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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–05–AD; Amendment 39–12631; AD 2002–02–03]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes, that requires repetitive inspections to detect cracking of the horizontal butt joint of the rear pressure bulkhead and repair, as necessary. This amendment also requires installation of new joint plates on the aft face of the rear pressure bulkhead, which terminates the requirements of this AD. This action is necessary to prevent cracking of the horizontal butt joint of the rear pressure bulkhead, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes was published in the **Federal Register** on September 14, 2001 (66 FR 47899). That action proposed to require repetitive inspections to detect cracking of the horizontal butt joint of the rear pressure bulkhead and repair, as necessary. That action also proposed to require installation of new joint plates on the aft face of the rear pressure bulkhead, which terminates the repetitive inspections.

Comments

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

Clarification of Compliance Times

Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has found that paragraphs (a)(1) and (d)(1) of the NPRM need to be clarified. Paragraph (a)(1) of the NPRM requires that the initial inspection of the horizontal butt joint of the rear pressure bulkhead be accomplished ''Prior to the accumulation of 12,000 flight cycles * * *.'' Paragraph (d)(1) of the NPRM requires that the modification of the rear pressure bulkhead be accomplished ''Prior to the accumulation of 40,000 flight cycles * * *.'' It was our intent that those actions be accomplished prior to the applicable ''total'' flight cycles. Therefore, we have revised paragraphs (a)(1) and (d)(1) of the final rule to specify total flight cycles.

Clarification of Terminating Action

Since the issuance of the NPRM, the FAA has also determined that the terminating action specified in paragraph (e) of the NPRM needs to be clarified. That paragraph states, ''Accomplishment of paragraph (d) of this AD terminates the need for repetitive inspections as specified in paragraph (b) of this AD.'' However, the installation required by paragraph (d) of this AD, as specified in BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000 (which is referenced as an appropriate source of service information in this AD), also terminates the requirements of paragraphs (a) and (c) of this AD. Therefore, we have revised paragraph (e) of the final rule to state, ''Accomplishment of the installation required by paragraph (d) of this AD constitutes terminating action for the requirements of this AD.'' We have also changed the Summary section of this AD accordingly.

Changes Made to Paragraph (c) of This AD

Since the issuance of the NPRM, we have found that paragraph (c) of the NPRM needs to be clarified. It was our intent that the repair may also be done per a method approved by the CAA's delegated agent. Therefore, we have included that language in paragraph (c) of this AD.

Conclusion

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

Cost Impact

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required detailed visual inspection of the horizontal butt joints on the forward and rear faces of the rear pressure bulkhead, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $480, or $60 per airplane, per inspection cycle.

It will take approximately 9 work hours per airplane to accomplish the

required installation of new butt joints on the rear pressure bulkhead, at an average labor rate of $60 per work hour. The estimated cost of the required parts is $495. Based on these figures, the cost impact of the required installation on U.S. operators is estimated to be $8,280, or $1,035 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–02–03 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12631. Docket 2001–NM–05–AD.

Applicability: Model BAe 146 series airplanes on which Modification HCM00713A has not been accomplished, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the horizontal butt joint of the rear pressure bulkhead, which could result in reduced structural integrity of the airplane, accomplish the following:

Initial Inspection

(a) Conduct a detailed visual inspection for cracking of the horizontal butt joint of the rear pressure bulkhead, in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–42, Revision 1, dated November 3, 2000, at the later of the times specified in paragraph (a)(1) or (a)(2) of this AD.

(1) Prior to the accumulation of 12,000 total flight cycles; or

(2) Within 4,000 total flight cycles or 2 years after the effective date of this AD, whichever occurs first.

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

Repetitive Inspections

(b) Repeat the detailed visual inspection specified in paragraph (a) of this AD at intervals not to exceed 12,000 flight cycles.

Repair

(c) If any crack is detected during a detailed visual inspection required by either paragraph (a) or (b) of this AD, prior to further flight, repair the crack in a manner approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (CAA) (or its delegated agent).

Modification

(d) Install new joint plates on the rear pressure bulkhead, in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000, at the later of the times specified in paragraph (d)(1) or (d)(2) of this AD.

(1) Prior to the accumulation of 40,000 total flight cycles, or

(2) Within 6,000 flight cycles or 2 years after the effective date of this AD, whichever occurs first.

Terminating Action

(e) Accomplishment of the installation required by paragraph (d) of this AD constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(h) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–42, Revision 1, dated November 3, 2000; and BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000; as applicable. (Only the first page of BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, is dated; no other page of the document contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at

the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 002–11–2000.

Effective Date

(i) This amendment becomes effective on March 14, 2002.

Issued in Renton, Washington, on January 29, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–2649 Filed 2–6–02; 8:45 am]

BILLING CODE 4910–13–U

RAILROAD RETIREMENT BOARD

20 CFR Part 200

RIN 3220–AB48

Assessment or Waiver of Interest, Penalties, and Administrative Costs with Respect to Collection of Certain Debts

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to conform those regulations to the practice of the agency to waive interest, penalties, and administrative costs where a debt is being recovered by setoff from current annuities and where the debt was not caused by fraud. This amendment conforms the regulation to current agency practice.

EFFECTIVE DATE: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, Office of General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 200.7 of the Board's regulations provides for the assessment and waiver of interest, penalties, and administrative costs with respect to the collection of debts owed the Board. This final rule amends the regulations so that the assessment of interest, penalties and administrative costs will be automatically waived in any case where the debt is being recovered by full or partial withholding of current annuities payable under the Railroad Retirement Act and where fraud on the part of the debtor is not involved. This amendment conforms the Board's regulations to Board policy regarding recovery of debts due to the Board. The Social Security Administration also follows this same practice.

The Board published this rule as a proposed rule on September 5, 2001 (66 FR 46408), and invited comments by November 5, 2001. No comments were received. Accordingly, the proposed rule is adopted by the majority of the Board, Management Member dissenting, as a final rule without change.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 200

Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends 20 CFR part 200 as follows:

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Amend § 200.7 by adding a new paragraph (i) to read as follows:

§ 200.7 Assessment or waiver of interest, penalties, and administrative costs with respect to collection of certain debts.

* * * * *

(i) The Board shall waive the collection of interest, penalties, and administrative costs in any case where the debt to be recovered is being recovered by full or partial withholding of a current annuity payable under the Railroad Retirement Act and the debt was not incurred through fraud.

Dated: February 1, 2002.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–2944 Filed 2–6–02; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 200

RIN 3220–AB35

Designation of Central and Field Organization

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to reflect its current agency structure due to recent reorganizations.

EFFECTIVE DATE: This rule is effective February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, (312) 751–4945, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Part 200 of the Board's regulations deals with general administration of the Board. The Board amends § 200.1 dealing with the designation of central and field offices to reflect current agency structure due to recent reorganizations.

The Board published this rule as a proposed rule on September 5, 2001 (66 FR 46408) and invited comments by November 5, 2001. No comments were received. Accordingly, the proposed rule is being published as a final rule without change.

The rule concerns agency structure and is not a regulation as defined in Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 200

Organization and functions (Government agencies), Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends 20 CFR part 200 as follows:

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Section 200.1 is amended by revising paragraphs (a)(4), (b)(1), and (b)(2) to read as follows:

§ 200.1 Designation of central and field organization.

(a) * * *

(4) The headquarters of the Board is in Chicago, Illinois, at 844 North Rush Street. The Board maintains numerous district offices across the country in localities easily accessible to large numbers of railroad workers, in addition to three regional offices located in Atlanta, Georgia; Denver, Colorado; and, Philadelphia, Pennsylvania.

(b) *Internal organization.* (1) Reporting directly to the Board

Members is the six member Executive Committee. The Executive Committee is comprised of the General Counsel, who also serves as the Senior Executive Officer, the Director of Administration, the Director of Programs, the Chief Financial Officer, the Chief Information Officer, and the Chief Actuary.

(2) The Executive Committee is responsible for the day to day operations of the agency. The Senior Executive Officer is responsible for direction and oversight of the Executive Committee. The General Counsel is responsible for advising the Board Members on major issues, interpreting the Acts and regulations administered by the Board, drafting and analyzing legislation, and planning, directing, and coordinating the work of the Office of General Counsel, the Bureau of Hearings and Appeals, and the Office of Legislative Affairs through their respective directors, and the Office of Secretary to the Board. The Director of Programs is responsible for managing, coordinating, and controlling the program operations of the agency which carry out provisions of the Railroad Retirement and Railroad Unemployment Insurance Acts. The Director of Administration is responsible for managing, coordinating, and controlling certain administrative operations of the Board including the Bureau of Supply and Service, the Bureau of Human Resources, the Office of Public Affairs, and the Office of Equal Opportunity. The Chief Financial Officer is responsible for the financial management of the agency, and the Chief Information Officer is responsible for coordinating the agency's information resources management program. The Board's Chief Actuary is responsible for the actuarial program of the Board. The Chief Actuary is a non-voting member of the Executive Committee.

* * * * *

Dated: February 1, 2002.

By Authority of the Board, for the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–2943 Filed 2–6–02; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone and Estradiol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Intervet, Inc. The supplemental NADA provides for an additional dose of trenbolone acetate and estradiol implant for use in feedlot heifers for increased rate of weight gain and improved feed efficiency.

DATES: This rule is effective February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223, e-mail: dbenz@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Intervet, Inc., P.O. Box 318, 405 State St., Millsboro, DE 19966, filed supplemental NADA 140–992 that provides for REVALOR–200 ear implants containing 200 milligrams (mg) trenbolone acetate and 20 mg estradiol for heifers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency. The supplemental NADA is approved as of December 6, 2001, and the regulations are amended in 21 CFR 522.2477 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning December 6, 2001, because the application contains substantial evidence of the effectiveness of the drugs involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

2. Section 522.2477 is amended by adding paragraph (d)(2)(i)(C) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(C) 200 mg trenbolone acetate and 20 mg estradiol (one implant consisting of 10 pellets, each pellet containing 20 mg trenbolone acetate and 2 mg estradiol) per implant dose for use as in paragraph (d)(2)(ii)(A) of this section.

* * * * *

Dated: January 11, 2002.

Claire M. Lathers,

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

[FR Doc. 02–2949 Filed 2–6–01; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 071–0309; FRL–7134–2]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on December 15, 2000 and concerns PM–10 emissions from residential wood combustion. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates this emission source and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on March 11, 2002.

ADDRESSES: You can inspect a copy of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect a copy of the submitted rule revision at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On December 15, 2000 (65 FR 78434), EPA proposed a limited approval and limited disapproval of the rule in table 1 that was submitted for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4901	Residential Wood Burning	07/15/93	12/10/93

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the CAA. Our proposed action contains more information on the rule and our evaluation.

II. Public Comment and EPA Response

EPA's proposed action provided a 30-day public comment period. During this period, we received a comment from the following party:

Mark Boese, SJVUAPCD; letter dated January 11, 2001 and received January 16, 2001.

We received additional information from SJVUAPCD on November 29, 2001 which further elucidated the January 11th comment. This information was a memorandum titled, ''Contributions from residential woodburning to PM–10 and PM–2.5 in San Joaquin Valley cities and potential emissions reduction strategies,'' from Dr. John Watson to Evan Shipp dated November 28, 2001.

The comment on Rule 4901 and our response is summarized below.

Comment: SJVUAPCD notes that the BACM control measures suggested by EPA for Rule 4901, Residential Wood Burning, would be very controversial. SJVUAPCD needs a strong and clear relationship between residential wood burning and air quality to justify additional control measures. There is currently a California Regional Particulate Matter Air Quality Study (CRPAQS) from which preliminary data indicates there is such a relationship. But SJVUAPCD requests a postponement of the final notice for at least 10 months to allow time to evaluate a final report on the CRPAQS.

The subsequent information from Dr. Watson, a principal researcher on CRPAQS, explained that data from CRPAQS clearly supports additional controls on residential wood combustion.

Response: We have postponed final action on Rule 4901 for the requested time period.

As discussed in our December 15, 2000 proposal, the reference, *Technical Information Document for Residential Wood Combustion Best Available Control Measures,* EPA–450/2–92–002 (September 1992), provides national policy on determining BACM for residential wood combustion. This document provides a list of potential BACM measures that should be implemented unless SJVUAPCD demonstrates that they are not achievable given local conditions. Since this list of measures is over nine years old, SJVUAPCD should implement all those that are achievable as well as any other measures achievable in San Joaquin that have been developed in other serious PM–10 nonattainment areas. While we have not performed the thorough evaluation that SJVUAPCD must, and while the items below are not intended to identify the minimum measures necessary to fulfill BACM, three items from the national policy that seem likely achievable include the following:

- While the submitted rule describes a program for notifying the public of high PM–10 episodes and voluntary curtailment of solid-fuel-burning devices, it does not require any mandatory curtailment. EPA believes, at a minimum, that mandatory episodic curtailment can be implemented. The District should consider whether limiting the curtailment to open fireplaces and non-certified devices, the largest emitters of PM–10 and smoke, is appropriate or whether a more broad-based curtailment is necessary. A limited mandatory curtailment program could be incorporated as part of the voluntary curtailment program and could give the District authority to enforce on open fireplaces and non-certified devices in the event of public complaint.
- The District should consider revising the rule to require wood stoves and fireplaces to have EPA-certified phase II standards upon property sale or transfer.

• The District should consider revising the rule and collaborating with cities and counties on ordinances to limit the number of wood stoves and fireplaces per acre in new construction and require EPA-certified phase II standards on those being installed.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the SJVUAPCD Rule 4901 into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves a subsequent SIP revision that corrects the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the CAA as described in 59 FR 39832 (August 4, 1994). In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve a subsequent SIP revision that corrects the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the local agency, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

D. Executive Order 13132

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

F. Regulatory Flexibility Act

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

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will

not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

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

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

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 13, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(235) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(235) New and amended regulations for the following APCD were submitted on December 10, 1993, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4901, adopted on July 15, 1993.

* * * * *

[FR Doc. 02–2839 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0316; FRL–7134–1]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on June 5, 2001 and concerns the control of emissions from sulfur compounds. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates sulfur emission sources and directs California to correct the rule deficiency.

EFFECTIVE DATE: This rule is effective on March 11, 2002.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243–2801.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4125.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On June 5, 2001 (66 FR 30145), EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	405	Sulfur Compounds Emission Standards, Limitation	09/14/99	05/26/00

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. Specifically, the rule lacks recordkeeping requirements for sources subject to the rule.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted and our assessment of the rule as described in our proposed action has not changed. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules. Sanctions will not be imposed under section 179 because this is an attainment area for Sox and not a required submittal. Note that the submitted rule has been adopted by the ICAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

D. Executive Order 13132

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

Moreover, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicited comment on the proposed rule from tribal officials.

F. Regulatory Flexibility Act

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

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

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

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

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it doesnot require the public to perform activities conducive to the use of VCS.

I. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 14, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(279)(i)(A)(*7*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(279) * * *

(i) * * *

(A) * * *

(*7*) Rule 405, adopted on September 14, 1999.

* * * * *

[FR Doc. 02–2840 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA249–0324; FRL–7134–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on

August 7, 2001 and concern oxides of nitrogen (NO_X) emissions from mobile sources (Class 7 and 8 heavy duty vehicles, marine vessels, ocean-going marine vessel hotelling operations, truck and trailer refrigeration units), and area sources (agricultural pumps). We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on March 11, 2002.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Lily Wong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4114.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On August 7, 2001, (66 FR 41174), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1612.1	Mobile Source Credit Generation Pilot Program	03/16/01	05/08/01
SCAQMD	1631	Pilot Credit Generation Program for Marine Vessels	05/11/01	05/31/01
SCAQMD	1632	Pilot Credit Generation Program for Hotelling Operations	05/11/01	05/31/01
SCAQMD	1633	Pilot Credit Generation Program for Truck/Trailer Refrigeration Units.	05/11/01	05/31/01
SCAQMD	2507	Pilot Credit Generation Program for Agricultural Pumps	05/11/01	05/31/01

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 60-day public comment period. During this period, we received comments from the following parties.

1. Suma Peesapati, Communities for a Better Environment (CBE); letter dated October 9, 2001 and received October 9, 2001.
2. Reed L. Royalty, Orange County Taxpayers Association (OCTA); letter dated August 30, 2001 and received September 6, 2001.
3. William J. Quinn, California Council for Environmental and Economic Balance (CCEEB); letter dated October 5, 2001 and received October 5, 2001.
4. Jon K. Owyang, Market-Based Solutions (MBS); letter dated October 8, 2001 and received October 8, 2001.
5. Jack Brunton, Sempra Energy (SE); letter dated October 8, 2001 and received October 9, 2001.
6. Michael J. Carroll, Latham & Watkins (LW); letter dated October 9, 2001 and received October 9, 2001.
7. Detrich B. Allen, City of Los Angeles (CLA); letter dated October 9, 2001 and received October 9, 2001.

The comments and our responses are summarized below.

Comment 1: CBE commented that the RECLAIM program is fundamentally flawed and, as a result, has not achieved the emission reductions promised during program development eight years ago. Among the problems that CBE describes with RECLAIM are: (a) Initial over-allocation of credits resulting from artificially inflated baselines; (b) Inadequate safeguards against fraud and uncertainty; (c) Emissions have actually increased from the two largest NO_X source categories.

Response 1: RECLAIM is implemented by SCAQMD's Regulation 20 and establishes a declining cap on emissions from medium and large stationary NO_X sources. Regulations 16 and 25 provide mechanisms to generate emission reduction credits from mobile sources and area sources that can be purchased by RECLAIM sources. EPA is not acting on Regulation 20 at this time. We are acting on rules in Regulations 16 and 25, which can and should be evaluated independently. Regulation 16 and 25 sources are not also subject to Regulation 20 and Regulation 20 does not need to function well to achieve emission reductions from Regulations 16 and 25. Even if Regulation 20 has achieved no real emission reductions to date, rules in Regulation 16 and 25 should be approved if they comply with the CAA as described in relevant national policy and guidance. As discussed in today's notice and the August 7, 2001 proposal, we believe these rules in Regulations 16 and 25 do comply with the CAA. Comments on Regulation 20 are not relevant to EPA's SIP action on the Regulation 16 and Regulation 25 credit rules.

Comment 2: CBE commented that SCAQMD and EPA should fix RECLAIM's defects rather than developing and approving the Regulation 16 and 25 rules. Regulations 16 and 25 would increase the supply of cheap credits which will exacerbate the problem with the RECLAIM program.

Response 2: We agree that SCAQMD should correct any problems with the existing RECLAIM program. However, as discussed in Response 1, Regulations 16 and 25 can and should be evaluated independently from Regulation 20. While we do not believe these reductions will be inexpensive, as suggested by the comment, there would be nothing inherently wrong if they were. An important feature of economic incentive programs like this is to allow industry to achieve the most economically efficient emission reductions. The commenter may be alleging that the emission reduction credits will be cheap because they will not come from real emission reductions. The commenter, however, provides no evidence or support for this. If used, we believe these credit rules will generate real emission reductions. As discussed in the Technical Support Documents (TSDs) to our August 7, 2001 proposal, the rules are carefully designed to assure that reductions are surplus, quantifiable, enforceable and permanent. As we have stated numerous times, the criteria for judging the adequacy of emission reduction credits, i.e., that the emission reductions are surplus, quantifiable, enforceable and permanent, are based upon fundamental requirements of the CAA. See ''Emissions Trading Policy Statement,'' 51 FR 43814, 43831–43832 (December 4,

1986), and ''Economic Incentive Program Rules,'' 59 FR 16690, 16691 (April 7, 1994).

We note also that the Regulation 16 and 25 rules are designed to achieve significant environmental benefit. In particular, the rules require that all NO_X emission reduction credits be discounted by 9–10% for the benefit of the environment. The rules will also significantly reduce particulate matter (PM) emissions, since no PM emission reduction credits are awarded. For these reasons, the approval of these credit rules will strengthen the SIP, regardless of the past performance of the RECLAIM program.

Comment 3: CBE commented that SCAQMD has not complied with Rule 2015 which offers an appropriate ''fix.'' Rule 2015 requires SCAQMD to conduct a thorough investigation of the high price of credits in the context of the compliance and enforcement program, and of whether the program provides appropriate incentives to comply.

Response 3: SCAQMD'S implementation of Rule 2015 is not relevant to this rulemaking. Rule 2015 does not preclude the SCAQMD from developing credit rules in Regulations 16 and 25. See also Responses 1 and 2.

Comment 4: CBE commented that mobile to stationary source trading results in environmental justice (EJ) impacts. While the benefits from emission reductions from mobile sources occur over a widespread area, the emissions increases occur at stationary sources, often in low-income communities of color. Further, even if the emission reductions occur in low-income communities of color, pollution is merely transferred from mobile to stationary sources in the same community.

Response 4: EPA agrees that programs which allow volatile organic compound (VOC) trading should address EJ, because many VOCs are also hazardous air pollutants (HAPs) that may impact health of people near the emission sources. This comment is not relevant to the five credit rules, however, which only allow trading of NO_X emissions and not VOC or HAPs. NO_X emissions combine with VOCs to form ozone, which can have significant health impacts. But because ozone forms fairly slowly and then disperses throughout the South Coast Air Basin, it is highly unlikely that increased NO_X emissions in any one South Coast neighborhood will disproportionately increase ozone levels in the same neighborhood. NO_X emissions also contributes to PM formation, but the increased health impacts from this PM in the South Coast is also a regional and not a localized problem for the same reasons, and thus does not have EJ implications. Lastly, NO_2, a component of NO_X emissions, can have health impacts. To considerable extent, the same arguments regarding regional rather than localized impacts would apply here. In addition, all areas of South Coast and the country meet the health-based NO_2 standard, so no health impacts are expected from NO_2.

Comment 5: CBE commented that monitoring mobile emission reduction programs is difficult and often leads to ''phantom trades,'' citing SCAQMD's experience with Rule 1610 regarding car scrappage.

Response 5: EPA believes that emission reductions from these five credit rules are real, surplus, quantifiable, enforceable, and permanent. These five credit rules are fundamentally different than the car scrappage program because they require utilization of a cleaner technology to generate emission reduction credits. Rule 1610, on the other hand, assumed that emissions would be reduced by scrapping cars that would no longer operate. While we agree that Rule 1610 was significantly flawed, its problems (e.g., some scrapped cars had not been in use and some cars' parts were used after being scrapped) do not relate to these credit rules. Oversight, for example, of these credit rules is more straightforward because they require changes to equipment which can be easily verified. The credit rules also require extensive monitoring, recordkeeping and reporting to verify the emission reduction credits.

Comment 6: CBE commented that proper functioning of the RECLAIM market necessitates a closed universe of credits. This is why, for example, excess emissions are deducted from sources' annual credit allocation—to regulate the total amount of pollution on the market.

Response 6: It is not essential that the total amount of pollution in the market remain fixed, but that the basin-wide emissions be reduced. A closed universe of emission reduction credits in RECLAIM is not necessary if new emission reductions are real and appropriately addressed in the emissions inventory. As discussed in Response 2, the five credit rules are carefully designed to assure that reductions are real by being surplus (which includes being addressed in the emissions inventory), quantifiable, enforceable and permanent.

We also evaluated the credit rules to determine whether demand shifting could create ''paper'' reductions by shifting activity to sources not participating in the program. Demand shifting is not a problem because emission reduction credits can only be generated to the extent that generators lower emission rates and actually engage in the activity. If, for example, a generator completely shifts his activity level to sources not participating in the program, no emission reduction credits are generated and the emission rate of the non-participating sources would not increase. We also evaluated whether the credit rules could increase activity and emissions from the source categories they address. We are aware of no basis for this to occur. Any increase in source category activity would be a function of growth that would be factored into the attainment plan.

Comment 7: CBE commented that CAA section 110(a) requires SIPs to include programs for enforcement of control measures, and to assure adequate personnel, funding and authority. SCAQMD has a minimum 2-year lag in enforcing existing programs, and the five credit rules impose a new set of monitoring, reporting and calculating criteria that will substantially increase SCAQMD's enforcement burden. SCAQMD does not plan to increase its enforcement capacity to properly oversee these new requirements in violation of section 110(a).

Response 7: EPA originally approved California's compliance with the section 110(a)(2)(E) personnel, funding and authority requirement in 1972, and we have had no cause to question SCAQMD's continued compliance since then. Enforcement cases take time to identify, develop and negotiate, and while a two-year lag to close them out is not ideal, in itself it does not justify questioning compliance with section 110(a)(2)(E). We note also that SCAQMD is by far the largest and best funded local air pollution regulatory agency in the country, with over 750 staff and an annual operating budget of over $85 million. In addition, we understand that in the last two and a half years, SCAQMD has added 22 inspectors which may help SCAQMD in determining RECLAIM compliance. We understand that the emission reduction projects under these five credit rules are administered by SCAQMD staff in a different office than staff working on RECLAIM compliance.

Comment 8: CBE commented that approving the credit rules will relax existing requirements in violation of CAA section 110(l). Section 110(l) directs EPA to not approve SIP revisions that interfere with attainment, reasonable further progress or any other applicable requirement. Credit rule approval would delay real emission

reductions by postponing installation of available control equipment on RECLAIM sources, and thus interfere with reasonable further progress and attainment in the South Coast.

Response 8: If used, we believe these credit rules will generate real emission reductions. We agree that use of these rules may mean some available controls are not installed on RECLAIM sources. However, because the new emission reductions are real, and additional environmental benefit is built into the Regulation 16 and 25 rules, we expect the rules to result in a net decrease in emissions, and not interfere with attainment, reasonable further progress or any other applicable requirement in violation of CAA section 110(l). See also Responses 2 and 6.

Comment 9: CBE provided information regarding California's alleged power crisis and commented that the crisis may not have been responsible for the price spike in RECLAIM credits. If it was, the energy crisis is over and doesn't justify changes to the RECLAIM program. If it wasn't, the price reflects the true cost of foregoing pollution control and represents a healthy market making up for years of dysfunction. This is not the time to flood the market with more credits which will artificially drive down credit prices and delay real emission reductions.

Response 9: As discussed in Response 2 and elsewhere, we believe the five credit rules comply with the CAA and will benefit the environment. The justification for developing these rules is not a criteria in our evaluation.

Comment 10: CBE commented that, at a minimum, SCAQMD should limit the amount of new emission reduction credits that can enter the RECLAIM market to prevent: (a) Flooding the market with emission reduction credits that drive down credit prices and continue a dysfunctional market that provides no incentives for pollution control; (b) eviscerating the potential benefits of compliance plans under proposed RECLAIM Rules 2009 and 2009.1; and (c) violating CAA section 110(l).

Response 10: See Responses 1, 2, 6, 8, and 9. In addition, SCAQMD's staff reports estimate that the maximum NO_X emission reduction credits that will be generated from the five credit rules is approximately 2.75 to 3.96 tons/day. Even if this entire amount of emission reduction credit is generated, it is unlikely to flood the RECLAIM credit market, which currently contains approximately 32.45 tons/day.

Comment 11: CBE commented that Rule 1612.1 contains only 9% instead of the traditional 10% environmental benefit, in violation of CAA section 110(l). The 10% benefit helps ensure that pollution credit programs reduce pollution, and helps mitigate the margin of error associated with emission measurement and emission reduction credits calculation.

Response 11: EPA evaluates environmental benefit as an issue separate from uncertainty. EPA however agrees that technical uncertainty must also be addressed. We believe that uncertainty in measuring emissions and calculating emission reductions has been addressed by establishing conservative emission quantification protocols in these rules. For example, the baseline emission rate in Rule 1612.1 is the emission rate for a new on-highway diesel engine that meets both EPA and CARB certified exhaust engine standards. Applying certified engine standards helps remove the uncertainty relating to the remaining useful life of the existing diesel engine, and will result in a conservative estimate of baseline emissions, since we expect that the actual emission rate of the existing diesel engines will be higher than the baseline emission rate specified in the emission quantification protocols. Technical uncertainty is also mitigated by the use of certified engine standards for the optional emission factors in Rule 1612.1. Under the CAA and other federal regulations, manufacturers must submit applications to obtain a certificate of conformity to EPA on the basis of engine(s) testing that conforms to the requirements of the EPA Test Procedures, and where applicable, in accordance with the California Exhaust Emission Standards and Test Procedures for new model year engines.

As discussed in our August 7, 2001 proposal, EPA published the EIP guidance, ''Improving Air Quality with Economic Incentive Programs'' (EPA–452/R–01–001) in January 2001 to help ensure consistent application of the CAA regarding economic incentive programs like RECLAIM and the five credit rules. The EIP guidance suggests that a 10% emission reduction credit discount generally demonstrates adequate environmental benefit consistent with the CAA, but also allows States to demonstrate environmental benefit other ways. Nine percent of all NO_X emission reductions generated under Rule 1612.1 will be retired for benefit of the environment and cannot be used to offset emissions at RECLAIM sources. Rule 1612.1 activity as well as the activities in the other credit rules will also significantly reduce PM emissions; but since no PM emission reduction credits are awarded or can be used by RECLAIM sources, all the PM emission reductions fully benefit the environment. These PM emission reductions are important to the demonstration of overall environmental benefit from Rule 1612.1 and, in combination with the 9% NO_X emission reduction credit discount, are consistent with the EIP guidance and the CAA.

Comment 12: CBE commented that the CAA prohibits use of mobile source emission reduction credits from the five rules for NSR offsets. CAA section 173(a)(1)(A) states that offsets must be obtained ''from existing sources in the region.'' CAA section 111(a)(6) defines ''existing source'' as ''any stationary source other than a new source.'' Therefore, NSR offsets must be obtained from stationary, not mobile sources.

Response 12: CBE misunderstands the purpose and application of section 111 of the CAA. The title of section 111 is also a description of its limited application; ''Standards of Performance for New Stationary Sources.'' The definition cited by CBE in section 111(a)(6) applies only to the stationary sources covered by section 111. That definition is not applicable to or relevant for these credit rules, which are being included into the California SIP pursuant to section 110 of the CAA. Had Congress wished to limit the generation of offsets to stationary sources, it would have inserted ''stationary'' in front of ''sources'' in the language quoted by CBE from section 173(a)(1)(A) of the CAA. Congress was obviously aware of this distinction, having defined ''stationary source'' for purposes of the CAA in section 302(z). Since section 173(a)(1)(A) uses the broader term ''sources,'' EPA has concluded that this can include mobile sources.

Comment 13: CBE has commented that EPA's reliance on the 2001 EIP Guidance as the basis for proposing approval of the credit rules is illegal. The 2001 EIP guidance has no legal authority and calls for a relaxation of standards proposed in other policy statements and rules. The 2001 EIP guidance cannot change standards that have gone through the formal rulemaking process, such as the 1986 Emissions Trading Policy Statement (ETPS) and the 1994 EIP rule, and surely cannot trump federal CAA requirements.

Response 13: While the 1986 ETPS was published in the **Federal Register**, it was guidance, not regulation and did not, as CBE suggests, go through formal rulemaking. Similarly, the 1994 EIP explains that it was guidance for discretionary programs such as these five credit rules. The 2001 EIP is EPA's most recent guidance for economic

incentive programs. EPA'S publication of the 1986 ETPS, 1994 EIP, and 2001 EIP did not constitute a final determination for discretionary programs and none of them were intended to trump CAA requirements. They have all been used, however, to help assure consistent interpretation of the CAA where its application to detailed EIP requirements is unclear. As stated earlier, the criteria for judging the adequacy of emission reduction credits, *i.e.,* that the emission reductions are surplus, quantifiable, enforceable and permanent, are based upon fundamental requirements of the CAA. See ''Emissions Trading Policy Statement,'' 51 FR 43814, 43831–43832 (December 4, 1986), and ''Economic Incentive Program Rules,'' 59 FR 16690, 16691 (April 7, 1994).

The next set of comments are summarized from letters CBE wrote to SCAQMD during development of the five credit rules and were attached to CBE's August 9, 2001 comment letter to EPA. Since CBE's August 9, 2001 letter is quite extensive and raises many of the same issues as the attachments, we believe the attachments were included only as background information and not intended as comments to our August 7, 2001 proposal. We also note that many of the issues in the attachments are not relevant to our August 7, 2001 proposal because they were raised in context of SCAQMD's local rulemaking. As a result, we do not believe we need to respond to the issues raised in the attachments. As a courtesy to the commenter, however, we have summarized and responded to these comments below.

Comment 14: CBE has commented that because of the EJ concerns, Rule 1612.1 must have a better public participation process and evaluation. CBE believed it appropriate to offer community members notice and opportunity to comment on individual trades. The rule does not provide for an evaluation of the program until 2006 and should be evaluated on an annual basis.

Response 14: The rules require a biannual program review beginning in 2002 for Rule 1612.1. See also Response 4 regarding EJ concerns. The SIP-approved RECLAIM program does not provide for public notice and comment on individual trades, and we see no basis for requiring such notice and comment for Rule 1612.1 trades.

Comment 15: CBE commented that SCAQMD must incorporate technical uncertainty in the calculation of emission reduction credits. Rule 1612.1 does not incorporate technical uncertainty in its calculation protocols and allows use of notoriously inaccurate emission factors.

