an organization must:

(1) Be included in the Roster; and

(2) Comply with any requirements stated in a specific applicable provision of the regulations.

(b) *Application.* To be included in the Roster, a nonprofit organization must apply to HUD using an application (or materials) in a form prescribed by HUD (which may require an affordable housing program narrative for the activities the nonprofit organization proposes to carry out). The nonprofit organization must specify in its application the FHA activities it proposes to carry out.

(c) *HUD response to application.* HUD's review of the application will result in one of the following:

(1) Approval of the nonprofit organization to participate in all, or some, of the FHA activities specified in its application and the addition of the nonprofit organization to the Roster.

(2) Rejection due to deficiencies in the application. HUD will provide the nonprofit organization with a period to correct these deficiencies.

(3) Rejection due to the nonprofit organization's failure to submit a program that complies with applicable regulations, Mortgagee Letters, or other standards or instructions issued by HUD.

(d) *Re-application after two years.* The placement of a nonprofit organization on the Roster expires after two years. The nonprofit organization must re-apply for placement on the Roster, in accordance with paragraph (b) of this section, before expiration of the two-year period.

§ 200.195 Removal of nonprofit organization from Nonprofit Organization Roster.

(a) *Cause for removal.* HUD may remove a nonprofit organization from the FHA Nonprofit Organization Roster established under § 200.194. Removal may be for any cause that HUD determines to be detrimental to FHA or any of its programs, including but not limited to:

(1) Failure to comply with applicable regulations, Mortgagee Letters or other written instructions or standards issued by HUD;

(2) Failure to comply with applicable Civil Rights requirements;

(3) Holding a significant number of FHA-insured mortgages that are in default, foreclosure, or claim status (in determining the number considered ''significant,'' HUD may compare the number of insured mortgages held by the nonprofit organization against the similar holdings of other nonprofit organizations);

(4) Being debarred or suspended, subject to a limited denial of participation, or otherwise sanctioned by HUD;

(5) Failure to further all objectives described in the affordable housing program narrative;

(6) Misrepresentation or fraudulent statements; or

(7) Failure to respond within a reasonable time to HUD inquiries, including recertification requests or other requests for further documentation.

(b) *Procedure for removal.* A nonprofit organization that is debarred or suspended or subject to a limited denial of participation will be *automatically* removed from the FHA Nonprofit Organization Roster. In all other cases, the following procedure for removal applies:

(1) HUD will give the nonprofit organization written notice of the

proposed removal. The notice will include the reasons for the proposed removal and the duration of the proposed removal.

(2) The nonprofit organization will have 20 days from the date of the notice (or longer, if provided in the notice) to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with the written response.

(3) A HUD official will review the appeal and provide an informal conference if requested. The HUD official will send a response either affirming, modifying, or cancelling the removal. The HUD official will not be someone who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days of receiving the response, or, if the nonprofit organization has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the nonprofit organization.

(4) If the nonprofit organization does not submit a timely written response, the removal will be effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If a written response is submitted, and the initial removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(c) *Placement on the Roster after removal.* A nonprofit organization that has been removed from the FHA Nonprofit Organization Roster may apply for placement on the Roster (in accordance with § 200.194) after the nonprofit organization's removal from the Roster has expired. An application will be rejected if the period for the nonprofit organization's removal from the Roster has not expired.

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against a nonprofit organization, as provided in 24 CFR part 24, or from seeking any other remedy against a nonprofit organization available to HUD by statute or otherwise.

Dated: July 2, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–23049 Filed 9–14–01; 8:45 am]

BILLING CODE 4210–27–P

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Federal Register

Vol. 66, No. 180

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  - Customer access locations; service installations; published 8-17-01
  - Telecommunications system construction contract and specifications; published 8-17-01

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  - Nucleic acids residues; tolerance requirement exemption; published 7-19-01
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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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700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	28.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5] Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
*900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–042–00108–7)	49.00	July 1, 2000
30 Parts:			
1–199	(869–042–00109–5)	38.00	July 1, 2000
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–042–00115–0)	62.00	July 1, 2000
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
1–124	(869–042–00120–6)	35.00	July 1, 2000
125–199	(869–042–00121–4)	45.00	July 1, 2000
200–End	(869–042–00122–5)	36.00	July 1, 2000
34 Parts:			
1–299	(869–042–00123–1)	31.00	July 1, 2000
300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–042–00125–7)	54.00	July 1, 2000
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–042–00129–0)	43.00	July 1, 2000
37	(869–042–00130–3)	32.00	July 1, 2000
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
*18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–042–00133–8)	28.00	July 1, 2000
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–042–00135–4)	28.00	July 1, 2000
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–042–00138–9)	21.00	July 1, 2000
60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87-99	(869–044–00150–1)	54.00	July 1, 2000
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–042–00151–6)	36.00	July 1, 2000
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–044–00157–8)	41.00	July 1, 2001
*400–424	(869–044–00158–6)	51.00	July 1, 2001
*425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
*1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000

Title	Stock Number	Price	Revision Date
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..