Response 15: Technical uncertainty is accounted for in Rule 1612.1's emissions quantification protocol even though it does not appear as a separate factor in the calculations. See also Response 11.

Comment 16: CBE commented that SCAQMD violated the California Environmental Quality Act (CEQA) in its rulemaking process for this program, citing numerous deficiencies.

Response 16: SCAQMD has certified that development of the five credit rules fully complies with CEQA. Specifically, SCAQMD made the following findings: A draft Environmental Assessment (EA) was circulated for a 30-day public review, all comments received were responded to in the Final EA, and the Final EA is adequate. SCAQMD has included the Final EA for the five credit rules in its SIP submittal. In submitting these rules to EPA, the California Air Resources Board (CARB) has concurred with this certification. SCAQMD and CARB have much greater expertise in implementing and interpreting this state law than does EPA, and we concur with their analysis.

Comment 17: The RECLAIM program has already violated California Health and Safety Code section 39616(c), which require EIPs to reduce emissions as much or more than the programs they replace. A generous estimate of actual overall reductions resulting from RECLAIM is 16% since 1993. Approving the RECLAIM amendments and associated credit rules will only exacerbate the problem.

Response 17: See Responses 1 and 2.

Comment 18: The Mitigation Fee Program and the RECLAIM AQIP violate the equivalency requirement under State Law.

Response 18: These comments relate specifically to recent amendments to Regulation 20 and are not relevant to the five credit rules. See also, Responses 1 and 2.

Comment 19: While CBE supports SCAQMD's efforts to mandate pollution control at certain power plants through submittal of compliance plans to achieve BARCT, it is unclear what the BARCT standards are for power producing facilities.

Response 19: See Response 18.

Comment 20: It is unclear what is meant by ''best available information'' which is the basis for environmental dispatch under Rule 2009.

Response 20: See Response 18.

Comment 21: CBE provided a copy of extensive comments that they made in 1994 to CARB during CARB's hearing on RECLAIM.

Response 21: These comments are not relevant to the five credit rules. See Response 1 and 2.

The next comments are summarized from a June 1, 2001 letter CBE wrote to CARB and EPA, and were attached to CBE's October 9, 2001 comment letter to EPA Region 9 regarding the five credit rules. Since CBE's August 9, 2001 letter is quite extensive and raises many of the same issues as the attachment, we believe the attachment was included only as background information and not intended as comments to our August 7, 2001 proposal. As a result, we do not believe we need to respond to the issues raised in the June 1, 2001 letter. As a courtesy to the commenter, however, we have summarized and responded to these comments below.

Comment 22: CBE commented that CARB has not determined, in accordance with California Health and Safety Code section 39616(d)(2), that Rule 1612.1 meets certain requirements of the California Clean Air Act. CBE believes that the new rules violate several provisions of state law, including equivalency under subdivision (c) of section 39616.

Response 22: We have discussed this issue with CARB. CARB provided us with the following legal analysis. CARB has much greater expertise in implementing and interpreting this state law than does EPA, and we concur with their analysis.

When an air district first adopts or revises its attainment plan to establish a market-based incentive program, such as RECLAIM in the South Coast, the district is required to meet the conditions specified in Health and Safety Code section 39616(d)(1) or (2) as applicable and to make certain findings, and CARB is required to make a determination that the conditions are met. Further, CARB must determine that the district met the conditions specified in section 39616(d) when adopting regulations to implement a market-based incentive program. SCAQMD and ARB met these obligations when the RECLAIM program was established.

These requirements do not apply to the 5 credit rules, however, because they are not establishing a new market-based incentive program or significantly altering an existing program. CBE's reading of the statute as applying to the credit rules, which do not undermine the findings and determinations made when the overarching RECLAIM program was established, is incorrect.

This does not mean that a market-based program goes without further review for compliance with the requirements of section 39616. Under section 39616(e), a district is required to

reassess its program established in accordance with section 39616 within 5 years of adoption and ratify certain of the findings made at the time of adoption within 7 years, with CARB concurrence. This process is currently underway but has not yet been completed.

Comment 23: CBE commented that the credit rules violate State law because they do not comply with CARB's methodology which requires that calculation methods for determining the amount of reductions generated take technical uncertainty into account.

Response 23: SCAQMD has determined that the credit rules are consistent with State law. In submitting these rules to EPA, CARB has concurred with this determination. SCAQMD and CARB have much greater expertise in implementing and interpreting this state law than does EPA, and we concur with their analysis. We also believe that technical uncertainty has been addressed in these rules. See Response 11.

The next set of comments are summarized from an October 10, 1999 letter CBE wrote to EPA Headquarters during the comment period for the 2001 EIP guidance, and were attached to CBE's October 9, 2001 comment letter to EPA Region 9 regarding the five credit rules. Since CBE's October 9, 2001 letter is quite extensive and raises many of the same issues, we believe the October 10, 1999 letter was included only as background information and not intended as a comment to our August 7, 2001 proposal. We also note that many of the issues in the October 10, 1999 letter are either not relevant to our August 7, 2001 proposal because they were raised in context of EPA's generic national guidance, or EPA has already responded above to the issue. As a result, we do not believe we need to respond to the issues raised in the October 10, 1999 letter. As a courtesy to the commenter, however, we have summarized the remaining relevant issues and responded to these comments below.

Comment 24: CBE comments that the EIP guidance undermines many existing technology-based rules and regulations, existing EIP policy and rules, as well as the CAA itself.

Response 24: As discussed in Response 13, the draft EIP guidance was developed to help assure consistent interpretation of the CAA where its application to detailed EIP requirements is unclear. We do not believe it is inconsistent with pre-existing federal requirements or the CAA. Ultimately, however, specific EIP rules like the five SCAQMD credit rules must comply with the CAA and implementing regulations regardless of the EIP guidance.

Comment 25: CBE commented that the public must have access to the results of the program evaluation and the public must be able to participate in the development of the reconciliation procedures.

Response 25: The five credit rules include provisions for a biannual review. The SCAQMD Board also adopted a Resolution which directed staff to include in the annual RECLAIM report, the applications and credits issued pursuant to the credit rules. Consequently, information will be available to the public on an annual basis. The five credit rules and the RECLAIM program rules and amendments include reconciliation procedures which have been subject to public notice and comment.

Comment 26: CLA commented that while they support compliance flexibility measures, they urged EPA and SCAQMD to carefully examine potential adverse localized impacts to surrounding communities since credit programs can have potential socio-economic and environmental impacts.

Response 26: The SCAQMD Governing Board adopted a Resolution on May 11, 2001 which directed SCAQMD staff to evaluate the potential for localized impacts from the use of emission reduction credits from these credit rules, and to recommend to the Governing Board mechanisms to address such localized impacts, if any. See also Response 4.

Comment 27: CLA commented that EPA and SCAQMD should provide assurance that the proposed credit rules will not preclude SIP emission reduction requirements for the maritime industry.

Response 27: The five credit rules do not preclude SCAQMD from submitting additional SIP emission reduction requirements for the maritime industry.

Comment 28: CLA commented that they supported the sunset of the credit rules prior to 2010, the year for ozone attainment, and they believe that any surplus emission reductions that remain from Rules 1631 or 1632 should be applied to the Marine Vessel SIP Control Measure or other equivalent measure for the maritime industry in the most recent EPA-approved SIP.

Response 28: Rule 1631 will end June 30, 2005. We agree that any emission reductions achieved subsequent to that time should be applied to the SIP. Rule 1632 includes a provision to evaluate, in 2010, whether the emission reductions remain surplus in the context of the most recently EPA-approved SIP. If the emission reductions are determined not to be surplus, Rule 1632 ends in 2010. If the evaluation shows that some or all of the emission reductions are surplus, Rule 1632 could continue.

Comment 29: The other commenters all supported our proposed action to fully approve the five credit rules.

Response 29: No response needed.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely

approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: January 16, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(282) and (c)(284)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(282) New and amended regulations for the following APCDs were submitted on May 31, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 1631, 1632, 1633, and 2507 adopted on May 11, 2001.

* * * * *

(284) * * *

(i) * * *

(B) South Coast Air Quality Management District.

(*1*) Rule 1612.1 adopted on March 16, 2001.

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[FR Doc. 02–2841 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301166A; FRL–6823–4]

RIN 2070–AC18

Sulfuryl Fluoride; Temporary Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes temporary tolerances for residues of sulfuryl fluoride and inorganic fluoride in or on walnuts and raisins. The Agency is establishing these temporary tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 to support an Experimental Use Permit (EUP) that involves testing a possible alternative to methyl bromide in the post-harvest fumigation of stored commodities. This experimental use fumigant program is being proposed as a methyl bromide alternative for the post-harvest fumigation of stored walnuts and raisins. These temporary tolerances will support a 3-year EUP effective between March 1, 2002 through March 1, 2005 and allows 18 months for treated commodities to clear commerce. The EUP will be conducted by Dow AgroSciences entirely in the state of California. The temporary tolerances expire on September 1, 2006. A detailed risk assessment for the proposed use was published in the **Federal Register** on September 5, 2001 (66 FR 46415).

DATES: This regulation is effective February 7, 2002. Objections and requests for hearings, identified by docket control number OPP–301166A, must be received by EPA on or before April 8, 2002.

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–301166A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–6742; and e-mail address: mcneilly.dennis@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

Categories	NAICS	Examples of Potentially Affected Entities
	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–301166A. 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 September 5, 2001 (66 FR 46415) (FRL–6799–6), EPA issued a proposed rule 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) for tolerance by Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. This proposed rule included a risk assessment of the temporary tolerance petition and EUP by the Agency.

The petition requested that 40 CFR part 180 be amended by establishing temporary tolerances for residues of the insecticide sulfuryl fluoride and its metabolite inorganic fluoride, in or on walnuts and raisins at 2.0 parts per million (ppm) for sulfuryl fluoride in or on walnuts; 0.004 ppm for sulfuryl fluoride in or on raisins; and, 12 ppm for fluoride in or on walnuts. The proposed temporary tolerances were first published in the **Federal Register** on June 15, 2001 (66 FR 32618) (FRL–6788–2)(as the registrant's notice of filing) and once again on September 5, 2001 (66 FR 46415) with a more robust, Agency-written risk assessment for residues of sulfuryl fluoride and the metabolite fluoride in or on walnuts and raisins. These temporary tolerances will expire on September 1, 2006.

The registrant also submitted a request for an exemption from the requirement of a tolerance for fluoride residues in or on raisins resulting from the treatment with the insecticide sulfuryl fluoride under the USEPA's Threshold of Regulation Policy - Deciding Whether a Pesticide with a Food Use Pattern Needs a Tolerance. The Agency did not accept this request for several reasons outlined in the September 5, 2001 proposed rule, the major reason being that current registered uses of the insecticide cryolite on grapes can result in fluoride residues in raisins.

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).

Based on these risk assessments presented in the preamble to the proposed rule, (66 FR 46415, September 15, 2001), and taking into account the comments on the proposed rule discussed below, 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 sulfuryl fluoride and inorganic fluoride residues.

III. Analytical Enforcement Method

Adequate methods of analysis for both sulfuryl fluoride and fluoride anion are available. The methods are considered adequate as tolerance enforcement methods for the purposes of these temporary tolerances during the EUP. For a Section 3 registration, the registrant will need to submit independent laboratory validations for both the proposed sulfuryl fluoride and inorganic fluoride methods. For sulfuryl fluoride, the method consists of blending the sample for 5 minutes in an air-tight Eberbach blending device, equilibrating the sample for 5 minutes and analyzing 30 ml of headspace from the sample container by gas chromatography. For fluoride anion, analysis is done by ion-specific electrodes using a double standard addition procedure. Spike and recovery data submitted with the request show acceptable recovery for both sulfuryl fluoride and inorganic fluoride for raisins and walnuts.

Adequate enforcement methodology is available to enforce the tolerance expression. The methods 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.

IV. Response to Comments

The Agency received 86 written comments, and two individuals called on the telephone objecting to the proposed tolerances. A few of the comments were submitted by the same individual twice. Most of the comments the Agency received concerning establishment of temporary tolerances for sulfuryl fluoride concern the fluoride tolerances and issues with fluoride exposure/toxicity. No scientific argument or rationale related to sulfuryl fluoride exposure/toxicity was received. A few individuals did state they did not want sulfuryl fluoride used on food at all because it is a poison. A very large number of comments came from organizations that have strong concerns about fluoridation of the water. The debate on water fluoridation has a long history. It is noteworthy, however, that the Centers for Disease Control and Prevention lists fluoridation of the drinking water as one of the ten great public health achievements in the 20th Century. The exposure to fluoride as a result of the proposed tolerances in or on walnuts and raisins is insignificant compared to the exposure to fluoride in drinking water. In addition, tolerances already exist for residues of fluoride in or on raisins at 7 ppm (expressed as Cryolite) as a result of using Cryolite to treat grapes for insect control. The Agency estimates that the proposed use will not significantly increase the dietary levels of fluoride for the public as a result of consuming raisins and/or walnuts treated under an EUP.

There have been numerous independent evaluations of the toxicity of fluoride: U.S. Public Health Service (1991), EPA (1985), National Academy of Science (NAS) (1998) and Agency for Toxic Substances and Disease Registry (ASTDR) (1993, draft report 2001). All of these reviews have indicated that the critical adverse effects, i.e., the endpoints to regulate, from fluoride ingestion are the effects on bone and teeth. In consideration of the proposed temporary tolerances for walnuts and raisins, the Agency used the maximum concentration limit goal (MCLG) of 4.0 ppm (0.114 mg/kg/day) for fluoride as the basis for a maximum allowable exposure to inorganic fluoride (see the Cryolite Reregistration Eligibility Decision, 8/96, EPA–738–R–96–016). This exposure was used as the chronic population adjusted dose for inorganic fluoride in the risk assessment supporting the temporary tolerances. The exposure to fluoride from this use is estimated to be insignificant when compared to typical exposures from fluoridated water supplies. In addition, fluoridation of water has been endorsed by the U.S. Surgeon General.

Many parties commented on the proposed temporary tolerances associated with the EUP. They included environmental and public interest groups, private citizens, foreign nationals, and the registrant. The comments ranged in specificity. Some commenters prepared detailed arguments based on exposure and or toxicology. Other commenters criticized the Agency for even considering establishing tolerances for fluoride residues on food. These commenters did not seem to be aware that there have been tolerances for fluoride residues in food from cryolite use for many years.

Many of the commenters, presumably prompted by one public interest group as all the letters read the same, requested a time extension to allow additional time for comments on the proposed use. The Agency published details concerning the proposed use in July and again in September 2001. The individual who prompted the letter-writing campaign requesting the time extension, subsequently stated in a telephone conversation that the group would not be providing any new information and that the request for the time extension was so that the Agency would consider the cumulative exposure from fluoride. The Agency already has sufficient information to conduct a risk assessment for sulfuryl fluoride use on walnuts and raisins, including cumulative exposures to fluoride, and therefore no additional time extension for comments was granted.

The comments can be grouped into seven basic areas of concern and each section below contains a summary of the commenters concerns grouped by that general topic.

1. *Issue #1.* Several commenters raised concerns that the Agency had not used all available data in making its safety finding. In particular, one commenter discussed the results of a study published in 1998 that evaluated exposure to inorganic fluoride compounds and suggested that the Agency utilize this information before issuing the EUP for sulfuryl fluoride.

Agency response to issue #1. Most of the studies cited in the comment were studies outlined in the Notice of Filing and the Proposed Rule published on June 15, 2001 and September 5, 2001, respectively. The Agency has included all of the results of these studies in its risk assessment for the use of sulfuryl fluoride for post-harvest fumigation of walnuts and raisins. The commenters raise concerns about the toxicological findings in these studies. The Agency believes that it is important to remember that the objective of the toxicological testing is to define no observed adverse effect levels and lowest observed adverse effect levels for the chemical being evaluated. The Agency has taken all of these studies into account and believes that the toxicological endpoints chosen by the Agency in its risk assessment are sufficiently protective of human health.

The commenters do reference new information not considered as part of the Agency's risk assessment. In particular, one commenter suggested that the Agency incorporate the results of a study entitled ''Chronic Administration of Aluminum-Fluoride or Sodium Fluoride to Rats in Drinking Water: Alterations in Neuronal and Cerebrovascular Integrity'', published in the publication *Brain Research* in 1998. One of the co-authors of this study is an Agency employee who has indicated that the experiment discussed was designed to explore a specific hypothesis and that the results are not directly applicable to making conclusions about effects of aluminum or fluoride on public health. In addition, the study co-author has indicated that the results of the study do not support a conclusion that aluminum or fluoride selectively damage the brain or that these compounds cause Alzheimer's Disease. Therefore, at this time, the results of this study are not considered significant from the standpoint of establishing the tolerances proposed in the Agency's September 5, 2001, proposed rulemaking.

The other health concerns raised by the commenters have already been addressed by the Agency in other rulemakings or in responses to Members of Congress concerning exposure to fluoride. Included in the docket for this rulemaking is a copy of a letter, dated September 5, 2000, from J. Charles Fox, EPA Assistant Administrator, Office of Water, to Congressman Ken Calvert, Chairman of the Subcommittee on Energy and the Environment, Committee on Science. The Agency believes that this letter addresses the remaining health effects issues raised by the commenters.

2. *Issue #2.* Many commenters expressed concerns about the potential for over exposure to fluoride, specifically to children. Commenters mentioned exposures through dental product use, fluoridated water, and fluoride exposures from the use of other pesticides.

Agency response to issue #2. A requirement of the FQPA is that the

Agency consider all non-occupational exposures to a pesticide or substance when establishing new or reassessing tolerances for that pesticide. In conducting its risk assessment, the Agency assumed that all walnuts and raisins grown in the United States would be treated with sulfuryl fluoride, even though the accompanying EUP would significantly limit the use of sulfuryl fluoride to a small fraction of the total U.S. walnut and raisin crops. The Agency believes that its risk assessment accounts for the other concerns raised. The Dietary Exposure Examination Model (DEEM) includes data evaluating the food consumption patterns of children, including their consumption of walnuts and raisins. The risk assessment also includes analysis that neither raisins nor walnuts are typically washed before these foods are eaten. Regarding exposure to fluoride via dental products, the Agency believes that warning labels on these products provide explicit direction on how to significantly limit dietary exposure to fluoride-containing dental products for children. Regarding other exposures, the Agency's risk assessment includes exposures from the ingestion of fluoridated drinking water and fluoride exposures from the use of other pesticides, specifically cryolite. The Agency discussed these considerations at great length in its proposed rule of September 5, 2001.

3. *Issue #3*. One commenter expressed concern that the U.S. Food and Drug Administration (FDA) has not approved the use of sulfuryl fluoride on walnuts and raisins.

Agency response to issue #3. Both FDA and EPA share authority for implementation of the FFDCA. However, in establishing tolerances for pesticide residues on food, Congress explicitly delegated this authority to EPA. FDA does not approve or evaluate pesticide uses. FDA does have responsibility for monitoring the levels of pesticides residues in the food supply, however.

4. *Issue #4*. A commenter raised concern that the proposed tolerance did not include a discussion of the economic impacts of the proposed tolerances. In particular, the commenter discussed a recent ruling by the European Community regarding fluoride residues in wine grapes.

Agency response to issue #4. The FQPA of 1996 does not allow the Agency to consider the economic impacts of its decisions when establishing tolerances for pesticide residues. In this specific case, however, the commenter raises issues associated with wine grapes that are not the subject of this rulemaking.

5. *Issue #5*. Many commenters expressed concerns about drinking water being treated with fluoride.

Agency response to issue #5. The Agency has evaluated these concerns as part of its prior rulemakings setting the standard for the level of fluoride in drinking water. The Agency's Office of Water has taken these concerns into account. Furthermore, the Surgeon General has also evaluated the Agency's drinking water standard and has determined that the level of fluoride allowed in drinking water is safe. In addition, the Agency's risk assessment for sulfuryl fluoride includes exposures of fluoride resulting from the consumption of treated drinking water and it, too, concludes that the level of exposure is safe.

6. *Issue #6*. The registrant raised concerns about the need for a developmental neurotoxicity study to evaluate certain effects associated with exposure to sulfuryl fluoride.

Agency response to issue #6. The Agency has determined that this study is not needed to evaluate potential risks associated with the proposed EUP. However, as a requirement for unconditional registration of this product under the Federal Insecticide, Fungicide, and Rodenticide Act, the Agency believes that the developmental neurotoxicity study is warranted. The Agency is requiring this study because of the observation of treatment-related neurotoxic lesions in rats, mice, dogs and rabbits.

V. 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–301166A 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 April 8, 2002.

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–301166A, 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).

VI. 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 RegulationsThat 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 itrequire 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 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 onthe 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 thathave 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, foodprocessors, 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 withIndian 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 ofpower 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.

VII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801*et seq.*, asadded 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: January 29, 2002.

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 180.145 is amended by adding paragraph (a)(3) to read as follows:

§ 180.145 Fluoride compounds; tolerances for residues.

(a) * * *

(3) Temporary tolerances are established for residues of fluoride resulting from the post-harvest treatment with sulfuryl fluoride. The tolerances are measured and expressed as ppm of fluoride. Total residues of fluoride in or on raisins from the use of cryolite on grapes, addressed in paragraph (a)(1) of this section, or sulfuryl fluoride on raisins shall not exceed the tolerance list in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Raisins	30.0	9/1/06
Walnuts	12.0	9/1/06

* * * * *

3. Section 180.575 is added to read as follows:

§ 180.575 Sulfuryl fluoride; tolerances for residues.

(a) *General.* Temporary tolerances are established for residues of sulfuryl fluoride from the post-harvest treatment with sulfuryl fluoride on the following food commodities.

Commodity	Parts per million	Expiration/Revocation Date
Raisins	0.004	9/1/06
Walnuts	2.0	9/1/06

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registration.* [Reserved]

(d) *Indirect or inadvertant residues.* [Reserved]

[FR Doc. 02–2983 Filed 2–6–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP–301215; FRL–6820–9]

RIN 2070–AB78

Bentazon; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances with regional registration for combined residues of bentazon in or on clover, forage and clover, hay. 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.

DATES: This regulation is effective February 7, 2002. Objections and requests for hearings, identified by docket control number OPP–301215, must be received by EPA on or before April 8, 2002.

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–301215 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7610; and e-mail address: jackson.sidney@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/. 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_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–301215. 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 November 2, 2001 (66 FR 55660) (FRL–6806–1), 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) for tolerance by the Interregional Research Project #4, 681 U.S. Highway #1 South, North Brunswick, New Jersey 08902–3390. This notice included a summary of the petition prepared by BASF Corporation, Agricultural Division, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.355 be amended by establishing tolerances with regional registration 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 clover, forage at 1.0 ppm and clover, hay at 2.0 ppm. Registration will be limited to clover grown for seed in the States of Oregon and Washington based on the available residue data.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of bentazon on clover, forage at 1.0 ppm and clover, hay at 2.0 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 bentazon are discussed in the **Federal Register** of March 8, 2000 (65 FR 121222) (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 dose at which 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 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 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 Used in Risk Assessment, UF	FQPA SF* and Level of Concern 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 = 10 aPAD = acute RfD÷FQPA SF = 0.1 mg/kg/day	Developmental Toxicity-Rat LOAEL = 250 mg/kg/day based on increased postimplantation loss, skeletal variations, and reduced weight of fetuses.
Acute Dietary general population including infants and children	NONE	NONE	A dose and non-developmental endpoint attributable to a single exposure were not identified in oral toxicity studies.
Chronic Dietary all populations	NOAEL = 3.2 mg/kg/day; UF = 100; Chronic RfD = 0.03 mg/kg/day	FQPA SF = 10 cPAD = chronic RfD÷FQPA SF = 0.003 mg/kg/day	One-Year Feeding Study - Dog LOAEL = 13.1 mg/kg/day and based on a dose-dependent presence of feces with red areas in dogs at 13.1 and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.
Short-Term Dermal (1 to 7 days)(Residential)	NONE	NONE	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)[1] (Residential)	Oral NOAEL = 13.1 mg/kg/day (dermal absorption rate = 2%	LOC for MOE = 1,000 (Residential)	One - Year Feeding Study - Dog LOAEL = 52.3 mg/kg/day based on the presence of feces with red areas seen in dogs at weeks 4, 6, and 12.
Long-Term Dermal (several months to lifetime)[1,2] (Residential)	Oral NOAEL= 3.2 mg/kg/day (dermal absorption rate = 2% when appropriate)	LOC for MOE = 1,000 (Residential)	One-Year Feeding Study - Dog LOAEL = 13.1 mg/kg/day based on a dose-dependent presence of feces with red areas in dogs at the 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.
Short-Term Inhalation (1 to 7 days)[2] (Residential)	Oral developmental NOAEL= 100 mg/kg/day	LOC for MOE = 1,000 (Residential)	Developmental Toxicity - Rat LOAEL = 250 mg/kg/day based on increased postimplantation loss, skeletal variations, and reduced weight of fetuses.
Intermediate-Term Inhalation (1 week to several months)[3] (Residential)	Oral NOAEL = 13.1 mg/kg/day	LOC for MOE = 1,000 (Residential)	One-Year Feeding Study - Dog LOAEL = 52.3 mg/kg/day based on the presence of feces with red areas seen in dogs at weeks 4, 6, and 12.
Long-Term Inhalation (several months to lifetime)[3,4] (Residential)	Oral NOAEL= 3.2 mg/kg/day	LOC for MOE = 1,000 (Residential)	One Year Feeding Study - Dog LOAEL = 13.1 mg/kg/day based on 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.

[1] A dermal absorption factor of 2% should be used for route-to-route extrapolation.
[2] An inhalation absorption factor of 100% should be used for route-to-route extrapolation for short-term inhalation risk assessment.
[3] 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.
[4] 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 CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: EPA used survey data to estimate the percent crop treated for certain commodities. For all other commodities 100% CT was assumed. An anticipated residue was calculated for succulent peas using average residue values (1.08 ppm) from the submitted crop field trials. 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. Therefore, no cancer risk is expected.

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 these tolerances.

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. EPA used survey data of the percent CT in the chronic dietary exposure analysis of some commodities. Surveys of several commodities indicate that the percent of the crops treated are as follows: 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%). Although the surveys indicated no use of bentazon on alfalfa, sorghum and potatoes, EPA used a value of 1% CT in the chronic dietary exposure 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. Tolerance level residues were used for all crops, except succulent peas. An Anticipated Residue was calculated for succulent peas using average residue values (1.08 ppm) from the submitted crop field trials.

The Agency believes that the three conditions imposed by section 408(b)(2)(F) 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 concentrations in ground water used as drinking water are not likely to exceed 4.25 parts per billion (ppb). Since monitoring data show bentazon has been detected in ground water at higher concentrations than the Sci-GROW Screening Model, EPA used 20 ppb as the representative national Tier 1 ground water screening concentration for bentazon.

Tier II Pesticide Root Zone/Exposure Analysis Modeling System (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 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 II 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 and monitoring data for ground water 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:

Because bentazon is registered for consumer use on turf and ornamentals, there is potential for residential exposure to adult applicators and adults and children entering recreational and residential areas treated with bentazon. The handler exposure is expected to be short-term while the post-application exposure is expected for both the short- and intermediate-term. However, since there is no short-term dermal endpoint, the residential post-application exposure cannot be aggregated with the handler exposure. Short-term, non-dietary ingestion exposure for toddlers is not assessed since there is no acute dietary or oral endpoint applicable to infants and children (endpoint was applicable to women of child-bearing age). However, intermediate-term, non-dietary ingestion exposure to toddlers playing on treated turf is possible and was assessed. There are no chemical-specific or site-specific data available to determine the potential risks associated with residential exposures from handling bentazon. Therefore, the exposure estimates are based on assumptions and generic data as specified by the December 18, 1997 Draft Health Effects Division(HED) of EPA Standard Operating Procedures(SOP) for Residential Exposure Assessments. Since bentazon is applied no more than twice per year, only short-term exposure is expected for the residential handler. Since a dermal endpoint of concern was not identified for the short-term duration, only inhalation exposure estimates are relevant. Based on the residential use pattern, no long-term post-application residential exposure is expected.

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. *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 database 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*. Both the rat developmental and reproductive toxicity studies indicate increased susceptibility from *in utero* and postnatal exposure to bentazon. The available developmental toxicity data in rabbits did not provide an indication of increased susceptibility from *in utero* exposure to bentazon.

iii. *Conclusion*. There is a complete toxicity database 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:

a. Evidence of increased susceptibility following *in utero* exposure to bentazon in the prenatal developmental toxicity study in rats in the absence of maternal toxicity.

b. 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, 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 bentazon will occupy 2.0% 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]
Female 13–50 yrs. 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 10% of the cPAD for the U.S. population, 12% of the cPAD for non-nursing infants and 28% of the cPAD for children 1–6 years old, most highly exposed subpopulation. 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

[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	3000

[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).

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 females 13–50 years old, males 13–19 years old, and males 20+ 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)
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
Males 20+ 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.

The method may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, Environmental Protection Agency, 701 Mapes Road, Fort George G. Mead, MD 20755–5350; telephone number: 410–305–20905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican Maximum Residue Limit (MRL) for residues of bentazon and its metabolites in or on clover.

C. Conditions

1. Analytical analyses of bentazon and its regulated metabolites using the FDA multiresidue protocols are required as part of the conditional registration of bentazon on clover.

2. The proposed use on clover is limited to the States of Washington and Oregon and is limited to clover grown for seed.

V. Conclusion

Therefore, the tolerances with regional registration are established 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 clover, forage at 1.0 ppm, and clover, hay at 2.0 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–301215 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 April 8, 2002.

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–301215, 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 tolerances 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 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: January 30, 2002.

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 adding text to paragraph (c) to read as follows:

§ 180.355 Bentazon; tolerances for residues.

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration as defined in § 180.1(n), are established 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 the following food commodities:

Commodity	Parts per million
Clover, forage	1.0
Clover, hay	2.0

* * * * *

[FR Doc. 02–2984 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 012902B]

Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements; Equipment and Operational Requirements

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

ACTION: Announcement of effectiveness of data collection.

SUMMARY: NMFS is announcing the approval of information collection and recordkeeping requirements for the inspection of scales approved for weighing catch of Alaska groundfish at sea.

DATES: 50 CFR 679.28 (b)(2)(iii)(B), added February 4, 1998 (63 FR 5836) is effective Fenruary 7, 2002.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: Section 679.28 *Equipment and operational requirements*, was added to 50 CFR part 679 effective February 4, 1998 (63 FR 5836), except that paragraph (b)(2)(iii)(B), containing information collection and recordkeeping requirements, that could not become effective until approved by the Office of Management and Budget (OMB). Paragraph 679.28 (b)(2)(iii)(B) was approved by OMB in control no. 0648–0330, effective February 7, 2002.

Dated: January 31, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–2877 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

Rules and Regulations

Federal Register
Vol. 67, No. 26
Thursday, February 7, 2002

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.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–05–AD; Amendment 39–12631; AD 2002–02–03]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes, that requires repetitive inspections to detect cracking of the horizontal butt joint of the rear pressure bulkhead and repair, as necessary. This amendment also requires installation of new joint plates on the aft face of the rear pressure bulkhead, which terminates the requirements of this AD. This action is necessary to prevent cracking of the horizontal butt joint of the rear pressure bulkhead, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes was published in the **Federal Register** on September 14, 2001 (66 FR 47899). That action proposed to require repetitive inspections to detect cracking of the horizontal butt joint of the rear pressure bulkhead and repair, as necessary. That action also proposed to require installation of new joint plates on the aft face of the rear pressure bulkhead, which terminates the repetitive inspections.

Comments

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

Clarification of Compliance Times

Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has found that paragraphs (a)(1) and (d)(1) of the NPRM need to be clarified. Paragraph (a)(1) of the NPRM requires that the initial inspection of the horizontal butt joint of the rear pressure bulkhead be accomplished ''Prior to the accumulation of 12,000 flight cycles * * *.'' Paragraph (d)(1) of the NPRM requires that the modification of the rear pressure bulkhead be accomplished ''Prior to the accumulation of 40,000 flight cycles * * *.'' It was our intent that those actions be accomplished prior to the applicable ''total'' flight cycles. Therefore, we have revised paragraphs (a)(1) and (d)(1) of the final rule to specify total flight cycles.

Clarification of Terminating Action

Since the issuance of the NPRM, the FAA has also determined that the terminating action specified in paragraph (e) of the NPRM needs to be clarified. That paragraph states, ''Accomplishment of paragraph (d) of this AD terminates the need for repetitive inspections as specified in paragraph (b) of this AD.'' However, the installation required by paragraph (d) of this AD, as specified in BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000 (which is referenced as an appropriate source of service information in this AD), also terminates the requirements of paragraphs (a) and (c) of this AD. Therefore, we have revised paragraph (e) of the final rule to state, ''Accomplishment of the installation required by paragraph (d) of this AD constitutes terminating action for the requirements of this AD.'' We have also changed the Summary section of this AD accordingly.

Changes Made to Paragraph (c) of This AD

Since the issuance of the NPRM, we have found that paragraph (c) of the NPRM needs to be clarified. It was our intent that the repair may also be done per a method approved by the CAA's delegated agent. Therefore, we have included that language in paragraph (c) of this AD.

Conclusion

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

Cost Impact

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required detailed visual inspection of the horizontal butt joints on the forward and rear faces of the rear pressure bulkhead, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $480, or $60 per airplane, per inspection cycle.

It will take approximately 9 work hours per airplane to accomplish the

required installation of new butt joints on the rear pressure bulkhead, at an average labor rate of $60 per work hour. The estimated cost of the required parts is $495. Based on these figures, the cost impact of the required installation on U.S. operators is estimated to be $8,280, or $1,035 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–02–03 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12631. Docket 2001–NM–05–AD.

Applicability: Model BAe 146 series airplanes on which Modification HCM00713A has not been accomplished, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the horizontal butt joint of the rear pressure bulkhead, which could result in reduced structural integrity of the airplane, accomplish the following:

Initial Inspection

(a) Conduct a detailed visual inspection for cracking of the horizontal butt joint of the rear pressure bulkhead, in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–42, Revision 1, dated November 3, 2000, at the later of the times specified in paragraph (a)(1) or (a)(2) of this AD.

(1) Prior to the accumulation of 12,000 total flight cycles; or

(2) Within 4,000 total flight cycles or 2 years after the effective date of this AD, whichever occurs first.

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

Repetitive Inspections

(b) Repeat the detailed visual inspection specified in paragraph (a) of this AD at intervals not to exceed 12,000 flight cycles.

Repair

(c) If any crack is detected during a detailed visual inspection required by either paragraph (a) or (b) of this AD, prior to further flight, repair the crack in a manner approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (CAA) (or its delegated agent).

Modification

(d) Install new joint plates on the rear pressure bulkhead, in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000, at the later of the times specified in paragraph (d)(1) or (d)(2) of this AD.

(1) Prior to the accumulation of 40,000 total flight cycles, or

(2) Within 6,000 flight cycles or 2 years after the effective date of this AD, whichever occurs first.

Terminating Action

(e) Accomplishment of the installation required by paragraph (d) of this AD constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(h) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–42, Revision 1, dated November 3, 2000; and BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, dated November 3, 2000; as applicable. (Only the first page of BAE Systems (Operations) Limited Modification Service Bulletin SB.53–42–00713A, Revision 2, is dated; no other page of the document contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at

the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 002–11–2000.

Effective Date

(i) This amendment becomes effective on March 14, 2002.

Issued in Renton, Washington, on January 29, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–2649 Filed 2–6–02; 8:45 am]

BILLING CODE 4910–13–U

RAILROAD RETIREMENT BOARD

20 CFR Part 200

RIN 3220–AB48

Assessment or Waiver of Interest, Penalties, and Administrative Costs with Respect to Collection of Certain Debts

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to conform those regulations to the practice of the agency to waive interest, penalties, and administrative costs where a debt is being recovered by setoff from current annuities and where the debt was not caused by fraud. This amendment conforms the regulation to current agency practice.

EFFECTIVE DATE: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, Office of General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 200.7 of the Board's regulations provides for the assessment and waiver of interest, penalties, and administrative costs with respect to the collection of debts owed the Board. This final rule amends the regulations so that the assessment of interest, penalties and administrative costs will be automatically waived in any case where the debt is being recovered by full or partial withholding of current annuities payable under the Railroad Retirement Act and where fraud on the part of the debtor is not involved. This amendment conforms the Board's regulations to Board policy regarding recovery of debts due to the Board. The Social Security Administration also follows this same practice.

The Board published this rule as a proposed rule on September 5, 2001 (66 FR 46408), and invited comments by November 5, 2001. No comments were received. Accordingly, the proposed rule is adopted by the majority of the Board, Management Member dissenting, as a final rule without change.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 200

Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends 20 CFR part 200 as follows:

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Amend § 200.7 by adding a new paragraph (i) to read as follows:

§ 200.7 Assessment or waiver of interest, penalties, and administrative costs with respect to collection of certain debts.

* * * * *

(i) The Board shall waive the collection of interest, penalties, and administrative costs in any case where the debt to be recovered is being recovered by full or partial withholding of a current annuity payable under the Railroad Retirement Act and the debt was not incurred through fraud.

Dated: February 1, 2002.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–2944 Filed 2–6–02; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 200

RIN 3220–AB35

Designation of Central and Field Organization

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to reflect its current agency structure due to recent reorganizations.

EFFECTIVE DATE: This rule is effective February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, (312) 751–4945, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Part 200 of the Board's regulations deals with general administration of the Board. The Board amends § 200.1 dealing with the designation of central and field offices to reflect current agency structure due to recent reorganizations.

The Board published this rule as a proposed rule on September 5, 2001 (66 FR 46408) and invited comments by November 5, 2001. No comments were received. Accordingly, the proposed rule is being published as a final rule without change.

The rule concerns agency structure and is not a regulation as defined in Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 200

Organization and functions (Government agencies), Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board amends 20 CFR part 200 as follows:

PART 200—GENERAL ADMINISTRATION

1. The authority citation for part 200 continues to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362; § 200.4 also issued under 5 U.S.C. 552; § 200.5 also issued under 5 U.S.C. 552a; § 200.6 also issued under 5 U.S.C. 552b; and § 200.7 also issued under 31 U.S.C. 3717.

2. Section 200.1 is amended by revising paragraphs (a)(4), (b)(1), and (b)(2) to read as follows:

§ 200.1 Designation of central and field organization.

(a) * * *

(4) The headquarters of the Board is in Chicago, Illinois, at 844 North Rush Street. The Board maintains numerous district offices across the country in localities easily accessible to large numbers of railroad workers, in addition to three regional offices located in Atlanta, Georgia; Denver, Colorado; and, Philadelphia, Pennsylvania.

(b) *Internal organization.* (1) Reporting directly to the Board

Members is the six member Executive Committee. The Executive Committee is comprised of the General Counsel, who also serves as the Senior Executive Officer, the Director of Administration, the Director of Programs, the Chief Financial Officer, the Chief Information Officer, and the Chief Actuary.

(2) The Executive Committee is responsible for the day to day operations of the agency. The Senior Executive Officer is responsible for direction and oversight of the Executive Committee. The General Counsel is responsible for advising the Board Members on major issues, interpreting the Acts and regulations administered by the Board, drafting and analyzing legislation, and planning, directing, and coordinating the work of the Office of General Counsel, the Bureau of Hearings and Appeals, and the Office of Legislative Affairs through their respective directors, and the Office of Secretary to the Board. The Director of Programs is responsible for managing, coordinating, and controlling the program operations of the agency which carry out provisions of the Railroad Retirement and Railroad Unemployment Insurance Acts. The Director of Administration is responsible for managing, coordinating, and controlling certain administrative operations of the Board including the Bureau of Supply and Service, the Bureau of Human Resources, the Office of Public Affairs, and the Office of Equal Opportunity. The Chief Financial Officer is responsible for the financial management of the agency, and the Chief Information Officer is responsible for coordinating the agency's information resources management program. The Board's Chief Actuary is responsible for the actuarial program of the Board. The Chief Actuary is a non-voting member of the Executive Committee.

* * * * *

Dated: February 1, 2002.

By Authority of the Board, for the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 02–2943 Filed 2–6–02; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone and Estradiol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Intervet, Inc. The supplemental NADA provides for an additional dose of trenbolone acetate and estradiol implant for use in feedlot heifers for increased rate of weight gain and improved feed efficiency.

DATES: This rule is effective February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223, e-mail: dbenz@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Intervet, Inc., P.O. Box 318, 405 State St., Millsboro, DE 19966, filed supplemental NADA 140–992 that provides for REVALOR–200 ear implants containing 200 milligrams (mg) trenbolone acetate and 20 mg estradiol for heifers fed in confinement for slaughter for increased rate of weight gain and improved feed efficiency. The supplemental NADA is approved as of December 6, 2001, and the regulations are amended in 21 CFR 522.2477 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning December 6, 2001, because the application contains substantial evidence of the effectiveness of the drugs involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

2. Section 522.2477 is amended by adding paragraph (d)(2)(i)(C) to read as follows:

§ 522.2477 Trenbolone acetate and estradiol.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(C) 200 mg trenbolone acetate and 20 mg estradiol (one implant consisting of 10 pellets, each pellet containing 20 mg trenbolone acetate and 2 mg estradiol) per implant dose for use as in paragraph (d)(2)(ii)(A) of this section.

* * * * *

Dated: January 11, 2002.

Claire M. Lathers,

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

[FR Doc. 02–2949 Filed 2–6–01; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 071–0309; FRL–7134–2]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on December 15, 2000 and concerns PM–10 emissions from residential wood combustion. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates this emission source and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on March 11, 2002.

ADDRESSES: You can inspect a copy of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect a copy of the submitted rule revision at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On December 15, 2000 (65 FR 78434), EPA proposed a limited approval and limited disapproval of the rule in table 1 that was submitted for incorporation into the California SIP.

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4901	Residential Wood Burning	07/15/93	12/10/93

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the CAA. Our proposed action contains more information on the rule and our evaluation.

II. Public Comment and EPA Response

EPA's proposed action provided a 30-day public comment period. During this period, we received a comment from the following party:

Mark Boese, SJVUAPCD; letter dated January 11, 2001 and received January 16, 2001.

We received additional information from SJVUAPCD on November 29, 2001 which further elucidated the January 11th comment. This information was a memorandum titled, ''Contributions from residential woodburning to PM–10 and PM–2.5 in San Joaquin Valley cities and potential emissions reduction strategies,'' from Dr. John Watson to Evan Shipp dated November 28, 2001.

The comment on Rule 4901 and our response is summarized below.

Comment: SJVUAPCD notes that the BACM control measures suggested by EPA for Rule 4901, Residential Wood Burning, would be very controversial. SJVUAPCD needs a strong and clear relationship between residential wood burning and air quality to justify additional control measures. There is currently a California Regional Particulate Matter Air Quality Study (CRPAQS) from which preliminary data indicates there is such a relationship. But SJVUAPCD requests a postponement of the final notice for at least 10 months to allow time to evaluate a final report on the CRPAQS.

The subsequent information from Dr. Watson, a principal researcher on CRPAQS, explained that data from CRPAQS clearly supports additional controls on residential wood combustion.

Response: We have postponed final action on Rule 4901 for the requested time period.

As discussed in our December 15, 2000 proposal, the reference, *Technical Information Document for Residential Wood Combustion Best Available Control Measures,* EPA–450/2–92–002 (September 1992), provides national policy on determining BACM for residential wood combustion. This document provides a list of potential BACM measures that should be implemented unless SJVUAPCD demonstrates that they are not achievable given local conditions. Since this list of measures is over nine years old, SJVUAPCD should implement all those that are achievable as well as any other measures achievable in San Joaquin that have been developed in other serious PM–10 nonattainment areas. While we have not performed the thorough evaluation that SJVUAPCD must, and while the items below are not intended to identify the minimum measures necessary to fulfill BACM, three items from the national policy that seem likely achievable include the following:

- While the submitted rule describes a program for notifying the public of high PM–10 episodes and voluntary curtailment of solid-fuel-burning devices, it does not require any mandatory curtailment. EPA believes, at a minimum, that mandatory episodic curtailment can be implemented. The District should consider whether limiting the curtailment to open fireplaces and non-certified devices, the largest emitters of PM–10 and smoke, is appropriate or whether a more broad-based curtailment is necessary. A limited mandatory curtailment program could be incorporated as part of the voluntary curtailment program and could give the District authority to enforce on open fireplaces and non-certified devices in the event of public complaint.
- The District should consider revising the rule to require wood stoves and fireplaces to have EPA-certified phase II standards upon property sale or transfer.

• The District should consider revising the rule and collaborating with cities and counties on ordinances to limit the number of wood stoves and fireplaces per acre in new construction and require EPA-certified phase II standards on those being installed.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the SJVUAPCD Rule 4901 into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rule. As a result, sanctions will be imposed unless EPA approves a subsequent SIP revision that corrects the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the CAA as described in 59 FR 39832 (August 4, 1994). In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve a subsequent SIP revision that corrects the rule deficiencies within 24 months. Note that the submitted rule has been adopted by the local agency, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

D. Executive Order 13132

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

F. Regulatory Flexibility Act

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

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will

not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

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

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

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 13, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(235) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(235) New and amended regulations for the following APCD were submitted on December 10, 1993, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4901, adopted on July 15, 1993.

* * * * *

[FR Doc. 02–2839 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0316; FRL–7134–1]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on June 5, 2001 and concerns the control of emissions from sulfur compounds. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule that regulates sulfur emission sources and directs California to correct the rule deficiency.

EFFECTIVE DATE: This rule is effective on March 11, 2002.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243–2801.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4125.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On June 5, 2001 (66 FR 30145), EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	405	Sulfur Compounds Emission Standards, Limitation	09/14/99	05/26/00

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. Specifically, the rule lacks recordkeeping requirements for sources subject to the rule.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted and our assessment of the rule as described in our proposed action has not changed. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules. Sanctions will not be imposed under section 179 because this is an attainment area for Sox and not a required submittal. Note that the submitted rule has been adopted by the ICAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

D. Executive Order 13132

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

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

Moreover, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicited comment on the proposed rule from tribal officials.

F. Regulatory Flexibility Act

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

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

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

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

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it doesnot require the public to perform activities conducive to the use of VCS.

I. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 14, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(279)(i)(A)(*7*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(279) * * *

(i) * * *

(A) * * *

(*7*) Rule 405, adopted on September 14, 1999.

* * * * *

[FR Doc. 02–2840 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA249–0324; FRL–7134–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on

August 7, 2001 and concern oxides of nitrogen (NO_X) emissions from mobile sources (Class 7 and 8 heavy duty vehicles, marine vessels, ocean-going marine vessel hotelling operations, truck and trailer refrigeration units), and area sources (agricultural pumps). We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on March 11, 2002.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Lily Wong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4114.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On August 7, 2001, (66 FR 41174), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1612.1	Mobile Source Credit Generation Pilot Program	03/16/01	05/08/01
SCAQMD	1631	Pilot Credit Generation Program for Marine Vessels	05/11/01	05/31/01
SCAQMD	1632	Pilot Credit Generation Program for Hotelling Operations	05/11/01	05/31/01
SCAQMD	1633	Pilot Credit Generation Program for Truck/Trailer Refrigeration Units.	05/11/01	05/31/01
SCAQMD	2507	Pilot Credit Generation Program for Agricultural Pumps	05/11/01	05/31/01

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 60-day public comment period. During this period, we received comments from the following parties.

1. Suma Peesapati, Communities for a Better Environment (CBE); letter dated October 9, 2001 and received October 9, 2001.
2. Reed L. Royalty, Orange County Taxpayers Association (OCTA); letter dated August 30, 2001 and received September 6, 2001.
3. William J. Quinn, California Council for Environmental and Economic Balance (CCEEB); letter dated October 5, 2001 and received October 5, 2001.
4. Jon K. Owyang, Market-Based Solutions (MBS); letter dated October 8, 2001 and received October 8, 2001.
5. Jack Brunton, Sempra Energy (SE); letter dated October 8, 2001 and received October 9, 2001.
6. Michael J. Carroll, Latham & Watkins (LW); letter dated October 9, 2001 and received October 9, 2001.
7. Detrich B. Allen, City of Los Angeles (CLA); letter dated October 9, 2001 and received October 9, 2001.

The comments and our responses are summarized below.

Comment 1: CBE commented that the RECLAIM program is fundamentally flawed and, as a result, has not achieved the emission reductions promised during program development eight years ago. Among the problems that CBE describes with RECLAIM are: (a) Initial over-allocation of credits resulting from artificially inflated baselines; (b) Inadequate safeguards against fraud and uncertainty; (c) Emissions have actually increased from the two largest NO_X source categories.

Response 1: RECLAIM is implemented by SCAQMD's Regulation 20 and establishes a declining cap on emissions from medium and large stationary NO_X sources. Regulations 16 and 25 provide mechanisms to generate emission reduction credits from mobile sources and area sources that can be purchased by RECLAIM sources. EPA is not acting on Regulation 20 at this time. We are acting on rules in Regulations 16 and 25, which can and should be evaluated independently. Regulation 16 and 25 sources are not also subject to Regulation 20 and Regulation 20 does not need to function well to achieve emission reductions from Regulations 16 and 25. Even if Regulation 20 has achieved no real emission reductions to date, rules in Regulation 16 and 25 should be approved if they comply with the CAA as described in relevant national policy and guidance. As discussed in today's notice and the August 7, 2001 proposal, we believe these rules in Regulations 16 and 25 do comply with the CAA. Comments on Regulation 20 are not relevant to EPA's SIP action on the Regulation 16 and Regulation 25 credit rules.

Comment 2: CBE commented that SCAQMD and EPA should fix RECLAIM's defects rather than developing and approving the Regulation 16 and 25 rules. Regulations 16 and 25 would increase the supply of cheap credits which will exacerbate the problem with the RECLAIM program.

Response 2: We agree that SCAQMD should correct any problems with the existing RECLAIM program. However, as discussed in Response 1, Regulations 16 and 25 can and should be evaluated independently from Regulation 20. While we do not believe these reductions will be inexpensive, as suggested by the comment, there would be nothing inherently wrong if they were. An important feature of economic incentive programs like this is to allow industry to achieve the most economically efficient emission reductions. The commenter may be alleging that the emission reduction credits will be cheap because they will not come from real emission reductions. The commenter, however, provides no evidence or support for this. If used, we believe these credit rules will generate real emission reductions. As discussed in the Technical Support Documents (TSDs) to our August 7, 2001 proposal, the rules are carefully designed to assure that reductions are surplus, quantifiable, enforceable and permanent. As we have stated numerous times, the criteria for judging the adequacy of emission reduction credits, i.e., that the emission reductions are surplus, quantifiable, enforceable and permanent, are based upon fundamental requirements of the CAA. See ''Emissions Trading Policy Statement,'' 51 FR 43814, 43831–43832 (December 4,

1986), and ''Economic Incentive Program Rules,'' 59 FR 16690, 16691 (April 7, 1994).

We note also that the Regulation 16 and 25 rules are designed to achieve significant environmental benefit. In particular, the rules require that all NO_X emission reduction credits be discounted by 9–10% for the benefit of the environment. The rules will also significantly reduce particulate matter (PM) emissions, since no PM emission reduction credits are awarded. For these reasons, the approval of these credit rules will strengthen the SIP, regardless of the past performance of the RECLAIM program.

Comment 3: CBE commented that SCAQMD has not complied with Rule 2015 which offers an appropriate ''fix.'' Rule 2015 requires SCAQMD to conduct a thorough investigation of the high price of credits in the context of the compliance and enforcement program, and of whether the program provides appropriate incentives to comply.

Response 3: SCAQMD'S implementation of Rule 2015 is not relevant to this rulemaking. Rule 2015 does not preclude the SCAQMD from developing credit rules in Regulations 16 and 25. See also Responses 1 and 2.

Comment 4: CBE commented that mobile to stationary source trading results in environmental justice (EJ) impacts. While the benefits from emission reductions from mobile sources occur over a widespread area, the emissions increases occur at stationary sources, often in low-income communities of color. Further, even if the emission reductions occur in low-income communities of color, pollution is merely transferred from mobile to stationary sources in the same community.

Response 4: EPA agrees that programs which allow volatile organic compound (VOC) trading should address EJ, because many VOCs are also hazardous air pollutants (HAPs) that may impact health of people near the emission sources. This comment is not relevant to the five credit rules, however, which only allow trading of NO_X emissions and not VOC or HAPs. NO_X emissions combine with VOCs to form ozone, which can have significant health impacts. But because ozone forms fairly slowly and then disperses throughout the South Coast Air Basin, it is highly unlikely that increased NO_X emissions in any one South Coast neighborhood will disproportionately increase ozone levels in the same neighborhood. NO_X emissions also contributes to PM formation, but the increased health impacts from this PM in the South Coast is also a regional and not a localized problem for the same reasons, and thus does not have EJ implications. Lastly, NO_2, a component of NO_X emissions, can have health impacts. To considerable extent, the same arguments regarding regional rather than localized impacts would apply here. In addition, all areas of South Coast and the country meet the health-based NO_2 standard, so no health impacts are expected from NO_2.

Comment 5: CBE commented that monitoring mobile emission reduction programs is difficult and often leads to ''phantom trades,'' citing SCAQMD's experience with Rule 1610 regarding car scrappage.

Response 5: EPA believes that emission reductions from these five credit rules are real, surplus, quantifiable, enforceable, and permanent. These five credit rules are fundamentally different than the car scrappage program because they require utilization of a cleaner technology to generate emission reduction credits. Rule 1610, on the other hand, assumed that emissions would be reduced by scrapping cars that would no longer operate. While we agree that Rule 1610 was significantly flawed, its problems (e.g., some scrapped cars had not been in use and some cars' parts were used after being scrapped) do not relate to these credit rules. Oversight, for example, of these credit rules is more straightforward because they require changes to equipment which can be easily verified. The credit rules also require extensive monitoring, recordkeeping and reporting to verify the emission reduction credits.

Comment 6: CBE commented that proper functioning of the RECLAIM market necessitates a closed universe of credits. This is why, for example, excess emissions are deducted from sources' annual credit allocation—to regulate the total amount of pollution on the market.

Response 6: It is not essential that the total amount of pollution in the market remain fixed, but that the basin-wide emissions be reduced. A closed universe of emission reduction credits in RECLAIM is not necessary if new emission reductions are real and appropriately addressed in the emissions inventory. As discussed in Response 2, the five credit rules are carefully designed to assure that reductions are real by being surplus (which includes being addressed in the emissions inventory), quantifiable, enforceable and permanent.

We also evaluated the credit rules to determine whether demand shifting could create ''paper'' reductions by shifting activity to sources not participating in the program. Demand shifting is not a problem because emission reduction credits can only be generated to the extent that generators lower emission rates and actually engage in the activity. If, for example, a generator completely shifts his activity level to sources not participating in the program, no emission reduction credits are generated and the emission rate of the non-participating sources would not increase. We also evaluated whether the credit rules could increase activity and emissions from the source categories they address. We are aware of no basis for this to occur. Any increase in source category activity would be a function of growth that would be factored into the attainment plan.

Comment 7: CBE commented that CAA section 110(a) requires SIPs to include programs for enforcement of control measures, and to assure adequate personnel, funding and authority. SCAQMD has a minimum 2-year lag in enforcing existing programs, and the five credit rules impose a new set of monitoring, reporting and calculating criteria that will substantially increase SCAQMD's enforcement burden. SCAQMD does not plan to increase its enforcement capacity to properly oversee these new requirements in violation of section 110(a).

Response 7: EPA originally approved California's compliance with the section 110(a)(2)(E) personnel, funding and authority requirement in 1972, and we have had no cause to question SCAQMD's continued compliance since then. Enforcement cases take time to identify, develop and negotiate, and while a two-year lag to close them out is not ideal, in itself it does not justify questioning compliance with section 110(a)(2)(E). We note also that SCAQMD is by far the largest and best funded local air pollution regulatory agency in the country, with over 750 staff and an annual operating budget of over $85 million. In addition, we understand that in the last two and a half years, SCAQMD has added 22 inspectors which may help SCAQMD in determining RECLAIM compliance. We understand that the emission reduction projects under these five credit rules are administered by SCAQMD staff in a different office than staff working on RECLAIM compliance.

Comment 8: CBE commented that approving the credit rules will relax existing requirements in violation of CAA section 110(l). Section 110(l) directs EPA to not approve SIP revisions that interfere with attainment, reasonable further progress or any other applicable requirement. Credit rule approval would delay real emission

reductions by postponing installation of available control equipment on RECLAIM sources, and thus interfere with reasonable further progress and attainment in the South Coast.

Response 8: If used, we believe these credit rules will generate real emission reductions. We agree that use of these rules may mean some available controls are not installed on RECLAIM sources. However, because the new emission reductions are real, and additional environmental benefit is built into the Regulation 16 and 25 rules, we expect the rules to result in a net decrease in emissions, and not interfere with attainment, reasonable further progress or any other applicable requirement in violation of CAA section 110(l). See also Responses 2 and 6.

Comment 9: CBE provided information regarding California's alleged power crisis and commented that the crisis may not have been responsible for the price spike in RECLAIM credits. If it was, the energy crisis is over and doesn't justify changes to the RECLAIM program. If it wasn't, the price reflects the true cost of foregoing pollution control and represents a healthy market making up for years of dysfunction. This is not the time to flood the market with more credits which will artificially drive down credit prices and delay real emission reductions.

Response 9: As discussed in Response 2 and elsewhere, we believe the five credit rules comply with the CAA and will benefit the environment. The justification for developing these rules is not a criteria in our evaluation.

Comment 10: CBE commented that, at a minimum, SCAQMD should limit the amount of new emission reduction credits that can enter the RECLAIM market to prevent: (a) Flooding the market with emission reduction credits that drive down credit prices and continue a dysfunctional market that provides no incentives for pollution control; (b) eviscerating the potential benefits of compliance plans under proposed RECLAIM Rules 2009 and 2009.1; and (c) violating CAA section 110(l).

Response 10: See Responses 1, 2, 6, 8, and 9. In addition, SCAQMD's staff reports estimate that the maximum NO_X emission reduction credits that will be generated from the five credit rules is approximately 2.75 to 3.96 tons/day. Even if this entire amount of emission reduction credit is generated, it is unlikely to flood the RECLAIM credit market, which currently contains approximately 32.45 tons/day.

Comment 11: CBE commented that Rule 1612.1 contains only 9% instead of the traditional 10% environmental benefit, in violation of CAA section 110(l). The 10% benefit helps ensure that pollution credit programs reduce pollution, and helps mitigate the margin of error associated with emission measurement and emission reduction credits calculation.

Response 11: EPA evaluates environmental benefit as an issue separate from uncertainty. EPA however agrees that technical uncertainty must also be addressed. We believe that uncertainty in measuring emissions and calculating emission reductions has been addressed by establishing conservative emission quantification protocols in these rules. For example, the baseline emission rate in Rule 1612.1 is the emission rate for a new on-highway diesel engine that meets both EPA and CARB certified exhaust engine standards. Applying certified engine standards helps remove the uncertainty relating to the remaining useful life of the existing diesel engine, and will result in a conservative estimate of baseline emissions, since we expect that the actual emission rate of the existing diesel engines will be higher than the baseline emission rate specified in the emission quantification protocols. Technical uncertainty is also mitigated by the use of certified engine standards for the optional emission factors in Rule 1612.1. Under the CAA and other federal regulations, manufacturers must submit applications to obtain a certificate of conformity to EPA on the basis of engine(s) testing that conforms to the requirements of the EPA Test Procedures, and where applicable, in accordance with the California Exhaust Emission Standards and Test Procedures for new model year engines.

As discussed in our August 7, 2001 proposal, EPA published the EIP guidance, ''Improving Air Quality with Economic Incentive Programs'' (EPA–452/R–01–001) in January 2001 to help ensure consistent application of the CAA regarding economic incentive programs like RECLAIM and the five credit rules. The EIP guidance suggests that a 10% emission reduction credit discount generally demonstrates adequate environmental benefit consistent with the CAA, but also allows States to demonstrate environmental benefit other ways. Nine percent of all NO_X emission reductions generated under Rule 1612.1 will be retired for benefit of the environment and cannot be used to offset emissions at RECLAIM sources. Rule 1612.1 activity as well as the activities in the other credit rules will also significantly reduce PM emissions; but since no PM emission reduction credits are awarded or can be used by RECLAIM sources, all the PM emission reductions fully benefit the environment. These PM emission reductions are important to the demonstration of overall environmental benefit from Rule 1612.1 and, in combination with the 9% NO_X emission reduction credit discount, are consistent with the EIP guidance and the CAA.

Comment 12: CBE commented that the CAA prohibits use of mobile source emission reduction credits from the five rules for NSR offsets. CAA section 173(a)(1)(A) states that offsets must be obtained ''from existing sources in the region.'' CAA section 111(a)(6) defines ''existing source'' as ''any stationary source other than a new source.'' Therefore, NSR offsets must be obtained from stationary, not mobile sources.

Response 12: CBE misunderstands the purpose and application of section 111 of the CAA. The title of section 111 is also a description of its limited application; ''Standards of Performance for New Stationary Sources.'' The definition cited by CBE in section 111(a)(6) applies only to the stationary sources covered by section 111. That definition is not applicable to or relevant for these credit rules, which are being included into the California SIP pursuant to section 110 of the CAA. Had Congress wished to limit the generation of offsets to stationary sources, it would have inserted ''stationary'' in front of ''sources'' in the language quoted by CBE from section 173(a)(1)(A) of the CAA. Congress was obviously aware of this distinction, having defined ''stationary source'' for purposes of the CAA in section 302(z). Since section 173(a)(1)(A) uses the broader term ''sources,'' EPA has concluded that this can include mobile sources.

Comment 13: CBE has commented that EPA's reliance on the 2001 EIP Guidance as the basis for proposing approval of the credit rules is illegal. The 2001 EIP guidance has no legal authority and calls for a relaxation of standards proposed in other policy statements and rules. The 2001 EIP guidance cannot change standards that have gone through the formal rulemaking process, such as the 1986 Emissions Trading Policy Statement (ETPS) and the 1994 EIP rule, and surely cannot trump federal CAA requirements.

Response 13: While the 1986 ETPS was published in the **Federal Register**, it was guidance, not regulation and did not, as CBE suggests, go through formal rulemaking. Similarly, the 1994 EIP explains that it was guidance for discretionary programs such as these five credit rules. The 2001 EIP is EPA's most recent guidance for economic

incentive programs. EPA'S publication of the 1986 ETPS, 1994 EIP, and 2001 EIP did not constitute a final determination for discretionary programs and none of them were intended to trump CAA requirements. They have all been used, however, to help assure consistent interpretation of the CAA where its application to detailed EIP requirements is unclear. As stated earlier, the criteria for judging the adequacy of emission reduction credits, *i.e.,* that the emission reductions are surplus, quantifiable, enforceable and permanent, are based upon fundamental requirements of the CAA. See ''Emissions Trading Policy Statement,'' 51 FR 43814, 43831–43832 (December 4, 1986), and ''Economic Incentive Program Rules,'' 59 FR 16690, 16691 (April 7, 1994).

The next set of comments are summarized from letters CBE wrote to SCAQMD during development of the five credit rules and were attached to CBE's August 9, 2001 comment letter to EPA. Since CBE's August 9, 2001 letter is quite extensive and raises many of the same issues as the attachments, we believe the attachments were included only as background information and not intended as comments to our August 7, 2001 proposal. We also note that many of the issues in the attachments are not relevant to our August 7, 2001 proposal because they were raised in context of SCAQMD's local rulemaking. As a result, we do not believe we need to respond to the issues raised in the attachments. As a courtesy to the commenter, however, we have summarized and responded to these comments below.

Comment 14: CBE has commented that because of the EJ concerns, Rule 1612.1 must have a better public participation process and evaluation. CBE believed it appropriate to offer community members notice and opportunity to comment on individual trades. The rule does not provide for an evaluation of the program until 2006 and should be evaluated on an annual basis.

Response 14: The rules require a biannual program review beginning in 2002 for Rule 1612.1. See also Response 4 regarding EJ concerns. The SIP-approved RECLAIM program does not provide for public notice and comment on individual trades, and we see no basis for requiring such notice and comment for Rule 1612.1 trades.

Comment 15: CBE commented that SCAQMD must incorporate technical uncertainty in the calculation of emission reduction credits. Rule 1612.1 does not incorporate technical uncertainty in its calculation protocols and allows use of notoriously inaccurate emission factors.

Response 15: Technical uncertainty is accounted for in Rule 1612.1's emissions quantification protocol even though it does not appear as a separate factor in the calculations. See also Response 11.

Comment 16: CBE commented that SCAQMD violated the California Environmental Quality Act (CEQA) in its rulemaking process for this program, citing numerous deficiencies.

Response 16: SCAQMD has certified that development of the five credit rules fully complies with CEQA. Specifically, SCAQMD made the following findings: A draft Environmental Assessment (EA) was circulated for a 30-day public review, all comments received were responded to in the Final EA, and the Final EA is adequate. SCAQMD has included the Final EA for the five credit rules in its SIP submittal. In submitting these rules to EPA, the California Air Resources Board (CARB) has concurred with this certification. SCAQMD and CARB have much greater expertise in implementing and interpreting this state law than does EPA, and we concur with their analysis.

Comment 17: The RECLAIM program has already violated California Health and Safety Code section 39616(c), which require EIPs to reduce emissions as much or more than the programs they replace. A generous estimate of actual overall reductions resulting from RECLAIM is 16% since 1993. Approving the RECLAIM amendments and associated credit rules will only exacerbate the problem.

Response 17: See Responses 1 and 2.

Comment 18: The Mitigation Fee Program and the RECLAIM AQIP violate the equivalency requirement under State Law.

Response 18: These comments relate specifically to recent amendments to Regulation 20 and are not relevant to the five credit rules. See also, Responses 1 and 2.

Comment 19: While CBE supports SCAQMD's efforts to mandate pollution control at certain power plants through submittal of compliance plans to achieve BARCT, it is unclear what the BARCT standards are for power producing facilities.

Response 19: See Response 18.

Comment 20: It is unclear what is meant by ''best available information'' which is the basis for environmental dispatch under Rule 2009.

Response 20: See Response 18.

Comment 21: CBE provided a copy of extensive comments that they made in 1994 to CARB during CARB's hearing on RECLAIM.

Response 21: These comments are not relevant to the five credit rules. See Response 1 and 2.

The next comments are summarized from a June 1, 2001 letter CBE wrote to CARB and EPA, and were attached to CBE's October 9, 2001 comment letter to EPA Region 9 regarding the five credit rules. Since CBE's August 9, 2001 letter is quite extensive and raises many of the same issues as the attachment, we believe the attachment was included only as background information and not intended as comments to our August 7, 2001 proposal. As a result, we do not believe we need to respond to the issues raised in the June 1, 2001 letter. As a courtesy to the commenter, however, we have summarized and responded to these comments below.

Comment 22: CBE commented that CARB has not determined, in accordance with California Health and Safety Code section 39616(d)(2), that Rule 1612.1 meets certain requirements of the California Clean Air Act. CBE believes that the new rules violate several provisions of state law, including equivalency under subdivision (c) of section 39616.

Response 22: We have discussed this issue with CARB. CARB provided us with the following legal analysis. CARB has much greater expertise in implementing and interpreting this state law than does EPA, and we concur with their analysis.

When an air district first adopts or revises its attainment plan to establish a market-based incentive program, such as RECLAIM in the South Coast, the district is required to meet the conditions specified in Health and Safety Code section 39616(d)(1) or (2) as applicable and to make certain findings, and CARB is required to make a determination that the conditions are met. Further, CARB must determine that the district met the conditions specified in section 39616(d) when adopting regulations to implement a market-based incentive program. SCAQMD and ARB met these obligations when the RECLAIM program was established.

These requirements do not apply to the 5 credit rules, however, because they are not establishing a new market-based incentive program or significantly altering an existing program. CBE's reading of the statute as applying to the credit rules, which do not undermine the findings and determinations made when the overarching RECLAIM program was established, is incorrect.

This does not mean that a market-based program goes without further review for compliance with the requirements of section 39616. Under section 39616(e), a district is required to

reassess its program established in accordance with section 39616 within 5 years of adoption and ratify certain of the findings made at the time of adoption within 7 years, with CARB concurrence. This process is currently underway but has not yet been completed.

Comment 23: CBE commented that the credit rules violate State law because they do not comply with CARB's methodology which requires that calculation methods for determining the amount of reductions generated take technical uncertainty into account.

Response 23: SCAQMD has determined that the credit rules are consistent with State law. In submitting these rules to EPA, CARB has concurred with this determination. SCAQMD and CARB have much greater expertise in implementing and interpreting this state law than does EPA, and we concur with their analysis. We also believe that technical uncertainty has been addressed in these rules. See Response 11.

The next set of comments are summarized from an October 10, 1999 letter CBE wrote to EPA Headquarters during the comment period for the 2001 EIP guidance, and were attached to CBE's October 9, 2001 comment letter to EPA Region 9 regarding the five credit rules. Since CBE's October 9, 2001 letter is quite extensive and raises many of the same issues, we believe the October 10, 1999 letter was included only as background information and not intended as a comment to our August 7, 2001 proposal. We also note that many of the issues in the October 10, 1999 letter are either not relevant to our August 7, 2001 proposal because they were raised in context of EPA's generic national guidance, or EPA has already responded above to the issue. As a result, we do not believe we need to respond to the issues raised in the October 10, 1999 letter. As a courtesy to the commenter, however, we have summarized the remaining relevant issues and responded to these comments below.

Comment 24: CBE comments that the EIP guidance undermines many existing technology-based rules and regulations, existing EIP policy and rules, as well as the CAA itself.

Response 24: As discussed in Response 13, the draft EIP guidance was developed to help assure consistent interpretation of the CAA where its application to detailed EIP requirements is unclear. We do not believe it is inconsistent with pre-existing federal requirements or the CAA. Ultimately, however, specific EIP rules like the five SCAQMD credit rules must comply with the CAA and implementing regulations regardless of the EIP guidance.

Comment 25: CBE commented that the public must have access to the results of the program evaluation and the public must be able to participate in the development of the reconciliation procedures.

Response 25: The five credit rules include provisions for a biannual review. The SCAQMD Board also adopted a Resolution which directed staff to include in the annual RECLAIM report, the applications and credits issued pursuant to the credit rules. Consequently, information will be available to the public on an annual basis. The five credit rules and the RECLAIM program rules and amendments include reconciliation procedures which have been subject to public notice and comment.

Comment 26: CLA commented that while they support compliance flexibility measures, they urged EPA and SCAQMD to carefully examine potential adverse localized impacts to surrounding communities since credit programs can have potential socio-economic and environmental impacts.

Response 26: The SCAQMD Governing Board adopted a Resolution on May 11, 2001 which directed SCAQMD staff to evaluate the potential for localized impacts from the use of emission reduction credits from these credit rules, and to recommend to the Governing Board mechanisms to address such localized impacts, if any. See also Response 4.

Comment 27: CLA commented that EPA and SCAQMD should provide assurance that the proposed credit rules will not preclude SIP emission reduction requirements for the maritime industry.

Response 27: The five credit rules do not preclude SCAQMD from submitting additional SIP emission reduction requirements for the maritime industry.

Comment 28: CLA commented that they supported the sunset of the credit rules prior to 2010, the year for ozone attainment, and they believe that any surplus emission reductions that remain from Rules 1631 or 1632 should be applied to the Marine Vessel SIP Control Measure or other equivalent measure for the maritime industry in the most recent EPA-approved SIP.

Response 28: Rule 1631 will end June 30, 2005. We agree that any emission reductions achieved subsequent to that time should be applied to the SIP. Rule 1632 includes a provision to evaluate, in 2010, whether the emission reductions remain surplus in the context of the most recently EPA-approved SIP. If the emission reductions are determined not to be surplus, Rule 1632 ends in 2010. If the evaluation shows that some or all of the emission reductions are surplus, Rule 1632 could continue.

Comment 29: The other commenters all supported our proposed action to fully approve the five credit rules.

Response 29: No response needed.

III. EPA Action

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely

approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 8, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: January 16, 2002.

Wayne Nastri,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(282) and (c)(284)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(282) New and amended regulations for the following APCDs were submitted on May 31, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(*1*) Rules 1631, 1632, 1633, and 2507 adopted on May 11, 2001.

* * * * *

(284) * * *

(i) * * *

(B) South Coast Air Quality Management District.

(*1*) Rule 1612.1 adopted on March 16, 2001.

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[FR Doc. 02–2841 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301166A; FRL–6823–4]

RIN 2070–AC18

Sulfuryl Fluoride; Temporary Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes temporary tolerances for residues of sulfuryl fluoride and inorganic fluoride in or on walnuts and raisins. The Agency is establishing these temporary tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 to support an Experimental Use Permit (EUP) that involves testing a possible alternative to methyl bromide in the post-harvest fumigation of stored commodities. This experimental use fumigant program is being proposed as a methyl bromide alternative for the post-harvest fumigation of stored walnuts and raisins. These temporary tolerances will support a 3-year EUP effective between March 1, 2002 through March 1, 2005 and allows 18 months for treated commodities to clear commerce. The EUP will be conducted by Dow AgroSciences entirely in the state of California. The temporary tolerances expire on September 1, 2006. A detailed risk assessment for the proposed use was published in the **Federal Register** on September 5, 2001 (66 FR 46415).

DATES: This regulation is effective February 7, 2002. Objections and requests for hearings, identified by docket control number OPP–301166A, must be received by EPA on or before April 8, 2002.

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–301166A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–6742; and e-mail address: mcneilly.dennis@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

Categories	NAICS	Examples of Potentially Affected Entities
	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–301166A. 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 September 5, 2001 (66 FR 46415) (FRL–6799–6), EPA issued a proposed rule 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) for tolerance by Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. This proposed rule included a risk assessment of the temporary tolerance petition and EUP by the Agency.

The petition requested that 40 CFR part 180 be amended by establishing temporary tolerances for residues of the insecticide sulfuryl fluoride and its metabolite inorganic fluoride, in or on walnuts and raisins at 2.0 parts per million (ppm) for sulfuryl fluoride in or on walnuts; 0.004 ppm for sulfuryl fluoride in or on raisins; and, 12 ppm for fluoride in or on walnuts. The proposed temporary tolerances were first published in the **Federal Register** on June 15, 2001 (66 FR 32618) (FRL–6788–2)(as the registrant's notice of filing) and once again on September 5, 2001 (66 FR 46415) with a more robust, Agency-written risk assessment for residues of sulfuryl fluoride and the metabolite fluoride in or on walnuts and raisins. These temporary tolerances will expire on September 1, 2006.

The registrant also submitted a request for an exemption from the requirement of a tolerance for fluoride residues in or on raisins resulting from the treatment with the insecticide sulfuryl fluoride under the USEPA's Threshold of Regulation Policy - Deciding Whether a Pesticide with a Food Use Pattern Needs a Tolerance. The Agency did not accept this request for several reasons outlined in the September 5, 2001 proposed rule, the major reason being that current registered uses of the insecticide cryolite on grapes can result in fluoride residues in raisins.

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).

Based on these risk assessments presented in the preamble to the proposed rule, (66 FR 46415, September 15, 2001), and taking into account the comments on the proposed rule discussed below, 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 sulfuryl fluoride and inorganic fluoride residues.

III. Analytical Enforcement Method

Adequate methods of analysis for both sulfuryl fluoride and fluoride anion are available. The methods are considered adequate as tolerance enforcement methods for the purposes of these temporary tolerances during the EUP. For a Section 3 registration, the registrant will need to submit independent laboratory validations for both the proposed sulfuryl fluoride and inorganic fluoride methods. For sulfuryl fluoride, the method consists of blending the sample for 5 minutes in an air-tight Eberbach blending device, equilibrating the sample for 5 minutes and analyzing 30 ml of headspace from the sample container by gas chromatography. For fluoride anion, analysis is done by ion-specific electrodes using a double standard addition procedure. Spike and recovery data submitted with the request show acceptable recovery for both sulfuryl fluoride and inorganic fluoride for raisins and walnuts.

Adequate enforcement methodology is available to enforce the tolerance expression. The methods 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.

IV. Response to Comments

The Agency received 86 written comments, and two individuals called on the telephone objecting to the proposed tolerances. A few of the comments were submitted by the same individual twice. Most of the comments the Agency received concerning establishment of temporary tolerances for sulfuryl fluoride concern the fluoride tolerances and issues with fluoride exposure/toxicity. No scientific argument or rationale related to sulfuryl fluoride exposure/toxicity was received. A few individuals did state they did not want sulfuryl fluoride used on food at all because it is a poison. A very large number of comments came from organizations that have strong concerns about fluoridation of the water. The debate on water fluoridation has a long history. It is noteworthy, however, that the Centers for Disease Control and Prevention lists fluoridation of the drinking water as one of the ten great public health achievements in the 20th Century. The exposure to fluoride as a result of the proposed tolerances in or on walnuts and raisins is insignificant compared to the exposure to fluoride in drinking water. In addition, tolerances already exist for residues of fluoride in or on raisins at 7 ppm (expressed as Cryolite) as a result of using Cryolite to treat grapes for insect control. The Agency estimates that the proposed use will not significantly increase the dietary levels of fluoride for the public as a result of consuming raisins and/or walnuts treated under an EUP.

There have been numerous independent evaluations of the toxicity of fluoride: U.S. Public Health Service (1991), EPA (1985), National Academy of Science (NAS) (1998) and Agency for Toxic Substances and Disease Registry (ASTDR) (1993, draft report 2001). All of these reviews have indicated that the critical adverse effects, i.e., the endpoints to regulate, from fluoride ingestion are the effects on bone and teeth. In consideration of the proposed temporary tolerances for walnuts and raisins, the Agency used the maximum concentration limit goal (MCLG) of 4.0 ppm (0.114 mg/kg/day) for fluoride as the basis for a maximum allowable exposure to inorganic fluoride (see the Cryolite Reregistration Eligibility Decision, 8/96, EPA–738–R–96–016). This exposure was used as the chronic population adjusted dose for inorganic fluoride in the risk assessment supporting the temporary tolerances. The exposure to fluoride from this use is estimated to be insignificant when compared to typical exposures from fluoridated water supplies. In addition, fluoridation of water has been endorsed by the U.S. Surgeon General.

Many parties commented on the proposed temporary tolerances associated with the EUP. They included environmental and public interest groups, private citizens, foreign nationals, and the registrant. The comments ranged in specificity. Some commenters prepared detailed arguments based on exposure and or toxicology. Other commenters criticized the Agency for even considering establishing tolerances for fluoride residues on food. These commenters did not seem to be aware that there have been tolerances for fluoride residues in food from cryolite use for many years.

Many of the commenters, presumably prompted by one public interest group as all the letters read the same, requested a time extension to allow additional time for comments on the proposed use. The Agency published details concerning the proposed use in July and again in September 2001. The individual who prompted the letter-writing campaign requesting the time extension, subsequently stated in a telephone conversation that the group would not be providing any new information and that the request for the time extension was so that the Agency would consider the cumulative exposure from fluoride. The Agency already has sufficient information to conduct a risk assessment for sulfuryl fluoride use on walnuts and raisins, including cumulative exposures to fluoride, and therefore no additional time extension for comments was granted.

The comments can be grouped into seven basic areas of concern and each section below contains a summary of the commenters concerns grouped by that general topic.

1. *Issue #1.* Several commenters raised concerns that the Agency had not used all available data in making its safety finding. In particular, one commenter discussed the results of a study published in 1998 that evaluated exposure to inorganic fluoride compounds and suggested that the Agency utilize this information before issuing the EUP for sulfuryl fluoride.

Agency response to issue #1. Most of the studies cited in the comment were studies outlined in the Notice of Filing and the Proposed Rule published on June 15, 2001 and September 5, 2001, respectively. The Agency has included all of the results of these studies in its risk assessment for the use of sulfuryl fluoride for post-harvest fumigation of walnuts and raisins. The commenters raise concerns about the toxicological findings in these studies. The Agency believes that it is important to remember that the objective of the toxicological testing is to define no observed adverse effect levels and lowest observed adverse effect levels for the chemical being evaluated. The Agency has taken all of these studies into account and believes that the toxicological endpoints chosen by the Agency in its risk assessment are sufficiently protective of human health.

The commenters do reference new information not considered as part of the Agency's risk assessment. In particular, one commenter suggested that the Agency incorporate the results of a study entitled ''Chronic Administration of Aluminum-Fluoride or Sodium Fluoride to Rats in Drinking Water: Alterations in Neuronal and Cerebrovascular Integrity'', published in the publication *Brain Research* in 1998. One of the co-authors of this study is an Agency employee who has indicated that the experiment discussed was designed to explore a specific hypothesis and that the results are not directly applicable to making conclusions about effects of aluminum or fluoride on public health. In addition, the study co-author has indicated that the results of the study do not support a conclusion that aluminum or fluoride selectively damage the brain or that these compounds cause Alzheimer's Disease. Therefore, at this time, the results of this study are not considered significant from the standpoint of establishing the tolerances proposed in the Agency's September 5, 2001, proposed rulemaking.

The other health concerns raised by the commenters have already been addressed by the Agency in other rulemakings or in responses to Members of Congress concerning exposure to fluoride. Included in the docket for this rulemaking is a copy of a letter, dated September 5, 2000, from J. Charles Fox, EPA Assistant Administrator, Office of Water, to Congressman Ken Calvert, Chairman of the Subcommittee on Energy and the Environment, Committee on Science. The Agency believes that this letter addresses the remaining health effects issues raised by the commenters.

2. *Issue #2.* Many commenters expressed concerns about the potential for over exposure to fluoride, specifically to children. Commenters mentioned exposures through dental product use, fluoridated water, and fluoride exposures from the use of other pesticides.

Agency response to issue #2. A requirement of the FQPA is that the

Agency consider all non-occupational exposures to a pesticide or substance when establishing new or reassessing tolerances for that pesticide. In conducting its risk assessment, the Agency assumed that all walnuts and raisins grown in the United States would be treated with sulfuryl fluoride, even though the accompanying EUP would significantly limit the use of sulfuryl fluoride to a small fraction of the total U.S. walnut and raisin crops. The Agency believes that its risk assessment accounts for the other concerns raised. The Dietary Exposure Examination Model (DEEM) includes data evaluating the food consumption patterns of children, including their consumption of walnuts and raisins. The risk assessment also includes analysis that neither raisins nor walnuts are typically washed before these foods are eaten. Regarding exposure to fluoride via dental products, the Agency believes that warning labels on these products provide explicit direction on how to significantly limit dietary exposure to fluoride-containing dental products for children. Regarding other exposures, the Agency's risk assessment includes exposures from the ingestion of fluoridated drinking water and fluoride exposures from the use of other pesticides, specifically cryolite. The Agency discussed these considerations at great length in its proposed rule of September 5, 2001.

3. *Issue #3*. One commenter expressed concern that the U.S. Food and Drug Administration (FDA) has not approved the use of sulfuryl fluoride on walnuts and raisins.

Agency response to issue #3. Both FDA and EPA share authority for implementation of the FFDCA. However, in establishing tolerances for pesticide residues on food, Congress explicitly delegated this authority to EPA. FDA does not approve or evaluate pesticide uses. FDA does have responsibility for monitoring the levels of pesticides residues in the food supply, however.

4. *Issue #4*. A commenter raised concern that the proposed tolerance did not include a discussion of the economic impacts of the proposed tolerances. In particular, the commenter discussed a recent ruling by the European Community regarding fluoride residues in wine grapes.

Agency response to issue #4. The FQPA of 1996 does not allow the Agency to consider the economic impacts of its decisions when establishing tolerances for pesticide residues. In this specific case, however, the commenter raises issues associated with wine grapes that are not the subject of this rulemaking.

5. *Issue #5*. Many commenters expressed concerns about drinking water being treated with fluoride.

Agency response to issue #5. The Agency has evaluated these concerns as part of its prior rulemakings setting the standard for the level of fluoride in drinking water. The Agency's Office of Water has taken these concerns into account. Furthermore, the Surgeon General has also evaluated the Agency's drinking water standard and has determined that the level of fluoride allowed in drinking water is safe. In addition, the Agency's risk assessment for sulfuryl fluoride includes exposures of fluoride resulting from the consumption of treated drinking water and it, too, concludes that the level of exposure is safe.

6. *Issue #6*. The registrant raised concerns about the need for a developmental neurotoxicity study to evaluate certain effects associated with exposure to sulfuryl fluoride.

Agency response to issue #6. The Agency has determined that this study is not needed to evaluate potential risks associated with the proposed EUP. However, as a requirement for unconditional registration of this product under the Federal Insecticide, Fungicide, and Rodenticide Act, the Agency believes that the developmental neurotoxicity study is warranted. The Agency is requiring this study because of the observation of treatment-related neurotoxic lesions in rats, mice, dogs and rabbits.

V. 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–301166A 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 April 8, 2002.

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–301166A, 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).

VI. 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 RegulationsThat 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 itrequire 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 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 onthe 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 thathave 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, foodprocessors, 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 withIndian 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 ofpower 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.

VII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801*et seq.*, asadded 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: January 29, 2002.

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 180.145 is amended by adding paragraph (a)(3) to read as follows:

§ 180.145 Fluoride compounds; tolerances for residues.

(a) * * *

(3) Temporary tolerances are established for residues of fluoride resulting from the post-harvest treatment with sulfuryl fluoride. The tolerances are measured and expressed as ppm of fluoride. Total residues of fluoride in or on raisins from the use of cryolite on grapes, addressed in paragraph (a)(1) of this section, or sulfuryl fluoride on raisins shall not exceed the tolerance list in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Raisins	30.0	9/1/06
Walnuts	12.0	9/1/06

* * * * *

3. Section 180.575 is added to read as follows:

§ 180.575 Sulfuryl fluoride; tolerances for residues.

(a) *General.* Temporary tolerances are established for residues of sulfuryl fluoride from the post-harvest treatment with sulfuryl fluoride on the following food commodities.

Commodity	Parts per million	Expiration/Revocation Date
Raisins	0.004	9/1/06
Walnuts	2.0	9/1/06

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registration.* [Reserved]

(d) *Indirect or inadvertant residues.* [Reserved]

[FR Doc. 02–2983 Filed 2–6–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP–301215; FRL–6820–9]

RIN 2070–AB78

Bentazon; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances with regional registration for combined residues of bentazon in or on clover, forage and clover, hay. 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.

DATES: This regulation is effective February 7, 2002. Objections and requests for hearings, identified by docket control number OPP–301215, must be received by EPA on or before April 8, 2002.

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–301215 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7610; and e-mail address: jackson.sidney@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/. 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_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–301215. 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 November 2, 2001 (66 FR 55660) (FRL–6806–1), 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) for tolerance by the Interregional Research Project #4, 681 U.S. Highway #1 South, North Brunswick, New Jersey 08902–3390. This notice included a summary of the petition prepared by BASF Corporation, Agricultural Division, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.355 be amended by establishing tolerances with regional registration 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 clover, forage at 1.0 ppm and clover, hay at 2.0 ppm. Registration will be limited to clover grown for seed in the States of Oregon and Washington based on the available residue data.

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

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

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of bentazon on clover, forage at 1.0 ppm and clover, hay at 2.0 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 bentazon are discussed in the **Federal Register** of March 8, 2000 (65 FR 121222) (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 dose at which 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 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 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 Used in Risk Assessment, UF	FQPA SF* and Level of Concern 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 = 10 aPAD = acute RfD÷FQPA SF = 0.1 mg/kg/day	Developmental Toxicity-Rat LOAEL = 250 mg/kg/day based on increased postimplantation loss, skeletal variations, and reduced weight of fetuses.
Acute Dietary general population including infants and children	NONE	NONE	A dose and non-developmental endpoint attributable to a single exposure were not identified in oral toxicity studies.
Chronic Dietary all populations	NOAEL = 3.2 mg/kg/day; UF = 100; Chronic RfD = 0.03 mg/kg/day	FQPA SF = 10 cPAD = chronic RfD÷FQPA SF = 0.003 mg/kg/day	One-Year Feeding Study - Dog LOAEL = 13.1 mg/kg/day and based on a dose-dependent presence of feces with red areas in dogs at 13.1 and 52.3 mg/kg/day (HDT), and slight to severe anemia at the high dose.
Short-Term Dermal (1 to 7 days)(Residential)	NONE	NONE	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)[1] (Residential)	Oral NOAEL = 13.1 mg/kg/day (dermal absorption rate = 2%	LOC for MOE = 1,000 (Residential)	One - Year Feeding Study - Dog LOAEL = 52.3 mg/kg/day based on the presence of feces with red areas seen in dogs at weeks 4, 6, and 12.
Long-Term Dermal (several months to lifetime)[1,2] (Residential)	Oral NOAEL= 3.2 mg/kg/day (dermal absorption rate = 2% when appropriate)	LOC for MOE = 1,000 (Residential)	One-Year Feeding Study - Dog LOAEL = 13.1 mg/kg/day based on a dose-dependent presence of feces with red areas in dogs at the 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.
Short-Term Inhalation (1 to 7 days)[2] (Residential)	Oral developmental NOAEL= 100 mg/kg/day	LOC for MOE = 1,000 (Residential)	Developmental Toxicity - Rat LOAEL = 250 mg/kg/day based on increased postimplantation loss, skeletal variations, and reduced weight of fetuses.
Intermediate-Term Inhalation (1 week to several months)[3] (Residential)	Oral NOAEL = 13.1 mg/kg/day	LOC for MOE = 1,000 (Residential)	One-Year Feeding Study - Dog LOAEL = 52.3 mg/kg/day based on the presence of feces with red areas seen in dogs at weeks 4, 6, and 12.
Long-Term Inhalation (several months to lifetime)[3,4] (Residential)	Oral NOAEL= 3.2 mg/kg/day	LOC for MOE = 1,000 (Residential)	One Year Feeding Study - Dog LOAEL = 13.1 mg/kg/day based on 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.

[1] A dermal absorption factor of 2% should be used for route-to-route extrapolation.
[2] An inhalation absorption factor of 100% should be used for route-to-route extrapolation for short-term inhalation risk assessment.
[3] 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.
[4] 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 CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: EPA used survey data to estimate the percent crop treated for certain commodities. For all other commodities 100% CT was assumed. An anticipated residue was calculated for succulent peas using average residue values (1.08 ppm) from the submitted crop field trials. 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. Therefore, no cancer risk is expected.

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 these tolerances.

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. EPA used survey data of the percent CT in the chronic dietary exposure analysis of some commodities. Surveys of several commodities indicate that the percent of the crops treated are as follows: 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%). Although the surveys indicated no use of bentazon on alfalfa, sorghum and potatoes, EPA used a value of 1% CT in the chronic dietary exposure 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. Tolerance level residues were used for all crops, except succulent peas. An Anticipated Residue was calculated for succulent peas using average residue values (1.08 ppm) from the submitted crop field trials.

The Agency believes that the three conditions imposed by section 408(b)(2)(F) 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 concentrations in ground water used as drinking water are not likely to exceed 4.25 parts per billion (ppb). Since monitoring data show bentazon has been detected in ground water at higher concentrations than the Sci-GROW Screening Model, EPA used 20 ppb as the representative national Tier 1 ground water screening concentration for bentazon.

Tier II Pesticide Root Zone/Exposure Analysis Modeling System (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 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 II 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 and monitoring data for ground water 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:

Because bentazon is registered for consumer use on turf and ornamentals, there is potential for residential exposure to adult applicators and adults and children entering recreational and residential areas treated with bentazon. The handler exposure is expected to be short-term while the post-application exposure is expected for both the short- and intermediate-term. However, since there is no short-term dermal endpoint, the residential post-application exposure cannot be aggregated with the handler exposure. Short-term, non-dietary ingestion exposure for toddlers is not assessed since there is no acute dietary or oral endpoint applicable to infants and children (endpoint was applicable to women of child-bearing age). However, intermediate-term, non-dietary ingestion exposure to toddlers playing on treated turf is possible and was assessed. There are no chemical-specific or site-specific data available to determine the potential risks associated with residential exposures from handling bentazon. Therefore, the exposure estimates are based on assumptions and generic data as specified by the December 18, 1997 Draft Health Effects Division(HED) of EPA Standard Operating Procedures(SOP) for Residential Exposure Assessments. Since bentazon is applied no more than twice per year, only short-term exposure is expected for the residential handler. Since a dermal endpoint of concern was not identified for the short-term duration, only inhalation exposure estimates are relevant. Based on the residential use pattern, no long-term post-application residential exposure is expected.

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. *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 database 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*. Both the rat developmental and reproductive toxicity studies indicate increased susceptibility from *in utero* and postnatal exposure to bentazon. The available developmental toxicity data in rabbits did not provide an indication of increased susceptibility from *in utero* exposure to bentazon.

iii. *Conclusion*. There is a complete toxicity database 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:

a. Evidence of increased susceptibility following *in utero* exposure to bentazon in the prenatal developmental toxicity study in rats in the absence of maternal toxicity.

b. 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, 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 bentazon will occupy 2.0% 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]
Female 13–50 yrs. 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 10% of the cPAD for the U.S. population, 12% of the cPAD for non-nursing infants and 28% of the cPAD for children 1–6 years old, most highly exposed subpopulation. 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

[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	3000

[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).

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 females 13–50 years old, males 13–19 years old, and males 20+ 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)
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
Males 20+ 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.

The method may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, Environmental Protection Agency, 701 Mapes Road, Fort George G. Mead, MD 20755–5350; telephone number: 410–305–20905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There is neither a Codex proposal, nor Canadian or Mexican Maximum Residue Limit (MRL) for residues of bentazon and its metabolites in or on clover.

C. Conditions

1. Analytical analyses of bentazon and its regulated metabolites using the FDA multiresidue protocols are required as part of the conditional registration of bentazon on clover.

2. The proposed use on clover is limited to the States of Washington and Oregon and is limited to clover grown for seed.

V. Conclusion

Therefore, the tolerances with regional registration are established 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 clover, forage at 1.0 ppm, and clover, hay at 2.0 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–301215 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 April 8, 2002.

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–301215, 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 tolerances 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 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: January 30, 2002.

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 adding text to paragraph (c) to read as follows:

§ 180.355 Bentazon; tolerances for residues.

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration as defined in § 180.1(n), are established 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 the following food commodities:

Commodity	Parts per million
Clover, forage	1.0
Clover, hay	2.0

* * * * *

[FR Doc. 02–2984 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 012902B]

Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements; Equipment and Operational Requirements

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

ACTION: Announcement of effectiveness of data collection.

SUMMARY: NMFS is announcing the approval of information collection and recordkeeping requirements for the inspection of scales approved for weighing catch of Alaska groundfish at sea.

DATES: 50 CFR 679.28 (b)(2)(iii)(B), added February 4, 1998 (63 FR 5836) is effective Fenruary 7, 2002.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: Section 679.28 *Equipment and operational requirements*, was added to 50 CFR part 679 effective February 4, 1998 (63 FR 5836), except that paragraph (b)(2)(iii)(B), containing information collection and recordkeeping requirements, that could not become effective until approved by the Office of Management and Budget (OMB). Paragraph 679.28 (b)(2)(iii)(B) was approved by OMB in control no. 0648–0330, effective February 7, 2002.

Dated: January 31, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–2877 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 26
Thursday, February 7, 2002

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. 01N–0339]

Medical Devices; Proposed Classification for Medical Washer and Medical Washer-Disinfector

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify the medical washer and medical washer-disinfector intended for general medical purposes to clean and dry surgical instruments, decontaminate or disinfect anesthesia equipment, hollowware, and other medical devices into class II (special controls). Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a guidance document that FDA intends to use as the special control for these devices. After considering public comments on the proposed classification, FDA will publish a final regulation classifying these devices. This action is being taken to establish sufficient regulatory controls that will provide reasonable assurance of the safety and effectiveness of these devices.

DATES: Submit written or electronic comments by May 8, 2002. See section VII of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301– 443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et. seq.*), as amended by the Medical Device Amendments of 1976 (the amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), and the Food Drug Administration Modernization Act of 1997 (the FDAMA) (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by the FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures (510(k)), without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Consistent with the act and the regulations, FDA consulted with the General Hospital and Personal Use Devices Panel (the Panel), an FDA advisory committee regarding the classification of the medical washers and medical washer-disinfectors.

Medical washers intended for general medical purposes to clean and dry surgical instruments, anesthesia equipment, hollowware, and other medical devices, and medical washer-disinfectors intended additionally to decontaminate or disinfect medical devices were in commercial distribution prior to May 28, 1976, the date of the Medical Device Amendment to the act. Medical washers and medical washer-disinfectors are considered medical devices within the meaning of section 201(h) of the act (21 U.S.C. 321(h)). Although they were legally marketed medical devices, the medical washers and medical washer-disinfectors were not included among the devices that were classified in 1980 by the Panel. Because the medical washers and medical washer-disinfectors are not dedicated to a single type of device, FDA has not considered them as accessories to classified medical devices. Although FDA has classified several generic types of washers and washer-disinfectors by regulation, medical washers and medical washer-disinfectors intended for general medical purposes to reprocess a variety of devices have not been classified by regulation and are therefore considered as unclassified devices.

Prior to June 1998, it was unclear to regulated industry whether the unclassified medical washers and medical washer-disinfectors were devices subject to the 510(k) requirements of the act. On June 2, 1998, FDA published on the Center for Devices and Radiological Health (CDRH)

Internet site the document entitled ''Guidance Document for Washers and Washer-Disinfectors Intended for Processing Medical Devices,'' which clarified their regulatory status at that time. FDA informed industry that these devices were subject to the 510(k) requirements of the act; that FDA would have a Panel meeting for the purpose of classifying these devices; and that FDA would provide guidance on the types of information to be included in a submission. The Panel was convened on September 14, 1998. In the **Federal Register** of November 5, 1998 (63 FR 59794), FDA announced the availability of the draft guidance and invited interested persons to comment on the guidance.

FDA has classified the following generic types of washers and washer-disinfectors that were in commercial distribution prior to May 28, 1976, by regulation. Washers and washer-disinfectors intended to process only ''general purpose articles,'' such as laboratory glassware, pipettes, bottles, and containers, although considered as medical devices, are treated by FDA as ''general purpose'' articles exempt from registration under § 807.65(c) and from the 510(k) requirements of the act.

Washers labeled only to wash and sanitize body waste receptacles, such as bedpans, have been classified as class I devices under 21 CFR 880.6800 (washers for body waste receptacles) and are exempt from the 510(k) requirements of the act (subject to the limitations on exemptions found in § 880.9 (21 CFR 880.9)).

Ultrasonic cleaners, which are intended to clean medical instruments by emission of high frequency soundwaves, and any cleaning solution intended for use with the ultrasonic cleaners, have been classified as class I devices under 21 CFR 880.6150 and are exempt from 510(k) requirements of the act (subject to the limitations on exemptions found in § 880.9).

Products used in the cleaning and disinfection of rigid gas permeable and soft (hydrophilic) contact lenses are classified as class II devices under 21 CFR 886.5918 and 886.5925, respectively.

FDA considers washers, washer-disinfectors, or disinfectors intended solely for the processing of flexible endoscopes as accessories to endoscopes. Under the definition of a medical device, an accessory to a medical device is itself considered a medical device and is regulated in the same class as the associated medical device. Therefore, endoscope washers, endoscope washer-disinfectors, or endoscope disinfectors are considered in the same class as endoscopes under 21 CFR 876.1500. Endoscopes and accessories are class II devices.

II. Recommendation of the Panel

During a public meeting, which was held on September 14, 1998, the Panel made the following recommendation regarding the classification of the general use washers and washer-disinfector. ''General use'' was the identifying terminology used at the time of Panel deliberations.

A. Identification

The Panel recommended that the device be identified as follows: A general use washer or washer-disinfector is a device intended for medical purposes to clean, decontaminate or disinfect, and dry surgical instruments, anesthesia equipment, hollowware and other medical devices. A general use washer or washer-disinfector can be equipped with electromechanical control systems or with microprocessor control systems and may have one or more cleaning and decontamination/disinfection cycles for a variety of medical devices. The device can be a free standing, single or double door unit or a wall recessed, pass-through unit with spray arms, nozzles, and adapters for directing fluid flow onto the external and internal surfaces of the medical devices. It may also have accessory inserts, such as specialized trays and racks, for processing a wide variety of instruments. The washer or washer-disinfector may clean, decontaminate or disinfect, and dry medical devices using preset cycles with defined-contact parameters. The cleaning phase may automatically dilute and dispense the cleaning agent or may require the user to dilute and add the cleaning agent manually. In some instances, manual precleaning of patient exposed devices may be necessary before placing them in the general use washer or washer-disinfector because of complex device designs or because of heavy soiling of the medical devices. The disinfection phase may be either a thermal process using heated water or steam or a chemical process using a liquid chemical germicide.

B. Recommended Classification of the Panel

The Panel unanimously recommended that the general use washer and washer-disinfector be classified into class II. The Panel believed that special controls in addition to the general controls would provide reasonable assurance of the safety and effectiveness of the device. The Panel recommended the following as special controls: FDA guidance, voluntary consensus standards, and user information/education.

C. Summary of Reasons for Recommendation

The Panel considered the information provided by FDA and industry, open discussions during the Panel meeting, and their clinical experience with the device in making their recommendation. The Panel then voted that general use washers and washer-disinfectors that are intended for medical purposes to clean, decontaminate or disinfect, and dry medical devices should be classified into class II. The Panel believed that special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and that there was sufficient information to establish special controls to provide such assurance.

D. Summary of Data Upon Which the Recommendation is Based

The Panel discussed a proposal to classify the general use washers and washer-disinfectors according to their intended use into two classes. Devices with cleaning as the only intended use would be placed in class I, whereas devices that are intended to be used for both cleaning and disinfection would be placed in class II. The Panel, however, noted that most of these devices would be placed in central services departments of healthcare facilities and believed that the majority of the devices would be intended for use as a washer-disinfector system rather than for use as a washer. The Panel recognized that a wide variety of medical devices, such as surgical instruments, anesthesia equipment, hollowware, and many other medical devices, are processed in these general use washers and washer-disinfectors and it is extremely difficult to dissociate the cleaning process from the disinfection process. Consequently, the Panel rejected the option of classifying the device intended only for washing as a class I device. The Panel recommended that the general use washers and washer-disinfectors, whether intended only for cleaning or intended for both cleaning and disinfection, be classified as class II.

The Panel acknowledged that those washers and washer-disinfectors already classified by regulation, such as washers for body waste receptacles, washers for general purpose articles, such as laboratory glassware, ultrasonic cleaners, washers and washer-disinfectors for flexible endoscopes, and contact lens cleaners, would not be affected by this classification.

E. Risks to Health

The Panel identified the following risks associated with the use of these devices: (1) Potential for increased risk of nosocomial infections; if general use washers and washer-disinfectors fail to process medical devices adequately, the medical device may serve as a potential vector for infection; (2) damage to medical devices if the cycle parameters or the liquid chemical germicide are incompatible with the medical device; damaged devices may fail to function or have areas that cannot be reprocessed effectively; (3) exposure of patient and healthcare users to chemical residues; if a liquid chemical germicide is used during the disinfection step, healthcare users and patients can be exposed to toxic residues if the rinse cycles are inadequate; (4) healthcare user exposure to toxic fumes from liquid chemical germicides or burns caused by exposure to hot water/steam used in the disinfection step; (5) electrical hazards; (6) electro-magnetic interference with the electronic components resulting in firmware failures; and (7) software failures.

F. Special Controls

In the **Federal Register** of November 5, 1998 (63 FR 59794), FDA announced the availability of the draft guidance document entitled ''Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer-Disinfectors.'' The draft guidance outlines the recommended testing to support the intended use of these devices. It recommends physical performance testing demonstrating that the general use washers and washer-disinfectors meet and maintain parameter specifications for each cycle. The draft guidance also provides information on the types of microbicidal performance testing to support the intended level of disinfection. In addition, it contains recommendations for residue testing, software documentation, and electrical and electromagnetic compatibility. The guidance includes recommendations on the types of information that should be included in the labeling for the general use washers and washer-disinfectors to provide the user with sufficient information for the proper use of these devices. FDA reviewed the comments on the draft guidance and has revised the guidance. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document that FDA intends to use as the special control for these devices (the special control guidance document).

Although the Panel recommended voluntary consensus standards as a special control when classifying the ''general use'' washers and washer-disinfectors, as they were termed at the time of Panel deliberations, there are currently no voluntary consensus design or performance standards specific to the ''general use'' washers and washer-disinfectors. There are more general applicable voluntary consensus standards, e.g., electrical safety standards. In the future, when voluntary standards are adopted for ''general use'' washers and washer-disinfectors, they can be incorporated in the FDA special control guidance document.

User information and education is critical to ensure that the users have full knowledge and can assume responsibility for the safe and effective use of the general use washers and washer-disinfectors. The Panel recommended user information and education as a special control. The FDA special control guidance document describes the type of information that should be made available to users of the ''general use'' washers and washer-disinfectors. The special control guidance document can be amended as the information and educational needs are updated.

III. Proposed Classification

FDA believes that in order to reduce the potential for confusion, the identification terms ''general use'' washer and ''general use washer-disinfector'' as recommended by the Panel should be changed to ''medical washer'' and ''medical washer-disinfector.'' The new terms will distinguish these devices from ''general purpose article'' washers and washer-disinfectors that are exempt from 510(k) requirements. FDA also believes that decontamination and disinfection are distinct intended uses that require FDA to distinguish washers from washer-disinfectors in classification descriptions.

FDA concurs with the Panel that the medical washers and washer-disinfectors should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

As the Panel initially considered, FDA believes that the medical washer can be exempt from 510(k) requirements and that some medical washer-disinfectors can also be exempted from 510(k) requirements depending on intended use. The medical washer-disinfector intended to clean and high level disinfect medical devices should be subject to 510(k) requirements because the reusable devices subject to a high level disinfection process may pose a high risk of infection and other serious sequelae if the washer-disinfector is unsafe or ineffective. The medical washer-disinfector intended to clean and provide low or intermediate level disinfection can be exempt from 510(k) requirements because the reusable devices subject to low or intermediate disinfection pose a relatively lower risk of infection and other serious sequelae if the washer-disinfector is unsafe or ineffective.

IV. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Manufacturers of these devices are already subject to 510(k) requirements. Some of these devices will now be exempt from the 510(k) requirement. The guidance will not add significantly to the information FDA presently requires in a 510(k). Therefore, FDA has determined that this proposed rule will impose little or no additional economic impact on any

small entities. The agency therefore certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under to section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

VI. Submission of Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by May 8, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

VII. Proposed Dates

FDA proposes that any final regulation based on this proposal become effective 30 days after its publication in the **Federal Register**.

VIII. References

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Transcript of General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee Meeting, September 14, 1998.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 880 be amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Sections 880.6991 and 880.6992 are added to subpart G to read as follows:

§ 880.6991 Medical washer.

(a) *Identification.* A medical washer is a device that is intended for general medical purposes to clean and dry surgical instruments, anesthesia equipment, hollowware and other medical devices.

(b) *Classification.* Class II (special controls). The special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors.'' The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

§ 880.6992 Medical washer-disinfector.

(a) *Identification.* A medical washer-disinfector is a device that is intended for general medical purposes to clean, decontaminate, disinfect, and dry surgical instruments, anesthesia equipment, hollowware, and other medical devices.

(b) *Classification.* Class II (special controls). The special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors.'' Medical washer-disinfectors that are intended only to clean, and provide low or intermediate level disinfection and dry surgical instruments, anesthesia equipment, hollowware, and other medical devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

Dated: August 24, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3019 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 01N–0411]

Orthopedic Devices; Proposed Classification for the Resorbable Calcium Salt Bone Void Filler Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify the resorbable calcium salt bone void filler device intended to fill bony voids or gaps, caused by trauma or surgery, that are not intrinsic to the stability of the bony structure into class II (special controls). The agency is also publishing the recommendation of the Orthopedic and Rehabilitation Devices Panel (the Panel) regarding the classification of this device. After considering public comments on the proposed classification, FDA will publish a final regulation classifying this device. This action is being taken to establish sufficient regulatory controls that will provide reasonable assurance of the safety and effectiveness of this device. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of a draft guidance document that the agency proposes to use as a special control for the device.

DATES: Submit written or electronic comments by May 8, 2002. See section XIII of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Nadine Y. Sloan, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1296.

SUPPLEMENTARY INFORMATION:

I. Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629) and the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115) established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval). Under the 1976 amendments, class II devices were defined as those devices for which there is insufficient information to show that general controls themselves will ensure safety and effectiveness, but for which there is sufficient information to establish performance standards to provide such assurance.

The SMDA broadened the definition of class II devices to mean those devices for which there is insufficient

information to show that general controls themselves will assure safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance. Special controls may include performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and any other appropriate actions the agency deems necessary (section 513(a)(1)(B) of the act).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has met the following three requirements: (1) Received a recommendation from a device classification Panel (an FDA advisory committee); (2) published the Panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act (21 U.S.C. 360c(f)) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with section 513(f)(2) of the act as amended by FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval.

The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations. A preamendments device that has been classified into class III may be marketed, by premarket notification, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

In 1987, when other orthopedic devices were classified (52 FR 33686 at 33702, September 4, 1987), FDA was not aware that the calcium sulfate bone void filler device, a resorbable bone void filler, intended for orthopedic use in filling bony voids or gaps not intrinsic to the stability of the bony structure, was a preamendment device and inadvertently omitted classifying it. On December 12, 1997, FDA received a Classification Proposal and Summary of Safety and Effectiveness Information for the OsteoSet™ Calcium Sulfate Bone Void Filler from Wright Medical Technology, Inc., requesting that the device be classified into class II (Ref. 1). Consistent with the act and the regulations, FDA consulted with the Panel regarding the classification of this device.

II. Device Identification

FDA is proposing the following device name and identification name based on the Panel's recommendation (Ref. 2) and the agency's review:

A resorbable calcium salt bone void filler device is a resorbable implant intended to fill bony voids or gaps caused by trauma or surgery that are not intrinsic to the stability of the bony structure.

FDA has broadened the classification name and identification of the resorbable calcium salt bone void filler device because of the similarity of the calcium sulfate bone void filler device to other resorbable calcium salt bone void filler devices.

III. Recommendation of the Panel

During a public meeting on January 12 and 13, 1998, the Panel unanimously recommended that the calcium sulfate bone void filler device be classified into class II (Ref. 2). The Panel believed that classification in class II with the recommended special controls of FDA guidance documents and FDA recognized voluntary consensus standards would provide reasonable assurance of the safety and effectiveness of the device.

IV. Summary of the Reasons for the Recommendation

The Panel believed that the calcium sulfate bone void filler device, a resorbable calcium salt bone void filler device, should be classified into class II because special controls, in addition to general controls would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance. Because FDA believes that the safety and effectiveness of bone void filler devices composed of other resorbable calcium salts may also be assured through special controls, in addition to general controls, the agency has broadened the device name to resorbable calcium salt bone void filler device to include bone void filler devices made of other resorbable calcium salts.

V. Summary of the Data Upon Which the Recommendation is Based

The Panel based its recommendation on the information contained in the petition, the information provided by FDA, and their personal knowledge of the device. In addition to information concerning the potential risks to health associated with the use of the resorbable calcium salt bone void filler device described in section VI of this document, there is reasonable knowledge of the benefits of the device. Specifically, the device provides an alternative treatment to use of either autogenous bone grafts, without the potential adverse effects of pain and morbidity associated with a bone harvest procedure, or use of allogeneic bone grafts, without the potential risk of disease transmission, including virus transmission. The device is also more readily and plentifully available than both alternative treatments.

VI. Risks to Health

After considering the information in the petition, the Panel's deliberations, as well as the published literature and medical device reports (MDRs), FDA has evaluated the risks to health associated with the use of the resorbable calcium salt bone void filler device. There were no MDRs for the OsteoSet™ calcium sulfate bone void filler, nor were there any MDRs for any other preamendments resorbable calcium sulfate bone void filler or postamendments resorbable calcium salt bone void filler. FDA now believes that the following are risks to health associated with use of the device: Infection of the soft tissue and/or bone (osteomyelitis) and fever; adverse tissue reaction; transient hypercalcemia; incomplete bone ingrowth, delayed union, and nonunion; fracture of the newly formed bone; and disease transmission and undesirable immune response associated with use of a biological source device material.

A. Infection of the Soft Tissue and/or Bone (Osteomyelitis) and Fever

Infection of the soft tissue and/or bone (osteomyelitis) and fever are potential risks to health associated with all surgical procedures and implanted orthopedic devices (Ref. 1). Improper or impure material composition may irritate the wound and exacerbate a preexisting infection and improper sterilization or packaging may increase the risk of infection. Use of a device that

is not pyrogen-free may elicit a fever response.

B. Adverse Tissue Reaction

Adverse tissue reaction is a potential risk to health associated with all implanted devices (Ref. 1). The use of this device in a wound will elicit a mild acute inflammatory reaction typical of a normal foreign body response. Inappropriate or impure device material composition may increase the severity of a local tissue reaction or may cause a systemic tissue reaction. Also, for a device intended to set in vivo, inappropriate device material composition may result in a significantly more exothermic setting reaction that may cause tissue necrosis.

C. Transient Hypercalcemia

Inappropriate material composition may lead to substantially more rapid resorption of the implant, which may contribute to, or may cause, transient hypercalcemia. For patients receiving resorbable calcium sulfate bone void filler, transient hypercalcemia usually resolves without any adverse clinical sequelae (Ref. 1). Implanting the resorbable calcium salt bone void filler device in a patient with a preexisting calcium metabolism disorder (e.g., hypercalcemia) may lead to elevated, unsafe, transient hypercalcemia.

D. Incomplete Bone Ingrowth, Delayed Union, and Nonunion

Incomplete bone growth into the treated void or gap, delayed union, and nonunion are potential risks to health that may require further surgical treatment. Device-related factors that may contribute to these risks are an improper material composition that resorbs too quickly or too slowly, or causes an infection or a severe local tissue reaction. Other factors, not related to the device, which may also contribute to incomplete ingrowth of new bone include inadequate preparation of the osseous defect and improper placement of the device.

E. Fracture of the Newly Formed Bone

Formation of new bone that is not as strong as the host bone may occur, and may result in fracture of the bone that may require further surgical treatment.

F. Disease Transmission and Undesirable Immune Response Associated With Use of a Device Material Derived From a Biological Source

Disease transmission, including virus transmission, and an undesirable immune response may occur if a calcium salt or calcium salt additive derived from a biological source, e.g., either animal or human tissue, is used that has not been adequately deproteinated or immunologically inactivated.

VII. Special Controls

FDA believes that the class II special control draft guidance document entitled ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device,'' in addition to general controls, is adequate to control the identified risks to health associated with use of the resorbable calcium salt bone void filler device. FDA agrees with the Panel that FDA guidance documents and voluntary consensus standards are appropriate special controls to reasonably assure the safety and effectiveness of the device. FDA believes that the class II special controls draft guidance document, which incorporates FDA guidance documents, voluntary consensus standards, material characterization, performance testing, and instructions for use, addresses the Panel's recommendation for a guidance document and voluntary consensus standard special controls.

The class II special controls draft guidance document addresses the risks to health associated with the resorbable calcium salt bone void filler device in the following five ways: (1) Adherence to the FDA guidance documents will assure that the device is safe for long-term implantation, control the risk of infection by assuring that only a sterile device is implanted, minimize the additional risk of eliciting a fever response, and assure that only a biocompatible material is used; (2) adherence to the voluntary consensus standards in the guidance document will assure that the device material has an appropriate composition and purity; (3) adherence to the material characterization recommendation will assure that the device has appropriate material properties for bone ingrowth and device resorption; (4) adherence to the performance testing recommendation will assure that implantation of the material provides an adequate environment for bony ingrowth and has the intended dissolution properties. For a calcium salt intended to set in vivo, it will also assure that the device material has an appropriate composition so that the setting reaction is not significantly exothermic to cause tissue necrosis. It will also assure that the device material has an appropriate composition to achieve the intended bone formation and material resorption, and that the newly formed bone is sufficiently strong. Finally, adherence to this section will help control the risks of disease transmission, including virus transmission, and undesirable immune response associated with implantation of a calcium salt or calcium salt additive derived from a biological source, e.g., either animal or human bone that has been inadequately deproteinated or immunologically inactivated; and (5) adherence to the instructions for use will help control the risk of an elevated, unsafe, transient hypercalcemia in patients with a preexisting calcium metabolism disorder.

VIII. Proposed Classification

Based on the available information, FDA believes that the resorbable calcium salt bone void filler device should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device with the identified risks to health associated with the use of the device, and there is sufficient information to establish special controls to provide such assurance.

IX. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

X. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory

options that would minimize any significant impact of a rule on small entities. As unclassified devices, these devices are already subject to general controls such as premarket notification. The premarket notification guidance document will not substantially change the way in which these devices are regulated. The agency therefore certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XI. Paperwork Reduction Act of 1995

This proposed rule does not contain information collection provisions that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

XII. Submission of Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by May 8, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

XIII. Proposed Dates

FDA proposes that any final regulation based on this proposal become effective 30 days after its publication in the **Federal Register**.

XIV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Wright Medical Technology, Inc., Arlington, TN, Classification Proposal and Summary of Safety and Effectiveness Information for the OsteoSet™ Calcium Sulfate Bone Void Filler, received December 12, 1997.

2. Transcript of the Orthopedic and Rehabilitation Devices Panel meeting, January 12 and 13, 1998, pp. 1–10 and 299–372.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 888 be amended as follows:

PART 888—ORTHOPEDIC DEVICES

1. The authority citation for 21 CFR part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 888.3045 is added to subpart D to read as follows:

§ 888.3045 Resorbable calcium salt bone void filler device.

(a) *Identification.* A resorbable calcium salt bone void filler device is a resorbable implant intended to fill bony voids or gaps, caused by trauma or surgery, that are not intrinsic to the stability of the bony structure.

(b) *Classification.* Class II (special controls). The special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance: Resorbable Calcium Salt Bone Void Filler Device.''

Dated: October 5, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3017 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 936]

RIN: 1512–AA07

Yadkin Valley Viticultural Area (2001R–88P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms has received a petition proposing the establishment of ''Yadkin Valley'' as a viticultural area in North Carolina. The proposed viticultural area consists of approximately 1,231,000 acres encompassing all of Surry, Wilkes, Yadkin and portions of Stokes, Forsyth, and Davie counties.

DATES: Written comments must be received by April 8, 2002.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221; (ATTN: Notice No. 936). To comment by facsimile or e-mail, see the ''Public Participation'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Tim DeVanney, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

What Is ATF's Authority To Establish a Viticultural Area?

The Bureau of Alcohol, Tobacco and Firearms (ATF), as the delegate of the Secretary of the Treasury, has authority under the Federal Alcohol Administration Act, 27 U.S.C. 205(e), to prescribe regulations that insure that alcohol beverages are labeled or marked to ''provide the consumer with adequate information as to the identity'' of the products.

ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) on August 23, 1978. This decision revised the regulations in 27 CFR part 4, Labeling and Advertising of Wine, to allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692), which added 27 CFR part 9, American Viticultural Areas, the listing of approved viticultural areas, the names of which may be used as appellations of origin.

What Is the Definition of a Viticultural Area?

Section 4.25a(e)(1), title 27 CFR, defines a viticultural area as a delimited grape-growing region distinguishable by geographical features. Viticultural features such as soil, climate, elevation, topography, etc., distinguish it from surrounding areas.

What Is Required To Establish a Viticultural Area?

Any interested person may petition ATF to establish a grape growing region as a viticultural area. The petition must include:

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

• Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

• A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

• A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Yadkin Valley Petition

ATF received a petition from Ms. Patricia McRitchie on behalf of Shelton Vineyards, Inc., Dobson, North Carolina, proposing to establish a viticultural area within the State of North Carolina, to be known as ''Yadkin Valley.'' The viticultural area encompasses Surry, Wilkes, and Yadkin counties and portions of Stokes, Forsyth, and Davie counties, all in North Carolina. The proposed viticultural area is located entirely within the Yadkin River watershed.

The proposed area encompasses approximately 1,924 square miles or 1,231,000 acres. Within these boundaries, there are over 30 growers that devote approximately 350 acres to the cultivation of wine grapes. Currently, there are three bonded wineries and at least two other wineries under construction.

What Name Evidence Has Been Provided?

According to the petitioner, the proposed viticultural area has been known as the Yadkin Valley since pre-colonial times. The first written historical appearance of the name Yadkin (also referred to as Yattken or Yattkin) was in 1674 in the writing of an early trader, Abraham Wood, whose English scouts passed through the area in 1673. It was used in reference to the Native American tribe found living along the river known as Yadkin. Subsequently, the name Yadkin was applied to many natural features and man-made structures in the area. In fact, the only references to Yadkin as a place name are to places located in North Carolina: Yadkin Valley, the Yadkin River, Yadkin County, the towns of Yadkin Falls, Yadkin College, and Yadkinville. It is also used to name businesses, schools, and organizations located in the northwestern piedmont of the State.

The petitioner states that there is rich historical and anthropological evidence of settlement and cultivation in the Yadkin Valley. Native American settlements date back to approximately 500 B.C. The first non-Native settlers, the Moravians, arrived in the Yadkin Valley in the 1740's. They originally scouted land in the Blue Ridge Mountains near Boone, but did not find a satisfactory site for settlement. The Moravians followed the Yadkin River east, finally reaching the three forks of the Muddy Creek, a tributary of Yadkin River. It was here that the first of these settlements were made in what are now Forsyth and Stokes counties. These settlements were Bethabara, established in 1753, and Bethania, established in 1759. Bethabara was a fortified settlement built to protect early settlers from attacks by Indians who would sweep down into the Yadkin Valley from the Blue Ridge Mountains during the French and Indian War. The Moravians were meticulous recordkeepers and references to the Yadkin Valley can be found in pre-colonial writings as well as in later resources.

The petitioner contends that references to the Yadkin Valley can be found in histories of the region during the American Revolution and the Civil War periods. Two of the best known Revolutionary battles in the Yadkin Valley are the Whig victories at Kings Mountain and the Battle of Shallow Ford. According to Ann Brownlee, in ''The Battle of Shallow Ford'' (12/1/96, 2/24/01 *http://www.velocenet.net/shallowford/battle.htm*), these battles were believed to have ''turned the tide of the War for Independence in North Carolina to the Patriots' advantage.''

The petitioner states that the period immediately after the Civil War was highlighted by a steady influx of settlers into the Yadkin Valley and was characterized by subsistent farming on its rich soils. Toward the latter part of the 19th century, the focus was on cotton and tobacco. By the early 20th century, the change to tobacco as a cash crop was secure. At the close of the 20th century, the predominance of tobacco growing in the northwest piedmont of North Carolina waned. In its place is an increased interest in grape growing, which is rooted in pre-colonial North Carolina.

The petitioner states that, in an article titled ''N.C. Winery History'' (North Carolina Grape Council Web site, 2/24/01, *http://www.ncagr/com/markets/commodit/horticul/grape/winehist.htm*), the first cultivated wine grape in the United States was grown in North Carolina. The first known recorded account of the scuppernong grape is found in the logbook of explorer Giovanni de Verranzano. He wrote in 1524, ''Many vines growing naturally there [in North Carolina] that would no doubt yield excellent wines.''

The wine industry in North Carolina thrived through the 19th and 20th centuries until prohibition. At that time, the industry, which was centered in the eastern part of the State, was based on muscadine wine.

The petitioner contends that one of the first modern major plantings of vinifera grapes in North Carolina occurred in 1972, when Jack Kroustalis established Westbend Vineyards, located in the Yadkin Valley. According to ''Carolina Wine Country'', ''[t]he vines flourished in the rich soil of the Yadkin River Valley.'' In 1988, Kroustalis built the first bonded winery in the Yadkin Valley. Other growers in Yadkin Valley took note of Westbend Vineyard's success with vinifera grapes and followed suit. By the end of 2000, over 350 acres of grapes were planted in the Yadkin Valley. The North Carolina Department of Agriculture has recognized this area as a ''unique and valuable winegrowing region.''

In 1999, Shelton Vineyards began planting 200 acres of vinifera grapes on land considered perfectly suited to vinifera grape growing. The following year, they opened a state-of-the-art 30,000 case winery. There are currently two wineries under construction in the proposed viticultural area. The Yadkin Valley Wine Grower's Cooperative was recently incorporated.

In 1999, Surry Community College began offering continuing education viticulture courses. Spurred by the tremendous interest in grape growing, the College initiated a two-year viticulture program, which began in the fall of 2000. The program was designed with the intent of educating future grape growers to take advantage of the favorable growing environment provided by the Yadkin Valley. In December of 2000, the Golden Leaf Foundation awarded the College over $130,000 to support the establishment of a demonstration vineyard and winery for use by students in the program. The petitioner contends that this provides further evidence and recognition of the promise that Yadkin Valley holds as a valuable and distinct viticultural area.

Reference materials used to prepare this petition consistently include the entire counties of Wilkes, Surry, and Yadkin in the Yadkin Valley, as well as portions of Stokes and Forsyth Counties. Davie and Iredell Counties are also commonly included. However, the petitioner contends that, for reasons discussed in the following section of the petition, Iredell County and the southern portion of Davie County

should not be included in the proposed Yadkin Valley viticultural area.

The foregoing is evidence that Yadkin Valley is locally and nationally known as encompassing the area proposed by this petition.

What Evidence Relating to Geographical Features Has Been Provided?

Soil

The information in this section was prepared by Roger J. Leab, Soil Scientist, Natural Resource Conservation Service, United States Department of Agriculture. Mr. Leab was Soil Survey Project Leader for Surry County and Stokes County. He is currently the Soil Survey Project Leader for Alamance County. The soil information was compiled from the published soil surveys of Wilkes, Stoke, Yadkin, Davie, and Forsyth Counties and the data collected for the soon-to-be-published soil survey of Surry County.

The soils of the proposed Yadkin Valley viticultural area are formed mainly from residuum (saprolite) weathered from felsic metamorphic rocks (gneisses, schists, and phyllites) of the Blue Ridge Geologic Belt and the Smith River Allochothon and from metamorphosed granitic rocks of the inner Piedmont Belt. The extreme southeastern part of the area is formed from saprolite weathered from igneous intrusive rocks (granites, gabbros and diorites) and some gneisses and schists, all of the Charlotte Belt.

Most of the proposed viticultural area is in the mesic soil temperature regime, which, at a depth of 20 inches, has an average annual soil temperature of 47 to 59 degrees Fahrenheit. The extreme southeastern part of the area is in the thermic temperature regime, which is the 59 to 72 degree Fahrenheit range.

The dominant soil series formed from residuum in the mesic area are Fairview, Clifford, Woolwine, Westfield, Rhodhiss, and Toast soils. The dominant soil series formed from residuum in the thermic area are Pacolet, Cecil, Madison, Appling, and Wedowee soils. There are also some large areas of soils, which formed in old fluvial sediments of high stream terraces. These are the Braddock series in the mesic area and the Masada, Hiwassee, and Wickham series in the thermic area. These soils all have clayey or fine-loamy subsoils with good internal structure and moderate permeability. They are mostly very deep and well drained. These soils are acidic and have low natural fertility, requiring a well-structured fertility plan.

The soil series that formed in residuum from the mafic intrusive rocks (gabbros and diorites), which occur scattered along the extreme southeastern part of the proposed viticultural area, have slightly better natural fertility. However, they have subsoils with mixed mineralogy clays. The Gaston and Mecklenburg series have moderate or moderately slow permeability and are suitable to moderately suitable for viticulture. However, the Enon and Iredell series have high shrink-swell clayey subsoils, which perch water during wet periods and result in less than desirable internal drainage.

The less than desirable, high shrink-swell clayey soils are more abundant to the south and east of the proposed viticultural area. The Blue Ridge Mountains are to the west and north of the proposed area. The petitioner contends that these limitations define the Yadkin Valley as a unique viticultural area.

Climate

Data for precipitation, temperature and heat summation were provided by the State Climate Office of North Carolina.

Hardiness Zone. The proposed viticultural area is in Zone 7a of the USDA Hardiness Zone Map. The surrounding areas are in Zones 6b and 7b. This zone is well suited for growing grapes while the adjacent zones are not as favorable for growing vinifera grapes. For example, the Columbia Valley viticultural area in Washington State is also located in Zone 7a.

The Yadkin Valley is located in the warm temperate latitude between 36′00″ and 36′30″ N. This is an area well suited to growing vinifera grapes while latitudes below 35′00″ are not suited to vinifera grape growing, according to Gordon S. Howell and Timothy K Mansfield's article, ''Microclimate and the Grapevine: Site Selection for Vineyards (A Review),'' in ''Vinifera Wine Growers Journal,'' Fall 1977, 373.

Precipitation. The Yadkin Valley has an average rainfall of 46.42 inches. The area to the west and northwest receives, on average, more than 68 inches of rain per year. The area to the south and east receives, on average, 43.37 inches of rain per year. In general, the Yadkin Valley receives less precipitation than the area to the west and northwest and slightly more than the areas to the south and the east.

Temperature. The Yadkin Valley has average maximum annual temperatures of 69.85 degrees Fahrenheit and average minimum annual temperatures of 44.90 degrees Fahrenheit. The area to the west-northwest has an average maximum temperature of 58.6 degrees Fahrenheit and an average minimum annual temperature of 40.00 degrees Fahrenheit. The area to the east has an average maximum annual temperature of 68.4 degrees Fahrenheit and an average minimum annual temperature of 46.0 degrees Fahrenheit. The area to the south has an average maximum annual temperature of 71.5 degrees Fahrenheit and an average minimum annual temperature of 48.1 degrees Fahrenheit.

In summary, the Yadkin Valley is much warmer than the area to the west and northwest and has slightly higher maximum and minimum temperatures than the area to the east. The Yadkin Valley has lower maximum and minimum temperatures than the area to the south. Temperature differences become more pronounced the further south one travels. In addition, as you proceed east past the Greensboro area, the temperatures, both maximum and minimum, become warmer than in the proposed viticultural area.

Heat Summation. Using Amerine and Winkler heat summation definitions, the proposed viticultural area is in climatic region IV, with 3743 degree-days. The areas to the east are in region IV. The area to the west-northwest is in region I, and the area to the south is in region V (Greensboro, NC is close to region V).

The data for the following analyses are taken from the North Carolina State University Horticulture Information Leaflet ''Average Growing Season for Selected North Carolina Locations'' (12/96, revised 12/98) by Katharine Perry.

Frost-Free Season/Growing Season. The proposed viticultural area enjoys a frost-free season lasting from April 22 to October 15. This is a growing season of 176 days and is two to four weeks longer than the region to the west. The frost-free/growing season in the proposed viticultural area is similar to the area immediately to the south. In contrast, the regions to the east-southeast have a frost-free and growing season four to six weeks longer than the proposed viticultural area.

Climate Summary. The proposed viticultural area has more moderate temperatures and precipitation than the surrounding areas. The growing season and frost-dates fall within the optimum range for cultivation of premium vinifera grapes. These data support the proposition that the Yadkin Valley possesses climatic conditions distinguishing it from the surrounding areas.

Geology

Matthew Mayberry, Chairman/President, River Ridge Land Company, Inc., provided the following geological commentary.

The rocks and subsequent soils of the Blue Ridge and Piedmont Physiographic Provinces of the proposed viticultural area have origins extending back to the early formation of the earth's continental landmasses. Some rocks of the subject area have been dated to approximately 1.8 billion years old.

The geologic history is tremendously complex and involves plate tectonics (continental drift, continental collisions, subduction zones, intercontinental deformations) and the whole spectrum of uplifting and erosional wearing down for the entire mountain building cycle. Each of these cycles required several hundred million years during which the ongoing uplift and erosional wearing down processes were constantly active. The erosional cycle gradually reduces land surfaces from mountains to relatively level surfaces, gently sloping toward a depositional basin (ocean/sea). Geological evidence indicates at least three complete tectonic cycles, the last of which involved a collision and later separation of the Euro African Plate with the North American Plate. This produced a mountain range approximating the present day Andes Mountains of South America and eventually resulted in the creation of the Atlantic Ocean and the present day plate positions.

During a period of three hundred million years, following the build up of this original Appalachian Mountain system, the forces of weather and erosion have likely removed thousands of meters of rock with the resulting Piedmont and Blue Ridge surfaces of today. Evidence of three erosional cycles is represented by present day mountain peaks, *e.g.*, Mount Mitchell in North Carolina and Mount Rogers in Virginia. These peaks represent the oldest leveling cycle. The peaks of Kings Mountain, Pilot Mountain, Sauratown Mountain and the ridges of the Blue Ridge system represent the next erosional cycle. This middle cycle is definitely an older cycle (400,000,000 years) than the present-day Piedmont and Coastal Plain, which represent the third leveling cycle with their gentle sloping surface to the Atlantic Ocean. A current hypothesis is that the Appalachian Mountains and Piedmont are in a cycle where uplift is exceeding erosion by about 100 feet per 1,000,000 years for the Appalachian system of today.

The highly complex rocks of the present day Blue Ridge and Piedmont provinces represent a core area that has been present and re-crystallized and re-metamorphosed through several of these mountain building cycles to produce the complex schists, gneisses and igneous rocks of today. Relics of a couple of the hot spots that re-crystallized rock are the granites of Mount Airy and Stone Mountain, North Carolina. The weathering of these Piedmont rocks has produced soils with chemical and physical properties that are very amenable to the viticulture industry. These soils and the climate of the proposed Yadkin Valley viticultural area cover a spectrum that is equal to most vineyards of Europe and California.

After the Yadkin River's origin and descent from mountain springs in the Blowing Rock, North Carolina area, it encounters a major structural feature known as the Brevard Shear Zone (fault system), which also defines the Blue Ridge Escarpment in the area, paralleled by the river. At the base of the Blue Ridge Escarpment, the Yadkin River turns and flows northeastward under the structural control of this shear zone for a distance of approximately 50 miles before bending to the east between the northeast end of the Brushy Mountains and Pilot Mountain. At the Surry, Yadkin, and Forsyth County corner, the Yadkin turns southward and later becomes the Pee Dee River at High Rock Lake, about six miles northwest of Salisbury, North Carolina.

What Boundary Evidence Has Been Provided?

Matthew Mayberry, Chairman/President, River Ridge Land Company, Inc. provided the boundary description.

The area of the proposed Yadkin Valley viticultural area covers approximately 1,924 square miles or 1,231,000 acres in Wilkes, Surry, Yadkin and parts of Stokes, Forsyth, and Davie counties. The subject area is identified on two 1:250,000 scale USGS maps:

(1) Winston-Salem, N.C.; VA., Tenn. 1953 Limited Revision 1962 and,

(2) Charlotte, North Carolina; South Carolina 1953 Revised 1974.

The proposed Yadkin Valley viticultural area boundary is defined as a series of compass bearings and corresponding distances determined with a protractor and a 1:250,000 scale, based on and read from the U.S.G.S. maps. Primarily, the proposed viticultural area is defined by county lines. In cases where directions change, where county lines are too irregular to measure, a ''trend direction bearing'' with straight-line miles is reported. The beginning point is defined as a point 3.6 miles west of the northeast corner of Surry County on the Surry County and North Carolina/Virginia state line at the crest of Slate Mountain.

The boundaries of the proposed Yadkin Valley viticultural area are more particularly discussed in proposed § 9.174 (c) of the regulations, as identified below in this Notice.

Regulatory Analyses and Notices

Is This a Significant Regulatory Action as Defined in Executive Order 12866?

This regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this proposed rule is not subject to the analysis required by this Executive Order.

How Does the Regulatory Flexibility Act Apply to This Proposed Rule?

The proposed regulations will not have significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement or approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. We believe that the establishment of viticultural areas allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify various wines. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from that area. No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

Does the Paperwork Reduction Act Apply to This Proposed Rule?

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)) and its implementing regulations, 5 CFR part 1320, do not apply to this proposed rule because no requirement to collect information is proposed.

Public Participation

Who May Comment on This Notice?

ATF solicits comments from all interested parties. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration, if it is practical to do so. Assurance of consideration can only be given to comments received on or before the closing date.

Copies of this petition, the proposed regulations, the appropriate maps, and any written comments received may be viewed by appointment at the ATF Reference Library, Office of Liaison and

Public Information, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927–7890. To receive copies of comments, you must file a Freedom of Information Act (FOIA) request. For instructions on filing a FOIA request, call (202) 927–8480 or refer to the internet address: *http://www.atf.treas.gov/about/foia/foia.htm.*

For the convenience of the public, ATF will post comments received in response to this notice on the ATF web site. All comments posted on our web site will show the name of the commenter. Street addresses, telephone numbers, and e-mail addresses are removed. We may also omit voluminous attachments or material that we do not consider suitable for posting. In all cases, the full comment will be available in the library or through FOIA requests, as noted above. To access online copies of the comments on this rulemaking, visit *http://www.atf.treas.gov/,* and select ''Regulations,'' then ''Proposed rules'' and this notice. Click on the ''view comments'' button.

Will ATF Keep My Comments Confidential?

ATF will not recognize any comment as confidential. All comments and materials will be disclosed to the public. If you consider your material to be confidential or inappropriate for disclosure to the public, do not include it in the comments. We will also disclose the name of any person who submits a comment.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing by writing the Director within the 60-day comment period. However, the Director reserves the right to determine whether a public hearing will be held.

How Do I Send Facsimile Comments?

To submit facsimile transmissions, use (202) 927–8525. Facsimile comments must:

- Be legible.
- Reference this notice number.
- Be on paper 8½ × 11'' in size.
- Contain a legible written signature.
- Not be more than three pages.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

How Do I Send Electronic Mail (E-Mail) Comments?

To submit comments by e-mail, send the comments to: *nprm@atfhq.atf.treas.gov.* You must follow these instructions.

E-mail comments must:

- Contain your name, mailing address, and e-mail address.
- Reference this notice number.
- Be legible when printed on no more than three pages, 8½ × 11'' in size.

We will not acknowledge receipt of e-mail. E-mail comments are treated as originals.

How Do I Send Comments to the ATF Internet Web Site?

There is a comment form provided with the online copy of the proposed rule on the ATF internet web site at: *http://www.atf.treas.gov.*

Drafting Information

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

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.174 to read as follows:

* * * * *

§ 9.174 Yadkin Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Yadkin Valley''.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Yadkin Valley viticultural area are two United States Geological Survey (U.S.G.S.) topographic maps, scale 1:250,000:

(1) Winston-Salem, N.C.; VA; Tenn. (1953, Limited Revision 1962), and,

(2) Charlotte, North Carolina; South Carolina. (1953, Revised 1974).

(c) *Boundaries.* The Yadkin Valley viticultural area is located in the state of North Carolina within Wilkes, Surry, Yadkin and part of Stokes, Forsyth, and Davie Counties. The boundaries are as follows:

(1) Beginning with the Winston-Salem, N.C.; VA; Tenn. map, the beginning point is 3.6 miles west of the northeast corner of Surry County on the Surry County and North Carolina/Virginia state line. From the beginning point, proceed south 25.5 degrees east, this boundary line follows the Yadkin River Basin boundary line, approximately 8.0 miles, to the intersection of the Surry/Stokes County line;

(2) Then follow the Surry/Stokes County line, approximately 1.5 miles south;

(3) Then bear south 57 degrees east, for approximately 7.8 miles, following the Yadkin River Basin boundary line to Sauratown Mountain peak (at the 2,465 foot contour line);

(4) Then bear northeastward along the Yadkin River Basin boundary line to the Gap (between Sauratown and Hanging Rock Mountains), at the State Route 66/Yadkin River Basin boundary line intersection;

(5) Then bear south, following State Route 66 to the U.S. Route 52/State Route 66 intersection;

(6) Then follow U.S. Route 52 south to Rural Hall, N.C., to the intersection of the Southern Railway track and U.S. Route 52;

(7) Then bear south, following the Southern Railway track to where it intersects with U.S. Route 158;

(8) Then bear southwest, following U.S. Route 158 (onto the Charlotte, North Carolina; South Carolina quadrangle map) to the intersection of U.S. Highway 601/U.S. Route 158 at Mocksville, N.C.;

(9) Then bear northwest, following U.S. Highway 601 (onto the Winston-Salem, N.C.; VA; Tenn. quadrangle map) to the Davie/Yadkin County line;

(10) Then continue west along the Yadkin/Davie County line, to the Yadkin/Davie/Iredell County line intersection, to the Yadkin/Iredell County line, to the Yadkin/Iredell/Wilkes County line intersection, to the Iredell/Wilkes County line, to the Iredell/Wilkes/Alexander County line intersection, to the Wilkes/Alexander County line, to the Wilkes/Alexander/Caldwell County line intersection;

(11) Then bear northwesterly along the Wilkes/Caldwell County line, to the Wilkes/Caldwell/Watauga County intersection;

(12) Then bear northeasterly then northwesterly along the Wilkes/Watauga County line to the intersection of the Wilkes/Watauga/Ashe County lines;

(13) Then alternately bear northeasterly then southeasterly along the Wilkes/Ashe County line, to the Wilkes/Ashe/Alleghany County line intersection;

(14) Then alternately bear northeasterly then southeasterly along the Wilkes/Alleghany County line to the

Wilkes/Alleghany/Surry County line intersection;

(15) Then alternately bear northeasterly then northwesterly and then northeasterly again, along Alleghany/Surry County line to the intersection of the Alleghany/Surry/Grayson County lines at the North Carolina/Virginia border;

(16) Then bear east along the Surry/Grayson County line to the Surry/Grayson/Carroll County line intersection;

(17) Then continue east along the Surry/Carroll County line through the intersection of the Surry/Carroll/Patrick County lines following the Surry/Patrick County/North Carolina/Virginia state line to the beginning point, 3.6 miles west of the northeast corner of Surry County.

Dated: January 23, 2002.

Bradley A. Buckles,

Director.

[FR Doc. 02–2956 Filed 2–6–02; 8:45 am]

BILLING CODE 4810–31–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2002]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is issuing a notice of proposed rulemaking on the requirements for giving copyright owners reasonable notice of the use of their works for sound recordings under statutory license and for how records of such use shall be kept and made available to copyright owners. The Digital Performance Right in Sound Recordings Act of 1995 and the Digital Millennium Copyright Act enacted in 1998 require the Office to adopt these regulations.

DATES: Comments are due by March 11, 2002. Reply comments are due by April 8, 2002.

ADDRESSES: An original and ten copies of any comment shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE, Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

The Digital Performance Right in Sound Recordings Act of 1995 (DPRA) amended 17 U.S.C. 114 to give sound recording copyright owners an exclusive right to perform their works publicly by means of a digital audio transmission, subject to certain limitations and exemptions. Pub. L. No. 104–39, 109 Stat. 336 (1995). Among the limitations placed on the performance of a sound recording was the creation of a statutory license that permits certain subscription digital audio Services to publicly perform those sound recordings through digital audio transmission. In order to operate under the license, eligible subscription digital audio Services must pay the statutorily required fees and comply with certain other conditions, such as adherence to notice and recordkeeping requirements.

In 1998, Congress passed the Digital Millennium Copyright Act (DMCA), which expanded the scope of the section 114 license. It amended section 114 by adding three new categories of Services that may operate under the license, and by redesignating the subscription Services covered by the DPRA statutory license as ''preexisting subscription Services.'' Pub. L. No. 105–304, 112 Stat. 2860, 2887 (1998). The three new service categories are: (1) Preexisting satellite digital audio radio Services, (2) new subscription Services and (3) eligible nonsubscription transmission Services. The DMCA also amended 17 U.S.C. 112 to add another new license that is available to permit Services to make ephemeral recordings of a sound recording to facilitate the transmissions permitted under section 114.

Both the DPRA and the DMCA direct the Librarian of Congress to establish regulations to require eligible Services to give copyright owners reasonable notice that their sound recordings are being used under one or both of the licenses and create and maintain records of use and make them available to copyright owners. *See* Secs. 112(e)(4) and 114(f)(4)(A).

Interim Rule for Digital Audio Subscription Transmissions

On May 13, 1996, the Copyright Office published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** requesting comments on the requirements by which copyright owners should receive reasonable notice of the use of their works from subscription digital transmission Services and how records of such use should be kept and made available to copyright owners. The Office asked commentators to consider both the adequacy of notice to sound recording copyright owners and the administrative burdens placed on digital transmission Services in providing notice and maintaining records of use. 61 FR 22004 (May 13, 1996).

On November 14, 1996, and again on January 27, 1999, the Copyright Office met with the parties to facilitate agreement on the notice and recordkeeping requirements under section 114, and to discuss the proper regulatory and recordkeeping role of the Office.[1]

Based on the comments filed in response to the first NPRM and the information gleaned from the subsequent meetings, the Copyright Office published a second NPRM on June 24, 1997, presenting certain preliminary decisions and asking the parties for further comments.[2] 62 FR 34035 (June 24, 1997). In 1998, after extensive study, the Copyright Office issued Interim Regulations to implement the notice and recordkeeping requirements for section 114 that were enacted in 1995 as part of the DPRA. 63 FR 34289 (June 24, 1998). 37 CFR 201.35–201.37. The interim rules took effect on June 28, 1998. The rules were issued on an interim basis in light of the rapidly developing nature of the digital transmission Service industry and the possibility that new technology might be developed which would allow the reporting requirements to be either

[1] The comments, meeting summaries, and meeting handouts are available in the Public Information Office of the Copyright Office, James Madison Memorial Building, Room LM–401, First and Independence Ave., SE., Washington, DC.

[2] The version that was published in the **Federal Register** on June 24, 1998 is a synopsis of the Interim Regulation in Docket No. RM 96–3B, adopted June 15, 1998. The full text is available for inspection and copying during normal business hours in the Public Information Office of the Copyright Office, Room LM–401, and in the Public Records Office of the Licensing Division of the Copyright Office, Room LM–458, James Madison Memorial Building, First and Independence Avenue, SE, Washington, DC 20559–6000. The full text is also available via the Copyright Office home page at *http://www.loc.gov/copyright.*

expanded or reduced, depending upon the needs of the industries.

Since that time, the subscription digital audio Services (now known as the ''preexisting subscription Services'') have filed notices of use and maintained records of use in accordance with these rules. These rules, however, were not adapted to cover the new categories of Services that operate under the licenses in sections 112 and 114, as amended by the DMCA.

Current Rulemaking Proceeding

The purpose of this proposed rulemaking is to provide interested parties with an opportunity to comment on the Interim regulations and to amend these same rules to include the requirements of the 1998 DMCA amendments that expanded the section 114 license and created the new section 112 license. For a full discussion of the issues underpinning the Interim regulations, please refer to the earlier NPRMs, 61 FR 22004 (May 13, 1996) and 62 FR 34035 (June 24, 1997), and the notice announcing the interim rules. 63 FR 34289 (June 24, 1998).

1. Preliminary Considerations

On May 24, 2001, the Copyright Office received a petition from the Recording Industry Association of America (RIAA) and its SoundExchange division requesting that the Office conduct rulemaking proceedings to develop notice and recordkeeping requirements that substantively address the 1998 DMCA amendments. RIAA, however, advised against establishing any notice or recordkeeping requirements for pre-existing satellite digital audio radio Services, as defined in 17 U.S.C. 114(j)(10), or for pre-existing subscription Services employing transmission media other than those used by such Services on July 31, 1998. RIAA petition at 1–2. This suggestion was based on the fact that RIAA and identified Services were engaged in negotiation discussions regarding notice and recordkeeping issues for these Services which they hoped would result in agreement that would be jointly proposed to the Office for adoption in a second rulemaking proceeding. RIAA petition at 2.

The Office agrees that there is a need to adopt additional notice and recordkeeping requirements for eligible nonsubscription Services at this time in order to have them in place when the current CARP proceeding is concluded. Adoption of such rules will enable copyright owners to receive their royalty payments as expeditiously as possible. See U.S. Copyright Office, Order in Docket No. 99–6 CARP DTRA 1 & 2, Docket No. 2000–3 CARP DTRA2 (December 4, 2000 Order.)

The scope of the rules proposed by the Office, however, covers all Services that operate under the section 112 and 114 licenses. The Office takes this approach because preexisting digital audio satellite Services and new types of subscription Services are already in operation and should have the benefit of knowing what record keeping requirements they must use so that they can structure their businesses accordingly. Moreover, it is likely that the basic requirements for notice and recordkeeping will be similar for all Services. For this reason, the proposed rule is an amended version of the interim rule and addresses the notice and record keeping requirements for all categories of Services.

2. Elements of Proposed Regulations

To make it explicit that the provisions of 37 CFR 201.35–201.37 apply to the Services added by the DMCA, statutory references to them have been inserted as appropriate throughout. Also, the statutory definition for each Service has been added to the definition sections of 37 CFR 201.35–201.37, either expressly or by a cross reference. A definition of ''AM/FM Webcast'' has also been included in the recordkeeping provisions for section 201.36.

The Office also proposes amending 37 CFR 201.35–201.37 throughout to make those provisions applicable to section 112 licenses in the same way that they apply to section 114 licenses, although differences in the statutory requirements have been taken into account where appropriate. Therefore, statutory references to section 112 licenses have been incorporated along with references to section 114 licenses.

This approach follows RIAA's recommendation with regard to the recordkeeping requirements for section 112 licenses. However, while RIAA recommended that 37 CFR 201.35 be used as a model for section 112 notice requirements, it advocated putting the section 112 notice requirements in a separate section because ''the existing notice regulations are so replete with references to the subject matter of the statutory license as to make it confusing to integrate the two notice provisions.'' RIAA petition at 11. However, the Copyright Office has decided not to follow that approach at this time and proposes to amend 37 CFR 201.35 to apply its notice provisions to both section 112 and 114 licenses. The Office does not believe that such an approach is confusing, and believes that such an approach is more efficient and will result in less paperwork for the Office and for Services operating under the statutory license. For example, the proposed rule provides that a Service may file a single initial notice stating the Service's intention to use either the section 114 statutory license, or the section 112 statutory license, or both.

Initial Notice. The proposed changes to the notice requirements of 37 CFR 201.35 are intended to apply to situations in which a Service is operating under only one license and those in which a Service is operating under both. Consistent with that approach, the amended rules propose use of a single standard form for both the section 114 license and the section 112 license. A Service will be required to expressly indicate on a standard form Notice of Use of Sound Recordings under Statutory License the license(s) for which the notice is being filed.[3] The form will also require that the Service indicate the categories of license (e.g., preexisting subscription service, non-subscription transmission service, etc.) for which it seeks the license. In addition, the Service must provide the date or the expected date of the initial digital transmission of a sound recording made under section 114 and the date of creation of an ephemeral phonorecord made under section 112.

The Office proposes to require all Services, including those which have previously filed a general Notice of Use for the section 114 license, to file a new Notice of Use. It is the Office's impression that many Services that have filed Initial Notices under the current regulation have ceased using the statutory license and, in many cases, have gone out of business altogether. Requiring all Services to refile a Notice of Use will make the Office's records more reliable, retiring records identifying Services that are no longer using the statutory license. The Office invites comments on this proposal.

Moreover, the Office proposes that all Notices of Use be prepared using a standard form developed for this purpose. In this way, there will be an accurate uniform record currently identifying all Services using these statutory licenses, indicating which licenses are to be used, the type of transmissions to be made under the section 114 license, and information concerning the date of first transmission or the date for making an ephemeral recording of a sound recording. Under current practice, in which parties may submit a notice based on a suggested,

[3] The Notice of Use of Sound Recordings under Statutory License would replace the Initial Notice of Digital Transmission of Sound Recordings under Statutory License found in the current version of section 201.35.

but nonmandatory, format, a Notice is more likely to be misfiled and the information in the Notice is less likely to be easily recognized. Parties may comment on the elements required as part of the notice, on when the updated notice should be filed, and on the layout and utility of the proposed standard form. A prototype of the proposed form has been posted on the Copyright Office website at: *http://www.loc.gov/copyright/forms/form112–114nou.pdf.*

In general, Services transmitting sound recordings under statutory license will be required to file an initial notice with the Copyright Office as before, including the Service name, address, telephone number, and information on how to gain access to the online website or home page of the Service or entity, where information may be posted under these regulations concerning the use of sound recordings under statutory license. If the proposed rules are adopted, the notices will be placed in the public file in the Licensing Division of the Copyright Office, where copyright owners may go to access the information concerning use of sound recordings under the licenses. The Office proposes to discontinue its current practice of posting copies of all notices on its website. The Office questions the continued utility of making this information available on the website, which requires the expenditure of substantial resources. It does not appear that removing the notices from the website would be likely to deprive interested parties of the information found in the notices. The Office proposes to provide copies of all notices of use to the Collective or Collectives designated through the CARP process to receive and distribute royalties under the statutory license, and believes that this, combined with the availability of the notices for inspection and copying in the Licensing Division, adequately makes the information in the notices available to all interested parties.

Moreover, the Office seeks comment on a possible change to the requirement that all notices be filed in the Copyright Office. Would it be more efficient for a Service to file its Notice of Use directly with the designated collection entity, rather than with the Copyright Office? What would be the propriety and efficiencies of having Services file Notices of Use not with the Office, but directly with the Collective designated to receive royalties from the statutory licensees, and requiring the Collective to make the notices available to the public for inspection and copying?

Moreover, the Office is seeking comment on the advisability of requiring periodic filings of the notices of use in order to establish a continually current and updated file of Services operating under either the section 114 and section 112 licenses. If the Office finds there is a need for maintaining an updated file, the final rule will specify that each Service must file a new Notice of Use with the Office every year (or other time period to be determined).

In any event, a new Service will still be required to file its Notice of Use prior to the date of first transmission or the making of an ephemeral recording, and a Service will continue to be required to update its filing within 45 days of a change in the information reported. If notices are to be filed with the Copyright Office, all notices shall be accompanied by the filing fee (currently $20) specified in section 201.3(c) of title 37 of the Code of Federal Regulations. On the other hand, if the Office adopts a rule requiring Services to file the Notices of Use directly with the designated collective, there is an open question on whether there should be a filing fee and how much that fee should be. Interested parties should address this issue in their comments to the Office.

Reports of Use. Where appropriate, the existing recordkeeping requirements have been revised to reflect the changes introduced by the DMCA by inserting the appropriate statutory references. The proposed amendment sets forth specific reporting requirements for each Service category. In fashioning the proposed new regulations, the Office is adopting RIAA's recommended changes for recordkeeping requirements for new subscription Services and for Services making eligible nonsubscription transmissions under section 114 and applies the same rules to the preexisting satellite digital audio radio Services. In addition, the proposed regulations incorporate RIAA's recommendation for section 112 recordkeeping requirements. The Office is taking this approach because the required information seems designed to accomplish the basic reporting objective of providing information with which copyright owners can generally monitor compliance with the terms of the licenses.

As before, a preexisting subscription Service making digital transmissions in the same transmission medium used by such Service on July 31, 1998, would be required to submit reports of use with an Intended Playlist containing all the elements required in the Interim regulations. No changes have been made to the requirements for those Services' Intended Playlists. The amended rules, however, require other types of Services to submit Intended Playlists that provide additional information, such as the type of program and the time zone from which the transmission originated.

In addition to the information in the Intended Playlists, RIAA has made additional requests for information in two instances. In the case of eligible nonsubscription transmissions and transmissions made by a new subscription Service, RIAA has requested that these Services include a ''Listener's Log'' in the Report of Use. The ''Listener's Log'' will identify the name of the Service, the channel or program accessed, information on the user, such as date and time the user logged in and out, the time zone of the place at which the user received the transmission, the user identifier, and the country in which the user received the transmission. RIAA has also requested that a Service making ephemeral phonorecords of sound recordings under section 112(e) include an ''Ephemeral Phonorecord Log'' in its record of use. The ''Ephemeral Phonorecord Log'' would, among other things, include the name of the Service, the date the phonorecord was made or destroyed, and specific information about the sound recording from which the ephemeral phonorecord was made. Commenters should discuss in detail the reasons for including or excluding specific elements of the Listener's Log and the Ephemeral Phonorecord Log.

On its face, the request for the Intended Playlists, Listener's Log, and Ephemeral Phonorecord Log seems reasonably based on the premise that the copyright owners need certain specific information to monitor compliance and use by the Services. In support of its request for the detailed information, RIAA argues that the information it seeks from the Services is ''easily provided, [] not burdensome, and in fact, is currently provided by a number of licensees who have obtained licenses through negotiations with the RIAA and/or Sound Exchange.'' RIAA Petition at 10–11. RIAA further justifies the need for the additional reporting requirements on the basis of differences in statutory requirements for the different licenses and on the basis of the different business models used within the different categories of Services. RIAA petition at 9. Other interested parties, however, may find the requirements too stringent and burdensome in spite of RIAA's assertions. Such parties should identify any problems they perceive with the proposed regulations and explain with specificity the reasons why the regulations are unworkable or unduly burdensome, or exceed the needs of the copyright owners.

3. Final Rules vs. Interim Rules

The Copyright Office issued regulations governing notice and record keeping for the preexisting Services operating under the section 114 statutory licenses as interim regulations because the industry was young and there was a reasonable expectation that the rules would need revision in a short period of time. The Office, however, intends to issue final rules at the conclusion of this proceeding which shall govern all Services operating under both the section 112 and section 114 statutory licenses. Of course, an affected party can always seek revision of the rules at a future time if and when the need for change arises.

List of Subjects in 37 CFR Part 201

Copyright, Recordings.

Proposed Regulation

In consideration of the foregoing, the Copyright Office proposes amending part 201 of 37 CFR to read as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for Part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Sections 201.35 and 201.36 are revised to read as follows:

§ 201.35 Notice of Use of Sound Recordings under Statutory License.

(a) *General.* This section prescribes rules under which copyright owners shall receive notice of use of their sound recordings when used under either sections 112(e) or 114(d)(2) of title 17 of the United States Code, or both.

(b) *Definitions.* (1) A *Notice of Use of Sound Recordings under Statutory License* is a written notice to sound recording copyright owners of the use of their works under section 114(d)(2) or section 112(e) of title 17 of the United States Code, or both, and is required under this section to be filed by a Service in the Copyright Office.

(2) A *Service* is an entity engaged in either the digital transmission of sound recordings pursuant to section 114(d)(2) of title 17 of the United States Code or making ephemeral phonorecords of sound recordings pursuant to section 112(e) of title 17 of the United States Code or both. For purposes of this section, the definition of a service includes an entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet, regardless of whether the transmission is made by the broadcaster that originates the AM/FM signal or by a third party, provided that such transmission meets the applicable requirements of the statutory license set forth in 17 U.S.C. 114(d)(2). A Service may be further characterized as either a preexisting subscription service, preexisting satellite digital audio radio service, new subscription service, non-subscription transmission service or a combination of those:

(i) A *preexisting subscription service* is a service that performs sound recordings by means of noninteractive audio-only subscription digital audio transmissions, which was in existence and was making such transmissions to the public for a fee on or before July 31, 1998, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.

(ii) A *preexisting satellite digital audio radio service* is a subscription satellite digital audio radio service provided pursuant to a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998, and any renewal of such license to the extent of the scope of the original license, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.

(iii) A *new subscription service* is a service that performs sound recordings by means of noninteractive subscription digital audio transmissions and that is not a preexisting subscription service or a preexisting satellite digital audio radio service.

(iv) A *non-subscription transmission service* is a service that makes noninteractive nonsubscription digital audio transmissions that are not exempt under subsection 114(d)(1) and are made as part of a service that provides audio programming consisting, in whole or in part, of performances of sound recordings, including transmissions of broadcast transmissions, if the primary purpose of the service is to provide to the public such audio or other entertainment programming, and the primary purpose of the service is not to sell, advertise, or promote particular products or services other than sound recordings, live concerts, or other music-related events.

(c) *Forms and content.* A Notice of Use of Sound Recordings under Statutory License shall be prepared on a form that may be obtained from the Copyright Office website or from the Licensing Division, and shall include the following information:

(1) The full legal name of the Service that is either commencing digital transmission of sound recordings or making ephemeral phonorecords of sound recordings under statutory license or doing both.

(2) The full address, including a specific number and street name or rural route, of the place of business of the Service. A post office box or similar designation will not be sufficient except where it is the only address that can be used in that geographic location.

(3) The telephone number and facsimile number of the Service.

(4) Information on how to gain access to the online website or home page of the Service, or where information may be posted under this section concerning the use of sound recordings under statutory license.

(5) Identification of each license under which the Service intends to operate, including the identification of each of the following categories under which the Service will be making digital transmissions of sound recordings: preexisting subscription service, preexisting digital audio radio service, new subscription service and non-subscription transmission service.

(6) The date or expected date of the initial digital transmission of a sound recording to be made under the section 114 statutory license and/or the date or the expected date of the initial use of the section 112(e) license for the purpose of making ephemeral recordings of the sound recordings.

(7) Identification of any amendments required by paragraph (f) of this section.

(d) *Signature.* The Notice shall include the signature of the appropriate officer or representative of the Service that is either transmitting sound recordings or making ephemeral phonorecords of sound recordings under statutory license or doing both. The signature shall be accompanied by the printed or typewritten name and the title of the person signing the Notice, and by the date of the signature.

(e) *Filing notices; Fees.* The original Notice and three copies shall be filed with the Licensing Division of the Copyright Office, and shall be accompanied by the filing fee set forth in § 201.3(c) of this part. Notices shall be placed in the public records of the Licensing Division. The address of the Licensing Division is: Library of Congress, Copyright Office, Licensing Division, 101 Independence Avenue, SE., Washington, DC 20557–6400.

(1) A Service that, prior to [the effective date of the final rule], has already commenced making digital transmissions of sound recordings pursuant to section 114(d)(2) of title 17

of the United States Code or making ephemeral phonorecords of sound recordings pursuant to section 112(e) of title 17 of the United States Code, or both, and that has already filed an Initial Notice of Digital Transmission of Sound Recordings under Statutory License, and that intends to continue to make digital transmissions or ephemeral phonorecords following [the effective date of the final rule], shall file a Notice of Use of Sound Recordings under Statutory License with the Licensing Division of the Copyright Office no later than 60 days following [the effective date of the final rule].

(2) A Service that, on or after [the effective date of the final rule], commences making digital transmissions and ephemeral phonorecords of sound recordings under statutory license shall file a Notice of Use of Sound Recordings under Statutory License with the Licensing Division of the Copyright Office prior to the making of the first ephemeral phonorecord of the sound recording and prior to the first digital transmission of the sound recording.

(3) A Service that, on or after [the effective date of the final rule], commences making only ephemeral phonorecords of sound recordings, shall file a Notice of Use of Sound Recordings under Statutory License with the Licensing Division of the Copyright Office prior to the making of the first ephemeral recording under the statutory license.

(f) *Amendment.* A Service shall file a new Notice of Use of Sound Recordings under Statutory License within 45 days after any of the information contained in the Notice on file with the Licensing Division has changed, and shall indicate in the space provided on the form provided by the Copyright Office that the Notice is an amended filing. The Licensing Division shall retain copies of all prior Notices filed by the Service.

§ 201.36 Report of Use of Sound Recordings under Statutory License.

(a) *General.* This section prescribes rules under which Services shall serve copyright owners with reports of use of their sound recordings under either section 112(e) or section 114(d)(2) of title 17 of the United States Code, or both.

(b) *Definitions.* (1) A *Report of Use of Sound Recordings under Statutory License* is a report required under this section to be provided by a Service that is either transmitting sound recordings or making ephemeral phonorecords of sound recordings under statutory license or both.

(2) A *Service* shall have the same definition as provided in § 201.35(b)(2) of this part.

(3) An *AM/FM Webcast* is a transmission made by an entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet, regardless of whether the transmission is made by the broadcaster that originates the AM/FM signal or by a third party, provided that such transmission meets the applicable requirements of the statutory license set forth in 17 U.S.C. 114(d)(2).

(4) A *Collective* is a collection and distribution organization that is designated under one or both of the statutory licenses, either by settlement agreement reached under section 112(e)(3), section 112(e)(6), section 114(f)(1)(A), section 114(f)(1)(C)(i), section 114(f)(2)(A), or section 114(f)(2)(C)(i) and adopted pursuant to 37 CFR 251.63(b), or by an order of the Librarian pursuant to 17 U.S.C. 802(f).

(c) *Service.* Reports of Use shall be served upon Collectives designated under the applicable statutory license that are identified in the records of the Licensing Division of the Copyright Office as having been designated under the statutory license, either by settlement agreement reached under section 112(e)(3), section 112(e)(6), section 114(f)(1)(A), section 114(f)(1)(C)(i), section 114(f)(2)(A), or section 114(f)(2)(C)(i) and adopted pursuant to 37 CFR 251.63(b), or by decision of a Copyright Arbitration Royalty Panel (CARP) under section 112(e)(4), section 112(e)(6), section 114(f)(1)(B), section 114(f)(1)(C)(ii), section 114(f)(2)(B), or section 114(f)(2)(C)(ii) or by an order of the Librarian pursuant to 17 U.S.C. 802(f). Reports of Use shall be served, by certified or registered mail, or by other means if agreed upon by the respective Service and Collective, on or before the twentieth day after the close of each month, commencing with [the month succeeding the month in which the final rule becomes effective].

(d) *Posting.* In the event that no Collective is designated under the applicable statutory license, or if all designated Collectives have terminated collection and distribution operations, a Service transmitting sound recordings under statutory license shall post and make available online its Reports of Use. Services shall post their Reports of Use online on or before the 20th day after the close of each month, and make them available to all sound recording copyright owners for a period of 90 days. Services may require use of passwords for access to posted Reports of Use, but must make passwords available in a timely manner and free of charge or other restrictions. Services may predicate provision of a password upon:

(1) Information relating to identity, location and status as a sound recording copyright owner; and

(2) A ''click-wrap'' agreement not to use information in the Report of Use for purposes other than royalty collection, royalty distribution, and determining compliance with statutory license requirements, without the express consent of the Service providing the Report of Use.

(e) *Content.* (1) *Heading.* A ''Report of Use of Sound Recordings under Statutory License'' shall be identified as such by prominent caption or heading,

(2) *Intended Playlists.* For a Service making digital transmissions of sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2), each report of use shall include a Service's ''Intended Playlists'' for each channel on each day of the reported month.

(i) In the case of transmissions of sound recordings made pursuant to a statutory license under 17 U.S.C. 114(d)(2) by a Service that is a preexisting subscription service in the same transmission medium used by such Service on July 31, 1998, the ''Intended Playlists'' shall include a consecutive listing of every recording scheduled to be transmitted, and shall contain the following information in the following order:

(A) The name of the Service or entity;

(B) The channel;

(C) The sound recording title;

(D) The featured recording artist, group, or orchestra;

(E) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the Service for purchase of the sound recording);

(F) The recording label;

(G) The catalog number;

(H) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(I) The date of transmission; and

(J) The time of transmission.

(ii) In the case of all other Services not covered by paragraph (e)(2)(i) of this section, that are transmitting sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2), the ''Intended Playlists'' shall include a consecutive listing of every recording scheduled to be transmitted, or if transmissions are not scheduled in advance, every recording actually transmitted, and shall contain the following information in the following order:

(A) The name of the Service or entity;

(B) The channel or program; or in the case of an AM/FM Webcast, the station identifier used by the Service, including the band designation and the FCC facility identification number of the broadcast station that is transmitted; provided that if a program is generated as a random list of sound recordings from a predetermined list, the channel or program must be a unique identifier differentiating each user's randomized playlist from all other users' randomized playlists;

(C) The type of program: ''A'' (for an ''archived program'' as defined section 114(j)(2)), ''L'' (for ''looped'' if the program is a ''continuous program'' as defined in section 114(j)(4)), ''V'' (for ''live'' if the program is transmitted substantially at the time it is first performed in its entirety), or ''PS'' (for ''prescheduled'' if the program is an identifiable program transmitted at times that have been publicly announced in advance);

(D) For programs other than archived programs, the date of transmission;

(E) For programs other than archived programs; the time of transmission of the sound recording;

(F) The time zone of the place from which the transmission originated (as an offset from Greenwich Mean Time);

(G) For archived programs, the numeric designation of the place of the sound recording within the order of the program;

(H) The duration of the transmission of the sound recording (to the nearest second);

(I) The sound recording title;

(J) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(K) The release year identified in the copyright notice on the album and, in the case of compilation albums created for commercial purposes, the release year identified in the copyright notice for the individual track;

(L) The featured recording artist, group, or orchestra;

(M) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the Service for purchase of the sound recording);

(N) The recording label;

(O) The Universal Product Code of the retail album;

(P) The catalog number;

(Q) The copyright owner information provided in the copyright notice on the retail album (e.g., following the symbol ℗) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual track; and

(R) The musical genre of the channel or program, or in the case of AM/FM Webcast, the broadcast station format.

(3) *Listener's Log.* Except for a preexisting subscription Service, a Service that transmits sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2) shall also include such Service's ''Listener Log.'' The ''Listener Log'' shall contain the following information in the following order for each session during which a user is logged in to receive transmissions as part of the Service:

(i) The name of the Service or entity;

(ii) The channel or program, using an identifier corresponding to that in the Intended Playlist;

(iii) The date and time that the user logged in (local time at user's location);

(iv) The date and time that the user logged out (local time at the user's location);

(v) The time zone of the place at which the user received transmissions (as an offset from Greenwich Mean Time);

(vi) The unique user identifier assigned to a particular user or session; and

(vii) The country in which the user received transmissions.

(4) *Ephemeral Phonorecord Log.* In the case of a Service that has made ephemeral phonorecords of sound recordings pursuant to a statutory license under 17 U.S.C. 112(e), the Service shall include an ''Ephemeral Phonorecord Log.'' The ''Ephemeral Phonorecord Log'' shall contain the following information in the following order for each act of creation or destruction of ephemeral phonorecords of sound recordings under statutory license:

(i) The name of the Service or entity;

(ii) Whether the ephemeral phonorecord was created or destroyed;

(iii) The date the ephemeral phonorecord was created or destroyed;

(iv) The sound recording title;

(v) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(vi) The release year identified in the copyright notice on the album and, in the case of compilation albums created for commercial purposes, the release year identified in the copyright notice for the individual track;

(vii) The featured recording artist, group or orchestra;

(viii) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the Service for purchase of the sound recording);

(ix) The recording label;

(x) The catalog number;

(xi) The Universal Product Code of the retail album;

(xii) The copyright owner information provided in the copyright notice of the retail album (e.g. following the symbol © ℗) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual track; and

(xiii) The number of ephemeral phonorecords that were created or destroyed.

(5) *System failure.* The Report of Use shall include a report of any system failure resulting in a deviation from the Intended Playlists of scheduled sound recordings. Such report shall include the date, time and duration of any system failure.

(f) *Signature.* Reports of Use shall include a signed statement by the appropriate officer or representative of the Service attesting, under penalty of perjury, that the information contained in the Report is believed to be accurate and is maintained by the Service in its ordinary course of business. The signature shall be accompanied by the printed or typewritten name and title of the person signing the Report, and by the date of signature.

(g) *Format.* Reports of Use should be provided on a standard machine-readable medium, such as diskette, optical disc, or magneto-optical disc, and should conform as closely as possible to the following specifications:

(1) In the case of transmissions made as part of a Service that is a preexisting subscription Service in the same transmission medium used by such Service on July 31, 1998:

(i) ASCII delimited format, using pipe characters as delimiter, with no headers or footers;

(ii) Carats (^) should surround strings;

(iii) No carats (^) should surround dates and numbers;

(iv) Dates should be indicated by: MM/DD/YYYY;

(v) Times should be based on a 24-hour clock: HH:MM:SS;

(vi) A carriage return should be at the end of each line; and

(vii) All data for one record should be on a single line.

(2) In the case of all other Services not covered by paragraph (g)(1) of this section that are transmitting sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2) and in the case of Ephemeral Phonorecord Logs:

(i) ASCII delimited format, using pipe characters as delimiter, with no headers or footers;

(ii) Field names should not be included as the first row of the file;

(iii) Carats (^) should surround strings;

(iv) No carats (^) should surround dates and numbers;

(v) Dates and times should be indicated by: DDMMYYYYhhmmss, where DD is the two-digit day of the log period; MM is the two-digit month of the log period; YYYY is the four-digit year of the log period; hh is the two-digit hour of the log period; mm is the two-digit minute of the log period; ss is the two-digit second of the log period; single digit days, months, hours, minutes and second should be prepended with a zero; and times are local times using a 24-hour clock;

(vi) A carriage return should be at the end of each line;

(vii) All data for one record should be on a single line;

(viii) All data for each month and each log type should be contained in a single file;

(ix) Files may be compressed in ZIP or GZ format; and

(x) Files should be named Service Name_Log Type_MMYYYY, where Log Type should be Play List, Listener or Ephemeral.

(h) *Confidentiality.* Copyright owners, their agents and Collectives shall not disseminate information in the Reports of Use to any persons not entitled to it, nor utilize the information for purposes other than royalty collection and distribution, and determining compliance with statutory license requirements, without express consent of the Service providing the Report of Use.

(i) *Documentation.* All statutory licensees shall, for a period of at least three years from the date of service or posting of the Report of Use, keep and retain a copy of the Report of Use. For reporting periods from February 1, 1996, through August 31, 1998, the Service shall serve upon all designated Collectives and retain for a period of three years from the date of transmission records of use indicating which sound recordings were performed and the number of times each recording was performed, but is not required to produce full Reports of Use or Intended Playlists for those periods.

3. Section 201.37 (a) and (b) are revised to read as follows:

§ 201.37 Designated Collective.

(a) *General.* This section prescribes rules governing a Collective designated to collect and distribute statutory royalties for use of the statutory licenses set forth in sections 112(e) and 114(d)(2) of title 17 of the United States Code.

(b) *Definitions.* (1) A *Collective* shall have the same definition as provided in § 201.36(b)(4) of this part.

(2) A *Service* shall have the same definition as provided in § 201.35(b)(2) of this part.

* * * * *

Dated: February 1, 2002.

David O. Carson,

General Counsel.

[FR Doc. 02–2842 Filed 2–6–02; 8:45 am]

BILLING CODE 1410–31–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. 2002–11419]

RIN 2127–AI70

Request for Comments; National Academy of Science Study and Future Fuel Economy Improvements, Model Years 2005–2010

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

ACTION: Request for comments.

SUMMARY: The National Energy Policy directs the Secretary of Transportation to:

Review and provide recommendations on establishing Corporate Average Fuel Economy (CAFE) standards with due consideration of the National Academy of Sciences (NAS) study to be released in July 2001. Responsibly crafted CAFE standards should increase efficiency without negatively impacting the U.S. automotive industry. The determination of future fuel economy standards must therefore be addressed analytically and based on sound science.

Consider passenger safety, economic concerns and disparate impact on the U.S. versus foreign fleet of automobiles.

Look at other market-based approaches to increasing the national average fuel economy of new motor vehicles.

The agency is requesting comment on these policy recommendations, particularly the conclusions of the recently completed NAS report on fuel economy, as it looks beyond 2004. The purpose of this request is to acquire information to assist the agency in developing a proposal for those years beyond 2004. NHTSA currently plans to cover some or all of model years 2005 to 2010 in the proposal. The agency is seeking information that will help it assess the extent to which manufacturers can improve light truck fuel economy during those years, the benefits and costs to consumers of fuel economy improvements, the benefits to the nation of reducing fuel consumption, and the number of model years that should be covered by the proposal. NHTSA is also seeking comments on possible reforms to the Corporate Average Fuel Economy program, as it applies to both passenger cars and light trucks, to protect passenger safety, advance fuel-efficient technologies, and obtain benefits of market-based approaches.

DATES: Comments must be received on or before May 8, 2002.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, call Ken Katz, Lead Engineer, Consumer Programs Division, Office of Planning and Consumer Programs, at (202) 366–0846, facsimile (202) 493–2290, electronic mail *kkatz@nhtsa.dot.gov*. For legal issues, call Otto Matheke, Office of the Chief Counsel, at (202) 366–5263.

SUPPLEMENTARY INFORMATION:

I. Introduction

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, Congress enacted the Energy Policy and Conservation Act (EPCA). The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Title V has been amended from time to time and codified without substantive change as Chapter 329 of Title 49 of the United States Code. Chapter 329 provides for the issuance of average fuel economy standards for passenger automobiles and automobiles that are not passenger automobiles (light trucks).

Section 32902(a) of Chapter 329 states that the Secretary of Transportation

shall prescribe by regulation corporate average fuel economy (CAFE) standards for light trucks for each model year. That section also states that ''[e]ach standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' (The Secretary has delegated the authority to implement the automotive fuel economy program to the Administrator of NHTSA. 49 CFR 1.50(f).) Section 32902(f) provides that, in determining the maximum feasible average fuel economy level, we shall consider four criteria: technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. Using this authority, we have set light truck CAFE standards through MY 2003. See 49 CFR 533.5(a). The standard for MY 2003 is 20.7 miles per gallon (mpg)(66 FR 17513; April 12, 2001).

We began the process of establishing light truck CAFE standards for model years after MY 1997 by publishing an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register**. 59 FR 16324; April 6, 1994. The ANPRM outlined the agency's intention to set standards for some, or all, of the model years from 1998 to 2006.

On November 15, 1995, the Department of Transportation and Related Agencies Appropriations Act for FY 1996 was enacted. Pub. L. 104–50. Section 330 of that Act provided:

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

We then issued a notice of proposed rulemaking (NPRM) limited to MY 1998, proposing to set the light truck CAFE standard for that year at 20.7 mpg, the same standard as had been set for MY 1997. 61 FR 145 (January 3, 1996). This 20.7 mpg-standard was adopted by a final rule issued on March 29, 1996. 61 FR 14680 (April 3, 1996).

On September 30, 1996, the Department of Transportation and Related Agencies Appropriations Act for FY 1997 was enacted. Pub. L. 104–205. Section 323 of that Act provided:

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

On March 31, 1997, we issued a final rule (62 FR 15859) establishing light truck fuel economy standards for MY 1999. This final rule was not preceded by an NPRM. The agency concluded that the restriction contained in Section 323 of the FY 1997 Appropriations Act prevented us from issuing any standards at a level other than the standard set for MY 1998. Because we had no other course of action, we determined that issuing an NPRM was unnecessary and contrary to the public interest.

Because the same limitation on the setting for CAFE standards was included in the appropriations acts for each of FYs 1998–2001, we followed that same procedure during those fiscal years and did not issue any NPRMs in the series of rulemakings we conducted to establish the light truck fuel economy standards for MYs 2000–2003. The agency concluded in those rulemakings, as it had when setting the MY 1999 standard, that the restrictions contained in the appropriations acts prevented us from issuing any standards other than the standard set for the prior model year. We also determined that issuing an NPRM was unnecessary and contrary to the public interest because we had no other course of action.

The Department of Transportation and Related Agencies Appropriations Act for FY 2001 was enacted on October 23, 2000. Pub. L. 106–346. This law provided appropriations for the Department of Transportation for FY 2001, and is the law under which we issued the light truck CAFE standard for MY 2003. While Section 320 of that Act contains a restriction on CAFE rulemaking identical to that contained in prior appropriation acts, the Conference Committee Report for that Act directed the National Academy of Sciences (NAS) to conduct a study to evaluate the effectiveness and impacts of CAFE standards (H.R. Conf. Rep. No. 106–940, at 117–118).

The NAS submitted its report to the Department of Transportation on July 30, 2001. The final report is being released in January 2002. The report points out that technologies exist that could significantly increase passenger car and light truck fuel economy within 15 years. However, the study found that ''the fuel economy improvement that occurred during the 1970s and early 1980s involved considerable downweighting and downsizing'' and that that downweighting and downsizing, ''some of which was due to CAFE standards,'' resulted in additional fatalities. (NAS, 4–14 and 6–1) Specifically, ''to the extent that the size and weight of the fleet have been constrained by CAFE requirements * * * those requirements have caused more injuries and fatalities on the road than would otherwise have occurred.'' (NAS, 2–29). However, the NAS found that if future weight reductions occur in only the heaviest of the light-duty vehicles, that can produce overall improvements in vehicle safety. (NAS, 4–14) NAS also found that to minimize financial impacts on manufacturers, their suppliers, their employees, and consumers, sufficient lead time, consistent with normal product life cycles, should be given. The report stated that there are advanced technologies that could be employed, without negatively affecting the automobile industry, if sufficient lead time were provided to the manufacturers. In NAS' view, the selection of fuel economy levels will require uncertain and difficult trade-offs among environmental benefits, vehicle safety, cost, energy independence, and consumer preferences. It also suggests that changing the CAFE regulatory program to one based on vehicle attributes, such as weight, and allowing ''credit trading'' could eliminate the current CAFE program's encouragement of downweighting or the production and sale of more small cars and also reduce costs. (NAS, 6–5) Recognizing the many trade-offs that must be considered in setting fuel economy standards, the committee took no position on what the appropriate CAFE standards should be for future years, leaving that question for policymakers to answer.

Secretary of Transportation Norman Y. Mineta asked House and Senate Appropriations Committees to lift the restriction on the agency spending funds on CAFE in the summer of 2001. The Department of Transportation and Related Agencies Appropriations Act for FY 2002 (Public Law 107–87) was enacted on December 18, 2001, and does not contain a provision restricting the Secretary's authority to prescribe fuel economy standards. Accordingly, the agency will fully consider the NAS report and other factors in its future CAFE rulemaking.

As the agency has been unable to spend any funds in violation of the terms of Section 320 of the FY 2001 Appropriations Act and the predecessor restrictions in earlier appropriations acts, it has not been able to lay the factual or analytical foundation necessary for rulemaking to establish new CAFE levels. To prepare for any fuel economy standard, the agency must collect information relating to prospective CAFE levels, analyze and

weigh the information in light of the statutory criteria for determining the practicable maximum feasible average fuel economy level, and incorporate its information and analysis into a rulemaking action to set the standard, with opportunity for notice and comment.

To allow the agency to begin developing a proposal for light truck average fuel economy standards for model years after MY 2004, NHTSA is issuing this notice.

There are several important developments in the oil and vehicle markets that provide a useful context for today's notice.

With respect to the oil market, the United States imported 15 percent of its oil needs in 1955. The import share reached 35.8 percent in 1975, the year in which EPCA was passed, and rose to 46.5 percent in 1977. Although the share declined to below 30 percent in the early 1980s, lately, the United States has again become increasingly dependent on imported oil. Since 1991, import share has risen from 39.6 percent to 52.9 percent in 2000, which is an all time high level of oil imports.

Thus, the United States now imports a substantially higher percentage of its oil needs than it did during 1975. Moreover, the percentage of its oil supplied by OPEC is similar to that of 1975. Oil continues to account for nearly 40 percent of all energy used in the United States, and 95 percent of the energy consumed in the transportation sector. Petroleum demand is projected to grow at an average annual rate of 1.5 percent through 2020, led by growth in the transportation sector, which is expected to account for more than 70 percent of petroleum demand in 2020.

Domestic oil production has declined steadily since reaching a peak of 10.6 million barrels per day in 1985. By 1992, it dropped to 9.0 million barrels per day. Domestic production is expected to continue declining by roughly 0.2 percent from 2000 to 2020, with 2020 production estimated at 5.6 million barrels per day. While the United States is currently the world's second largest oil producer, it contains only about three percent of the world's known oil reserves. Persian Gulf countries contain 63 percent of known world reserves, and Eastern European countries contain 9 percent. The Department of Energy projects a continuing decline in domestic oil production to between 3.77 and 7.21 million barrels per day in 2010.

With respect to the vehicle market, in the early 1980's, during the energy crisis brought on by events in Iran, gasoline prices rose rapidly. That rise significantly increased consumer demand for more fuel-efficient vehicles. Thereafter, however, gasoline prices fell sharply and have remained at very low levels for a decade. The inflation-adjusted price of gasoline in the U.S. reached a post-World War II low in the 1993–1995 period and has risen slightly since. The fuel cost of vehicle travel in constant dollars is only half of what it was *before* the price shocks of the 1970s. Consumers place much greater emphasis on safety, cost, and high performance, and make little demand for improved light truck fuel economy. Vehicle performance levels (e.g., ability to accelerate) are now significantly higher than they were when EPCA was enacted. The NAS study found that ''recent increases in vehicle weight, while resulting in some loss of fuel economy, have probably resulted in a reduction of motor vehicle crash fatalities.'' (NAS, 2–29)

In the absence of strong consumer demand or other market pressure for increased efficiency, there is little motivation for manufacturers to make significant technological improvements to light truck fuel economy. Indeed, light truck fuel economy has been gradually declining since MY 1987 and is not expected to change in the next several years. The average light truck fuel economy was 20.7 mpg in MY 1985, and 20.5 mpg in MY 1995, ten model years later. Lately, light truck CAFE has hovered near 21.0 mpg, with the levels for the past three years ranging from 20.9 to 21.3 mpg. Fuel economy data reported by the Environmental Protection Agency shows that unadjusted light truck fuel economy levels have been below 21.0 mpg since 1993, with levels hovering near 20.5 mpg over the past 5 years or so.

A third reason why light truck CAFE standards assume increased importance now is the continued growth in market share of those vehicles. In 2001, for the first time, sales of light trucks surpassed those of passenger cars, accounting for 50.46 percent of all vehicles sold. In contrast, light trucks comprised 48.78 percent of the market in 2000. According to the Automotive News Data Center, there were 8,667,089 light trucks and 8,510,356 passenger cars sold in 2001, for a total of 17,177,445 vehicles sold. In addition, the sales of light trucks set a monthly record with 908,474 units sold in October 2001. That figure surpassed the previous record of 827,692, set in March 2000 (Bureau of Transportation Statistics).

The growth in the light truck market has been substantial and according to some estimates is achieving sales figures today that were not predicted until several years in the future. For example, the Automotive News Data Center and J.D. Power projected sales of 8.24 million light trucks in MY 2003 and 8.67 million by MY 2005. Thus, because 8.67 million light trucks were sold in 2001, the estimated market size for light trucks was accomplished four years earlier than predicted. Some of this increase in the light truck sales may be accounted for by the 0 percent financing offers made by most of the major manufacturers starting in October 2001, however none of these offers was limited to light trucks only. Further historical evidence for this rapid growth is the fact that light trucks comprised 40 percent of the total light vehicle production in MY 1995, which was more than double their share in MY 1980. The increase in light truck market share is vitally important, because as light trucks increase their market share, so does their impact on energy consumption and the importance of their potential contribution in addressing the Nation's need to conserve energy.

Additionally, the National Energy Policy, released in May 2001, included recommendations regarding the path that the Administration's energy policy should take and included specific recommendations regarding vehicle fuel economy and CAFE. The National Energy Policy was designed to promote dependable, affordable and environmentally sound energy for the future. The Policy envisions a comprehensive long-term strategy that uses leading edge technology to produce an integrated energy, environmental and economic policy. The report recommends that—

- The President direct the Secretary of Transportation to review and provide recommendations on establishing CAFE standards with due consideration of the National Academy of Sciences study released in July 2001. The President further directs that the CAFE standards be responsibly crafted and increase efficiency without negatively impacting the U.S. automotive industry; and that, the determination of future fuel economy standards be addressed analytically and based on sound science.
- The President direct the Secretary of Transportation to consider passenger safety, economic concerns, and disparate impact on the U.S. versus foreign fleet of automobiles.
- The President direct the Secretary of Transportation to look at other market-based approaches to increasing the national average fuel economy of new motor vehicles.

This notice requests comments to assist NHTSA in developing a proposal for light truck CAFE standards for model years after 2004, possibly through MY 2010. In addition, this notice requests comments on possible modifications and/or reforms to the CAFE program. Any significant reforms to the CAFE program may affect NHTSA's decision about the number of model years that should be covered by a proposed rule under the current CAFE program structure.

To aid the agency in obtaining useful comments, this notice discusses a variety of issues that are considered by NHTSA in evaluating fuel economy, and asks a number of questions and makes a number of requests for data. For easy reference, the questions and requests are numbered consecutively throughout the document.

In providing a comment on a particular matter or in responding to a particular question, interested persons are requested to provide any relevant factual information to support their conclusions or opinions, including but not limited to test data, statistical and cost data, and the source of such information.

In addition to the questions in the body of this notice, NHTSA is also including an appendix to this notice, which consists of a number of additional questions directed primarily toward light truck manufacturers. The appendix questions address their product plans through MY 2010 and the assumptions underlying those plans. The agency would appreciate answers that are as responsive as possible so that appropriate weight can be given to the many factors whose magnitude now can only be estimated. While the questions in the appendix are directed toward manufacturers, the agency welcomes comments from all interested persons in response to those questions.

II. The Statute

Chapter 329 of Title 49 of the U.S. Code requires the Secretary of Transportation to issue light truck fuel economy standards for each model year. The Code provides that the fuel economy standards must be set at the maximum feasible average fuel economy level. In determining the maximum feasible average fuel economy level, the Secretary is required under section 32902(f) of Title 49 to consider four factors: technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. The Secretary is permitted but not required to set separate standards for different classes of light trucks. (Responsibility for the automotive fuel economy program was delegated by the Secretary of Transportation to the Administrator of NHTSA (41 FR 25015, June 22, 1976).)

Based on definitions and judicial interpretations of similar terms in other statutes, the agency interprets ''feasible'' to refer to something that is capable of being done. Therefore, a standard set at the maximum feasible average fuel economy level must: (1) be capable of being done and (2) be at the highest level that is capable of being done, taking account of what manufacturers are able to do in light of technological feasibility, economic practicability, how other motor vehicle standards of the Government affect average fuel economy, and the need of the United States to conserve energy.

Executive Order 12866 requires that the findings of cost-benefit analysis be considered in the development of major rules. When considering the appropriate design and stringency of future standards, NHTSA will consider the incremental costs and benefits of alternative options.

The statute does not expressly state whether the concept of feasibility is to be determined on a manufacturer-by-manufacturer basis or on an industry-wide basis. As discussed in many fuel economy notices, it is clear from the legislative history that Congress did not intend that standards simply be set at the level of the least capable manufacturer. Instead, NHTSA must take industry-wide considerations into account in determining the maximum feasible average fuel economy level.

NHTSA has consistently set light truck standards at a level that can be achieved by manufacturers whose vehicles constitute a substantial share of the market. Because of the relatively high volume of production by those manufacturers, their capability bears a strong and close relationship to that of the industry as a whole.

III. Issues in Developing a Proposal for MY 2005–2010

Among the significant issues involved in developing a proposal for the MY 2005–2010 light truck CAFE standards is the extent of the ability of manufacturers to improve their light truck fuel economy during that period. In the last 18 months, Ford, General Motors and DaimlerChrysler have all issued statements regarding the fuel economy level their vehicles will be able to achieve over the next five or so years. In July 2000, Ford made a voluntary commitment to increase the fuel economy of its sport utility vehicle (SUV) fleet in the United States by 25 percent by the 2005 calendar year. General Motors stated that its SUV fleet would have an even higher average fuel economy than Ford's sport utility vehicle fleet, and that its overall average fuel economy for light trucks in 2005 would also be higher than Ford's. DaimlerChrysler stated that the fleet average fuel economy of all its vehicles—both passenger cars and light trucks—would match or exceed those of other full-line manufacturers. However, no timetable was set for achieving this goal, nor did DaimlerChrysler commit to achieving fuel economy goals in specific market segments such as SUVs. In order to help it analyze manufacturer capabilities for improving light truck fuel economy, NHTSA requests information or comments on the questions that follow.

NHTSA is interested in the technology that could be available for improving fuel economy. It is particularly interested in technological advancements and on manufacturers' future plans for the inclusion of technologies that have been developed under the Partnership for a New Generation of Vehicles (PNGV). The Department of Energy announced a new Freedom CAR initiative earlier this month that will aim at higher risk, higher reward technologies that will apply to vehicle models that are in high demand, including minivans, SUVs, and pickups. The National Research Council of the National Academy of Sciences also found that the structure and goals of the PNGV program were wrong. We are interested in adopting specific changes recommended by NAS to improve the program. Ford, General Motors and DaimlerChrysler have all introduced concept cars that achieve at least 70 mpg. It is anticipated that many of the technologies employed on these vehicles will be included in future product plans and that significant gains on fuel economy can be achieved by their application.

1. The NAS Study found that the CAFE program, as currently structured, has contributed to traffic fatalities and injuries. As an agency whose primary responsibility is safety and is therefore deeply concerned about the NAS finding, NHTSA requests comments on this NAS finding. Among our questions are: Is the safety impact understated or overstated? Would NAS's proposed changes to CAFE reduce this safety penalty? Could CAFE standards be modified so that manufacturers are encouraged to achieve improved fuel economy through application of technology instead of through downsizing and downweighting?

NHTSA requests comments on the extent to which increases in light truck fuel efficiency are feasible during MYs 2005–2010 and on whether any of these increases would involve means—such as significant weight and size reduction—that could adversely affect safety. We note that the NAS found that if future weight reductions occur in only the heaviest of the light-duty vehicles, that can produce overall improvements in vehicle safety. If there would be adverse effects, how could they be mitigated?

2. What is the technological feasibility and economic practicability of various fuel efficiency enhancing technologies that fall under the general headings of engine, vehicle and transmission technologies? Please comment on each of the following technologies, listed under the general headings below:

Engine Technologies

Engine friction and other mechanical/hydrodynamic loss reduction; advanced low-friction lubricants; multi-valve, overhead camshaft valve trains; variable valve timing; variable valve lift and timing; intake valve throttling; cylinder deactivation; engine accessory improvement; engine downsizing and supercharging; camless valve actuation; variable compression ratio engines; electronic engine controls; direct fuel injection for spark ignition or diesel engines; lean burn-fast burn combustion; and two-stroke engines.

Transmission Technologies

Five-speed automatic transmission; six-speed automatic transmission; continuously variable transmission; advanced continuously variable transmission; automatic shift manual transmission; and automatic transmission with aggressive shift logic.

Vehicle Technologies

Aerodynamic drag reduction; and electronic controls; lowering rolling resistance; vehicle weight reduction; substitution of lighter-weight materials; 42 Volt electrical system; integrated starter/generator; hybrid drive trains; and fuel cells.

In answering this question, please address, for each of these technologies, as well as any other relevant/related technologies:

(a) The impact on fuel efficiency;

(b) Costs and benefits to the consumer;

(c) Manufacturer costs;

(d) Lead time;

(e) Degree of current use in passenger cars and light trucks;

(f) Impacts on safety, including injuries and fatalities; and

(g) Potential fleet penetration.

(h) Effects of environmental (especially vehicles emissions standards) and other regulations on their application/penetration.

In considering fleet penetration, please address whether some technologies might be appropriate for use on light truck models that would not need high load carrying or towing capability because of primarily personal passenger car type usage. For reference, NHTSA, at the direction of the Congress, commissioned a study entitled *Light Truck Capabilities, Utility Requirements and Uses: Implications for Fuel Economy* which was published in April 1996. (This study is available from the agency as report number DOT HS 808 378.) Included in that study is a brief summary of fuel economy technologies, their benefits, and their potential conflicts with light truck attributes.

3. What is the cost-effectiveness of each technology identified in Question 2, as well as any other relevant technologies, assuming alternative plausible gasoline prices forecast for MY 2005–2010, and assuming alternative payback periods ranging from 3 years to 10 years?

4. Taking into account the response to Question 2, and the statements recently made by Ford and General Motors about the fuel economy of their vehicles by 2005, and DaimlerChrysler's response, indicate the ability of each manufacturer to improve its light truck CAFE for each model year during the MY 2005–2010 timeframe. Specify the fuel economy improvements on a vehicle-by-vehicle basis that will result in the achievement of the manufacturer's fuel economy pledges. For each vehicle, please list the specific technologies that will be employed and the increase in fuel economy attributed to such technology. By what model year would maximum penetration of all current fuel economy enhancing technologies be feasible? Why wouldn't such maximum penetration be feasible earlier than that model year?

5. What analyses of manufacturer light truck fuel economy capabilities for MY 2005–2010 are available? What are the strengths and weaknesses of each such analysis?

6. What data are available on the usage characteristics of light trucks, i.e., how many passengers and/or how much cargo the different types of light trucks typically carry? What survey and other data are available on the importance that consumers place on the fuel economy of light trucks relative to other vehicle attributes?

7. By their nature, fuel economy standards lower the marginal cost of driving. What effect does this cost difference have on vehicle miles traveled?

8. To what extent are other Federal standards likely to affect manufacturers' CAFE capabilities in MYs 2005–2010? Answers to this question should include not only the effects of such standards when first implemented, but also the prospect for reducing those effects subsequently.

In the final rule establishing light truck CAFE standards for MYs 1996–1997 (59 FR 16312 (April 6, 1994)), NHTSA stated that it believed that CAFE standards for the last decade have not had any measurable effect on light truck weight or size; and, hence, safety. In support of that belief, the agency noted that the levels of the light truck CAFE standards have not varied significantly for more than a decade. The light truck CAFE standards for MY 1987–89 and MY 1994 were set at 20.5 mpg, and, as far back as MY 1984, the standard was only slightly lower at 20.0 mpg. NHTSA also noted that, in setting the light truck CAFE standards over the last decade, the agency has not included in its analyses of manufacturer capabilities any product plan actions that would significantly affect the weight, size or cost of the vehicles the manufacturers planned to offer. Further, the average equivalent test weight of light trucks increased from 3,805 pounds in MY 1984 to 4,360 pounds in MY 1996.

9. In setting CAFE standards, the agency takes into consideration that there are often technological risks associated with actually achieving the full potential fuel economy improvement from a particular type of technology. How should the agency take technological risks into account in setting these light truck CAFE standards? What technological risks are associated with gaining the full potential fuel economy improvements from any of the available types of fuel economy enhancing technologies? What are the prospects for overcoming those risks or offsetting their effects on CAFE capability?

The National Academy of Sciences Study and CAFE Reform

On July 30, 2001, the National Academy of Sciences released its report entitled, ''Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards.'' This report included fifteen findings and seven recommendations. Several of the recommendations address possible modifications to the CAFE program.

Possible modifications to the CAFE program (as it applies to passenger cars as well as light trucks) could include changes to the current structure (i.e., changing the vehicle classification definitions) or could involve more significant reforms (i.e., weight-based standards, credit trading).

A possible modification to CAFE, which has received considerable attention, is an approach with fuel economy targets that are dependent on vehicle attributes, such as vehicle weight, size or load. The NAS recommended this approach, referred to as an attribute-based system, because it would ''create incentives to reduce the variance in vehicle weights between large and small vehicles, thus providing for overall vehicle safety. It has the potential to increase fuel economy with fewer negative effects on safety and consumer choice.'' Under the current CAFE program, each manufacturer must meet a production-weighted harmonic average for each fleet of vehicles sold. In an attribute-based system, each manufacturer might have to meet an overall production-weighted fuel economy average, and/or each manufacturer might have to meet a different fuel economy average for the vehicles that were produced in each specific size, weight or load class.

10. Please comment on the idea of an attribute-based system. Provide feedback on which attribute(s) such a system should be based on and the specific classes of vehicles that might fall under each class. In addition, please suggest the fuel economy level associated with each specific class of that attribute-based system (e.g., vehicles weighing from 2,000 lbs. GVWR to 2,500 GVWR would have to meet an average of xx.x MPG).

Another modification that has been suggested is fuel economy credits that could be traded among vehicle manufacturers. The NAS found that ''changing the current CAFE system to one featuring tradable fuel economy credits and a 'cap' on the price of these credits appears to be particularly attractive. It would provide incentives for all manufacturers, including those that exceed the fuel economy targets, to continually increase fuel economy, while allowing manufacturers flexibility to meet consumer preferences.'' Currently, each manufacturer can only earn credits if it exceeds the standards in any particular year. A manufacturer can carry the credits earned for a particular class of vehicles forward or backward to offset CAFE shortfalls within that same class of vehicles. However, it can neither apply the credits to another of its classes of vehicles nor trade them with other manufacturers. (Thus, if the agency used its authority to set standards for different classes of light trucks, the statute would prevent trading credits between those classes.) If the CAFE program could be modified to allow manufacturers to apply fuel economy credits throughout their own fleets and to trade them with other manufacturers. Credits could be obtained directly from other manufacturers or indirectly from the U.S. Government. This modification has the potential to increase the economic efficiency and flexibility of the CAFE system.

11. Please comment on the possibility of tradable fuel economy credits and the potential cost and benefits to each manufacturer.

The elimination of the two-fleet rule, providing for a domestic passenger car fleet and an import passenger car fleet, has been suggested as a possible modification to CAFE. The distinction is based on the proportion of the car's value that is defined as being domestic; an import is defined as a car with less than 75 percent domestic content. If a manufacturer has both a domestic passenger car fleet and an import passenger car fleet, each fleet must separately meet the passenger car standard. If this rule were eliminated, such a manufacturer could place all its passenger cars in a single fleet.

12. Please comment on the effect that elimination of the two-fleet rule would have on manufacturers, consumers, employment, the U.S. marketplace, and on the automotive industry in general.

A possible modification that has also received considerable attention in Congress and the media is the re-classification of vehicles under the CAFE system. When CAFE was originally conceived, it provided for setting different standards for passenger vehicles and work/cargo vehicles, classified as light trucks. This has allowed light trucks to have higher fuel consumption because extra power, different gearing, and other attributes that were considered necessary for their utilitarian, load-carrying attributes. At that point, in 1975, these vehicles comprised about 20 percent of the market. Light trucks now comprise approximately 50 percent of new vehicles sold. Most important, the functional distinction between cars and trucks (cars for personal use and trucks for work cargo use) has broken down, initially with the introduction of minivans, and more recently with sport utility and cross-over vehicles that are used almost exclusively for passenger transport. NHTSA has the statutory authority to change how these vehicles are classified and may do so in the future to reflect the usage of many types of light trucks as passenger vehicles. However, any modification would accommodate the inability of true work/cargo vehicles to achieve as high fuel economy, due to their utilitarian nature.

13. Please provide suggestions for modifications of the vehicle classification. These suggestions should be as detailed as possible and should state the logic and rationale for the modification, as well as suggested definitions. An analysis of the pros and cons of each suggested modification should also be provided.

Another possible modification to the CAFE program would be raising the maximum gross vehicle weight rating of vehicles covered by the CAFE standards from 8,500 lbs. to 10,000 lbs. Manufacturers currently are selling several models of large sport utility vehicles over the 8,500 lbs. weight limit that are being utilized as passenger vehicles. Because the gross vehicle weight rating is based on manufacturer supplied information on the load carrying capacity of their vehicles, the agency is concerned that some vehicles, which are primarily used as passenger vehicles, are not included in manufacturers' light truck fleets. The agency has the statutory authority to make this change.

14. Please provide comments on the possibility of raising the maximum gross vehicle weight rating and on the effects that this would have on manufacturers, consumers, U.S. automotive industry employment and the automotive industry in general.

15. NHTSA requests comments on the above possible modifications to the CAFE program and other modifications that have been discussed, such as those mentioned in the National Academy of Sciences study. In addressing these possible modifications, please identify their positives and negatives; their estimated costs and benefits; their effect on manufacturers, suppliers, employees, and consumers; and the policy implications of each. The agency requests that each manufacturer specify how much lead time would be needed to respond to each possible modification and provide that information in terms of product planning cycles. To assist NHTSA, please be as specific as possible and provide any information that you believe will be helpful.

The National Academy of Sciences report also included an assessment of the technological potential for improving the fuel efficiency of 10 different classes of vehicles (subcompact cars, compact cars, SUVs, pickups, minivans, etc.), and included a

''break-even'' analysis for each of these classes. The report identified packages of existing and emerging technologies that could be introduced over the next ten years and that would result in fuel economy improvement up to the point at which further increases in fuel economy would not be reimbursed by fuel savings. It placed these technologies into three product development paths for each of ten vehicle classes. The paths were chosen to represent potential vehicle development steps that would offer increasing levels of fuel economy gain at incrementally increasing costs. In doing the analysis, the committee kept the size and performance characteristics of the vehicles' constant, while increasing vehicle weight five percent to account for future safety requirements.

Two break-even analyses were done for each path. One covered a 14-year period that reflects the entire life of the vehicle, while the other covered a 3-year period that reflects the first purchaser's ownership period. The committee theorized that all consumers do not take the same things into consideration when purchasing a vehicle, and realized that some consumers will be trading in their vehicles on a constant cycle. The 3-year period also represents the average lease term, and thus can serve as a starting point for analyzing the emphasis that vehicle leasers place on fuel economy and advanced technology.

To assist NHTSA in its rulemaking, we ask you to comment on the following:

16. In examining the three paths that were chosen, please comment on whether they represent likely scenarios for technology bundling. If not, please comment on which technologies are likely to be bundled together and please identify the specific vehicle types and vehicles/models that might include them. In addition, please comment on the technologies already included on the vehicle types/models, the projected vehicle weight and the percent of total model sales anticipated for each model (i.e., CVT—45%, 5-Speed Automatic—40%, 5-Speed Manual—5%). Finally, please comment on the assumptions the NAS made in evaluating the three paths. Are there more plausible alternative assumptions?

17. Should hybrid and fuel cell vehicles have been included in the paths? If so, which ones and which specific vehicle types? What technologies would be included with these types of vehicles?

18. Do you believe that the NAS study over or under estimated the fuel economy benefits from specific technologies? If so, which ones and why? Please provide NHTSA with your data that suggest a different benefit resulting from the application of these technologies.

19. Do you agree with the figures derived in the NAS break-even analysis? If not, why? Please address specific areas of differences, explain your reason(s) why, and provide supporting data for your reasons and arguments.

20. For the forthcoming rulemaking and future CAFE rulemakings, benefit analysis will play an important role in NHTSA decisionmaking. NHTSA therefore seeks comments on the following specific benefit issues: Can you provide, in addition to the material in the NAS report, any methods and data that would be helpful in identifying, quantifying, and expressing in dollar units the potential benefits of alternative CAFE standards (including energy security, environmental, and other considerations)? Are there any ancillary studies that NHTSA or other federal agencies should commission to provide a stronger technical foundation for making benefit estimates in future CAFE rulemakings?

IV. Impact Analyses

A. Economic Impacts

This notice was reviewed under E.O. 12866. The agency has considered the potential economic implications of this rulemaking and determined that it is significant within the meaning of the Department's regulatory policies and regulatory procedures. A preliminary regulatory evaluation will be prepared and placed in the public docket before any notice of proposed rulemaking is published.

B. Environmental Impacts

We have not conducted an evaluation of the impacts of this request for comments under the National Environmental Policy Act. There is no requirement for such an evaluation where, as here, the agency is requesting comments on a possible future rulemaking.

C. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this request for comments would have on small entities. I certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. Few, if any, light truck manufacturers subject to a possible proposed rule subsequent to this notice would be classified as a ''small business'' under the Regulatory Flexibility Act.

The Regulatory Flexibility Act of 1980 (Public Law 96–354) requires each agency to evaluate the potential effects of a rule on small businesses. Establishment of a fuel economy standard for light trucks affects motor vehicle manufacturers, few of which are small entities. The Small Business Administration (SBA) has set size standards for determining if a business within a specific industrial classification is a small business. The Standard Industrial Classification code used by the SBA for Motor Vehicles and Passenger Car Bodies (3711) defines a small manufacturer as one having 1,000 employees or fewer.

Very few single stage manufacturers of motor vehicles within the United States have 1,000 or fewer employees. Those that do are not likely to have sufficient resources to design, develop, produce and market a light truck. For this reason, we certify that this request for comments and any subsequent proposal would not have a significant economic impact on a substantial number of small entities.

D. Federalism

E.O. 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' E.O. 13132 defines the term ''Policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under E.O. 13132, NHTSA may not issue a regulation that has federalism implication, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This request for comments and any subsequent proposal would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this notice.

E. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually.

F. Paperwork Reduction Act

There are no information collection requirements in this proposal.

G. Regulation Identifier Number (RIN)

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

H. Plain Language

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

—Have we organized the material to suit the public's needs?
—Are the requirements in the notice clearly stated?
—Does the notice contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the notice easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the notice easier to understand?

If you have any responses to these questions, please forward them to Otto Matheke, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This request for comments and any subsequent proposal does not have a disproportionate effect on children. The primary effect of this request for comments and any subsequent proposal is to conserve energy resources by setting fuel economy standards for light trucks.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [1] in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

In issuing this notice, the agency is simply seeking information to help it establishing a future goal for manufacturers to meet. Therefore, setting this future standard does not involve the use of any voluntary standards.

V. Comments

Submission of Comments

How Can I Influence NHTSA's Thinking on This Notice?

In developing this notice, we tried to address the concerns of all our stakeholders. Your comments will help us determine what standards should be set for light truck fuel economy. We invite you to provide different views on questions we ask, new approaches and technologies we did not ask about, new data, how this notice may affect you, or other relevant information. We welcome your views on all aspects of this notice, but request comments on specific issues throughout this notice. We grouped these specific requests near the end of the sections in which we discuss the relevant issues. Your comments will be most effective if you follow the suggestions below:

- Explain your views and reasoning as clearly as possible.
- Provide empirical evidence, wherever possible, to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the notice, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number of the proceeding with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

[1] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specifications and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a proposed rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on Asearch.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Authority: 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

Issued on: February 1, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

APPENDIX

I. Definitions

As used in this appendix—

1. ''Automobile,'' ''fuel economy,'' ''manufacturer,'' and ''model year,'' have the meaning given them in Section 501 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001.

2. ''Cargo-carrying volume,'' ''gross vehicle weight rating'' (GVWR), and ''passenger-carrying volume'' are used as defined in 49 CFR 523.2.

3. ''Basic engine'' has the meaning given in 40 CFR 600.002–85(a)(21). When identifying a basic engine, respondent should provide the following information:

(i) Engine displacement (in cubic inches).

(ii) Number of cylinders or rotors.

(iii) Number of valves per cylinder.

(iv) Cylinder configuration (V, in-line, etc.).

(v) Number of carburetor barrels, if applicable.

(vi) Other engine characteristics, abbreviated as follows:

DD—Direct Injection Diesel
ID—Indirect Injection Diesel
TB—Throttle Body Fuel Injection S.I. (Spark Ignition)
MP—Multipoint Fuel Injection S.I.
TD—Turbocharged Diesel
TS—Turbocharged S.I.
FFS—Feedback Fuel System
2C—Two-stroke engines
VVT—Variable valve timing
VVLT—Variable valve lift and timing
SOHC—Single overhead camshaft
DOHC—Dual overhead camshafts
CYDA—Cylinder deactivation
IVT—Intake valve throttling
CVA—Camless valve actuation
VCR—Variable compression ratio
LBFB—lean burn-fast burn combustion

4. ''Domestically manufactured'' is used as defined in Section 503(b)(2)(E) of the Act.

5. ''Light truck'' means an automobile of the type described in 49 CFR part 523.5.

6. A ''model'' of light truck is a line, such as the Chevrolet C1500 or Astro, Ford F150 or E150, Jeep Wrangler, etc., which exists within a manufacturer's fleet.

7. ''Model Type'' is used as defined in 40 CFR 600.002–85(a)(19).

8. ''Percent fuel economy improvements'' means that percentage which corresponds to the amount by which respondent could improve the fuel economy of vehicles in a given model or class through the application of a specified technology, averaged over all vehicles of that model or in that class which feasibly could use the technology. Projections of percent fuel economy improvement should be based on the assumption of maximum efforts by respondent to achieve the highest possible fuel economy increase through the application of the technology. The baseline for determination of percent fuel economy improvement is the level of technology and vehicle performance with respect to acceleration and gradeability for respondent's 2001 model year light trucks in the equivalent class.

9. ''Percent production implementation rate'' means that percentage which corresponds to the maximum number of light trucks of a specified class, which could feasibly employ a given type of technology if respondent made maximum efforts to apply the technology by a specified model year.

10. ''Production percentage'' means the percent of respondent's light trucks of a specified model projected to be manufactured in a specified model year.

11. ''Project'' or ''projection'' refers to the best estimates made by respondent, whether or not based on less than certain information.

12. ''Redesign'' means any change, or combination of changes, to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.

13. ''Relating to'' means constituting, defining, containing, explaining, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

14. ''Respondent'' means each manufacturer (including all its divisions) providing answers to the questions set forth in this appendix, and its officers, employees, agents or servants.

15. ''Test Weight'' is used as defined in 40 CFR 86.082–2.

16. ''Transmission class'' is used as defined in 40 CFR 600.002–05(22)(a). When identifying a transmission class, respondent also must indicate whether the type of transmission, and whether it is equipped with a lockup torque converter (LUTC), a split torque converter (STC), and/or a wide gear ratio range (WR) and specify the number of forward gears or whether the transmissions a continuously variable design (CVT). If the transmission is of a hybrid type, that should also be indicated.

17. ''Truckline'' means the name assigned by the Environmental Protection Agency to a different group of vehicles within a make or car division in accordance with that agency's 1994 model year pickup, van (cargo vans and passenger vans are considered separate truck lines), and special purpose vehicle criteria.

18. ''Utility vehicle'' means a form of light truck, either two-wheel drive (4x2) or four-wheel drive (4x4), and is exemplified by a Jeep Wrangler or Cherokee, a Chevrolet Blazer, Ford Explorer, or a Toyota Land Cruiser.

19. The term ''van'' is used as defined in 40 CFR 86.082–2.

20. ''Variants of existing engines'' means versions of an existing basic engine that

differ from that engine in terms of displacement, method of aspiration, induction system or that weigh at least 25 pounds more or less than that engine.

II. Assumptions

All assumptions concerning emission standards, damageability regulations, safety standards, etc., should be listed and described in detail by the respondent.

III. Specifications

1. Identify all light truck models currently offered for sale in MY 2001 whose production you project discontinuing before MY 2005 and identify the last model year in which each will be offered.

2. Identify all basic engines offered by respondent in MY 2001 light trucks which respondent projects it will cease to offer for sale in light trucks before MY 2005, and identify the last model year in which each will be offered.

3. Does the respondent currently project offering for sale for the time period of MY 2005–2010 any new or redesigned light trucks, including vehicles smaller than those now produced? If so, provide the following information for each model (e.g., Chevrolet C1500, Ford F150). Model types that are essentially identical except for their nameplates (e.g., Dodge Caravan/Plymouth Voyager) may be combined into one item. See Table A for a sample format; 4x2 and 4x4 light trucks are different models.

a. Body types to be offered for sale (e.g., regular cab, super cab).

b. Description of basic engines, or power sources (i.e., fuel cell) including optional horsepower and torque ratings, if any; displacement; number and configuration of cylinders; type of fuel injection system; fuel type; number of valves per cylinder, and whether it is 2-cycle or 4-cycle or uses variable valve timing.

c. Transmission type (manual, automatic, number of forward speeds, hybrid, overdrive, etc., as applicable), including gear ratios and final drive, alternative ratios offered, driveline configuration, and special features such as torque converter lockup clutches, electronic controls or CVT design.

d. (i) The range of GVW ratings to be offered for each body type.

(ii) The range of test weights for each body type.

e. All wheelbases.

f. Estimated power absorption unit (PAU) setting, in hp.

g. The range of projected EPA composite fuel economies for each body type in the initial model year of production.

h. Projected introduction date (model year).

i. Projected sales for each model year from the projected year of introduction through MY 2010, expressed both as an absolute number of units sold and as percentage of all light trucks sold by respondent.

j. Projections of:

(i) Existing models replaced by new models.

(ii) Reduced sales of respondent's existing models as a result of the sale of each of the new models.

(iii) New sales not captured from any of the respondent's existing models.

4. Does respondent project introducing any variants of existing basic engines or any new basic engines, other than those mentioned in your response to Question 3, in its light truck fleets in MYs 2005–2010? If so, for each basic engine or variant indicate:

a. The projected year of introduction,

b. Type (e.g., spark ignition, direct injection diesel, 2-cycle, alternative fuel use),

c. Displacement,

d. Type of induction system (e.g., fuel injection with turbocharger, naturally aspirated),

e. Cylinder configuration (e.g., V–8, V–6, I–4),

f. Number of valves per cylinder (e.g., 2, 3, 4, 6),

g. Horsepower and torque ratings,

h. Models in which engines are to be used, giving the introduction model year for each model if different from ''a,'' above. (See Table B for a sample format.)

5. Relative to MY 2001 levels, for MYs 2005–2010, please provide information, by truckline and as an average effect on a manufacturer's entire light truck fleet, on the weight and/or fuel economy impacts of the following standards or equipment:

a. Federal Motor Vehicle Safety Standard (FMVSS 208) Automatic Restraints

b. FMVSS 201 Occupant Protection in Interior Impact

c. Voluntary installation of safety equipment (e.g., antilock brakes)

e. Environmental Protection Agency regulations

f. California Air Resources Board requirements

g. Other applicable motor vehicle regulations affecting fuel economy.

6. For each of the model years 2005–2010, and for each light truck model projected to be manufactured by respondent (if answers differ for the various models), provide the requested information for each of items ''6a'' through ''6o'' listed below:

(i) description of the nature of the technological improvement;

(ii) the percent fuel economy improvement averaged over the model;

(iii) the basis for your answer to 6(ii), (e.g., data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(iv) the percent production implementation rate and the reasons limiting the implementation rate;

(v) a description of the 2001 baseline technologies and the 2001 implementation rate; and

(vi) the reasons for differing answers you provide to items (ii) and (iv) for different models in each model year. Include as a part of your answer to 6(ii) and 6(iv) a tabular presentation, a sample portion of which is shown in Table C.

a. Improved automatic transmissions. Projections of percent fuel economy improvements should include benefits of lock-up or bypassed torque converters, electronic control of shift points and torque converter lock-up, and other measures which should be described.

b. Improved manual transmissions. Projections of percent of fuel economy improvement should include the benefits of increasing mechanical efficiency, using improved transmission lubricants, and other measures (specify).

c. Overdrive transmissions. If not covered in ''a'' or ''b'' above, project the percentage of fuel economy improvement attributable to overdrive transmissions (integral or auxiliary gear boxes), two-speed axles, or other similar devices intended to increase the range of available gear ratios. Describe the devices to be used and the application by model, engine, axle ratio, etc.

d. Use of engine crankcase lubricants of lower viscosity or with additives to improve friction characteristics or accelerate engine break-in, or otherwise improved lubricants to lower engine friction horsepower. When describing the 2001 baseline, specify the viscosity of and any fuel economy-improving additives used in the factory-fill lubricants.

e. Reduction of engine parasitic losses through improvement of engine-driven accessories or accessory drives. Typical engine-driven accessories include water pump, cooling fan, alternator, power steering pump, air conditioning compressor, and vacuum pump.

f. Reduction of tire rolling losses, through changes in inflation pressure, use of materials or constructions with less hysteresis, geometry changes (e.g., increased aspect ratio), reduction in sidewall and tread deflection, and other methods. When describing the 2001 baseline, include a description of the tire types used and the percent usage rate of each type.

g. Reduction in other driveline losses, including losses in the non-powered wheels, the differential assembly, wheel bearings, universal joints, brake drag losses, use of improves lubricants in the differential and wheel bearing, and optimizing suspension geometry (e.g., to minimize tire scrubbing loss).

h. Reduction of aerodynamic drag.

i. Turbocharging or supercharging.

j. Improvements in the efficiency of 4-cycle spark ignition engines including (1) increased compression ratio; (2) leaner air-to-fuel ratio; (3) revised combustion chamber configuration; (4) fuel injection; (5) electronic fuel metering; (6) interactive electronic control of engine operating parameters (spark advance, exhaust gas recirculation, air-to-fuel ratio); (8) variable valve timing or valve lift; (9) multiple valves per cylinder; (10) friction reduction by means such as low tension piston rings and roller cam followers; (11) higher temperature operation; and (12) other methods (specify).

k. Naturally aspirated diesel engines, with direct or indirect fuel injection.

l. Turbocharged or supercharged diesel engines with direct or indirect fuel injection.

m. Stratified-charge reciprocating or rotary engines, with direct or indirect fuel injection.

n. Two cycle spark ignition engines.

o. Use of hybrid drivetrains

p. Use of fuel cells; provide a thorough description of the fuel cell technology employed, including fuel type and power output.

q. Other technologies for improving fuel economy or efficiency.

7. For each model of respondent's light truck fleet projected to be manufactured in

each of MYs 2005–2010, describe the methods used to achieve reductions in average test weight. For each specified model year and model, describe the extent to which each of the following methods for reducing vehicle weight will be used. Separate listings are to be used for 4x2 light trucks and 4x4 light trucks.

a. Substitution of materials.

b. ''Downsizing'' of existing vehicle design to reduce weight while maintaining interior roominess and comfort for passengers, and utility, i.e., the same or approximately the same, payload and cargo volume, using the same basic body configuration and driveline layout as current counterparts.

c. Use of new vehicle body configuration concepts, which provides reduced weight for approximately the same payload and cargo volume.

8. For each model year 2005–2010, list all projected light truck model types and provide the information specified in ''a'' through ''k'' below for each model type.

The information should be in tabular form, with a separate table for each model year. Each grouping is to be subdivided into separate listings for models with 4x2 and 4x4 drive systems. Engines having the same displacement but belonging to different engine families are to be grouped separately.

The vehicles are to be sorted first by truckline, second by basic engine, and third by transmission type. For these groupings, the average test weights are to be placed in ascending order. List the categories in terms ''a'' through ''k'' below in the order specified from left to right across the top of the table. Include in the table for each model year the total sales-weighted harmonic average fuel economy and average test weight for imported and domestic light trucks for each truckline and for all of the respondent's light trucks.

a. Truckline, e.g., C1500, F–150, B–150. Model types that are essentially identical except for their nameplates (e.g., Chevrolet S–10/GMC S–15 and Dodge Caravan/Plymouth Voyager) may be combined into one line item.

b. Light truck vehicle type, e.g., compact pickup, cargo van, passenger van, utility, truck-based station wagon, and chassis cab. Other light truck designations, which are adequately defined, can be used if these are not suitable.

c. Basic engine: Include the engine characteristics used in Definition 3.

d. Transmission class (e.g., A3, L4, A40D, M5, CVT): Include the characteristics used in Definition 16.

e. Average ratio of engine speed to vehicle speed in top gear (N/V), rounded to one decimal place.

f. Average test weight.

g. Average PAU setting: Provide the value and show whether the value (or estimated value) is based on coastdown testing (T) or calculated from the vehicle frontal area (C). Round the PAU value to one decimal Place.

h. Composite fuel economy (Sales weighted, harmonically averaged over the specified vehicles, rounded to the nearest 0.1 mpg).

i. Projected sales for the vehicles described in each line item.

9. For each transmission identified in response to 8(d) above, provide a listing showing whether the transmission is manual or automatic, the gear ratios for the transmission, and the models that will use the transmission.

10. Indicate any MY 2005–2010 light truck model types that have higher average test weights than comparable MY 2001 model types. Describe the reasons for any weight increases (e.g., increased option content, less use of premium materials) and provide supporting justification.

11. For each new or redesigned vehicle identified in response to Question 3 and each new engine or fuel economy improvement identified in your response to Questions 3, 5, and 6, provide your best estimate of the following, in terms of constant 1996 dollars:

(a) Total capital costs required to implement the new/redesigned model or improvement according to the implementation schedules specified in your response. Subdivide the capital costs into tooling, facilities, launch, and engineering costs.

(b) The maximum production capacity, expressed in units of capacity per year, associated with the capital expenditure in (a) above. Specify the number of production shifts on which your response is based and define ''maximum capacity'' as used in your answer.

(c) The actual capacity that is planned to be used each year for each new/redesigned model or fuel economy improvement.

(d) The increase in variable costs per affected unit, based on the production volume specified in (b) above.

(e) The equivalent retail price increase per affected vehicle for each new/redesigned model or improvement. Provide an example describing methodology used to determine the equivalent retail price increase.

12. Please provide respondent's actual and projected U.S. light truck sales, 4x2 and 4x4, 0–8,500 lbs. GVWR and 8501–10,000 lbs., GVWR for each model year from 1996 through 2002, inclusive. Please subdivide the data into the following vehicle categories:

i. Standard Pickup Heavy (e.g., C2500/3500, F–250/350, Ram 2500/3500)

ii. Standard Pickup Light (e.g., C1500, F–150, Ram 1500)

iii. Compact Pickup (e.g., S–10, Ranger, Dakota)

iv. Standard Cargo Vans Heavy (e.g., G3500, E–250/350, B3500)

v. Standard Cargo Vans Light (e.g., G1500/2500, E–150, B1500/2500)

vi. Standard Passenger Vans Heavy (e.g., G3500, E–250/350, B3500)

vii. Standard Passenger Vans Light (e.g., G1500/2500, E–150, B1500/2500)

viii. Compact Cargo Vans (e.g., Astro, Aerostar, Mini Ram Van)

ix. Compact Passenger Vans (e.g., Astro, Villager, Voyager)

x. Standard Utilities (e.g., K1500 Tahoe, Expedition)

xi. Compact Utilities (e.g., Blazer, Explorer, Wrangler, RAV4)

xii. Other (e.g., Suburban)

See Table D for a sample format.

13. Please provide your estimates of projected *total industry* U.S. light (0–10,000 lbs, GVWR) truck sales for each model year from 2005 through 2010, inclusive. Please subdivide the data into 4x2 and 4x4 sales and into the vehicle categories listed in the sample format in Table E.

14. Please provide your company's assumptions for U.S. gasoline and diesel fuel prices during 2005 through 2010.

15. Please provide projected production capacity available for the North American market (at standard production rates) for each of your company's light truckline designations during MYs 2005–2010.

16. Please provide your estimate of production lead time for new models, your expected model life in years, and the number of years over which tooling costs are amortized.

Note: The parenthetical numbers in Tables A through E refer to the items in section III, specifications.

TABLE A—NEW MODELS

[Model: A–1 Standard Pickup; Drivetrain Configuration: 4x2, Front Engine/Rear Drive]

Body type (3a.)	Passenger volume ft3	No. of seating positions	Cargo volume, ft3	Wheelbase, in. (3e.)	PAU setting, hp (3f.)
Regular cab, short bed	50	3	48	115	7.5
Regular cab, long bed	50	3	64	133	7.8
Extended cab, long bed	75	4	64	151	8.2
Crew cab, long bed	100	6	64	170	9.0

Engine options (3b.)	Config./ number of cyl.	Fuel system	HP @ RPM	Torque @ RPM
160 CID, Turbocharged [1]	I–4	MPI	140 @ 4200	90 @ 3400
235 CID	V–6	TBI	150 @ 3800	125 @2800
235 CID, 4-valve [2]	V–6	MPI	180 @ 4500	130 @ 3200
285 CID	V–8	MPI	200 @ 4200	150 @ 3000

[1] Not available with crew cab.
[2] Available with automatic transmission only.

Ratios (3c.)	Transmission type		
	Manual overdrive	Manual creeper	Automatic with electronic controls and TCLU
1st Gear	4.50	6.50	3.20
2nd Gear	3.00	3.60	2.50
3rd Gear	1.75	1.80	1.50
4th Gear	1.00	1.00	1.00
5th Gear	0.80	.....	.....
Reverse Gear	4.70	6.10	3.00
Torque Converter	.....	.....	2.10
Axle	3.54/3.73	3.54/3.73	3.23/3.54

Body type (3a.)	Range of GVWR (3d.(i))	Range of test weights (3d.(ii)	Range of composite fuel economy ratings (3g.)
Regular Cab, Short Bed	6,050–7,000	4,250–4,500	16.0–17.5
Regular Cab, Long Bed	6,100–7,200	4,250–4,500	16.0–17.2
Extended Cab, Long Bed	6,100–7,400	4,500–5,000	15.5–17.0
Crew Cab, Long Bed	6,300–7,800	4,500–5,000	14.5–16.5

Model year	Production (3i)	Share of fleet, % (3i)	Notes (3h, 3j)
2001	36,000	5	Mid-year introduction, North American production
2002	78,000	10	
2004	110,000	13	Extended cab introduced
2005	120,000	14	Facelift

New models

Model year (3j.)	New model designation	Model replaced or augmented	Sales derived from old model	Additional sales anticipated
2002	A–Std Pickup	T–Std Pickup	20,000	10,000
2003	A–Std Pickup	T–Std Pickup	50,000	30,000

TABLE B—NEW ENGINES

New/Redesigned engines

Year of introduction by model (4a./h.)	Type (4b.)	Displacement, L. (4c.)	Induction system (4d.)	Configuration (4e.)	Valves per cylinder (4f.)	Horsepower @rpm (4g.)	Torque, lb-ft @rpm (4g.)
2002—Std Pickups 2004—StdVans	2-cycle, Diesel	4.42	Turbo-charged, Direct injection.	W–9	3	250@4000	190 @ 3500

TABLE C—TECHNOLOGY IMPROVEMENTS

Technological improvement	Percent fuel economy improvement, %	Percent production share				
		2002	2003	2004	2005	2006
(6a) Improved Auto Trans.						
LT–1	7.0	0	0	15	25	55
LT–2	6.5	0	0	0	20	25
LT–3	5.0	0	10	30	60	60
(6b) Improved Manual Trans.						
LV–1	1.0	2	5	5	5	5
U–1	0.7	0	0	0	8	10

TABLE D—ACTUAL AND PROJECTED U.S. SALES (12.)

[Amalgamated Motors 2WD Light Truck Sales Projections]

Model Line	Model Year					
	2001	2002	2003	2004	2005	etc.
0–8,500 lbs.GVWR						
Std Pickup Heavy	43,500					
Std Pickup Light	509,340					
Compact Pickup	120,000					
Std Cargo Van Heavy	60,000					
Std Cargo Van Light	20,000					
Compact Cargo Van	29,310					
Std Passenger Van Heavy	54,196					
Std Passenger Van Light	38,900					
Compact Passenger Van	30,000					
Std Utility	53,800					
Compact Utility	44,000					
Other (Specify)						
8,501–10,000 Lbs.GVWR						
Std Pickup Heavy	5,500					
Std Vans Heavy	4,000					
Other (Specify)						
Total	1,012,546					

TABLE E—TOTAL U.S. TRUCK SALES (13.)

Model type	2001	2002	2003	2004	2005	etc.
1. 2WD Light Trucks						
a. Pickup						
Compact						
Mid-size						
Standard						
b. Cargo Vans						
Compact						
Standard						
c. Passenger Vans						
Compact						
Standard						
d. Utilities						
Compact						
Standard						
Pass. Car Based						
e. Truck Based Station Wagons						
f. Other (Specify)						
2. 4WD Light Trucks [Same Breakout as 2WD]						
3. Total Light Trucks [2WD + 4WD]						

[FR Doc. 02–2874 Filed 2–1–02; 4:15 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1080–A117

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period and Announcement of a Public Meeting for the Proposed Rule To List the Columbia Basin Pygmy Rabbit as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule; notice of reopening of comment period and announcement of public meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), provide notice of the reopening of the comment period for the proposed rule to list the Columbia Basin distinct population segment of the pygmy rabbit (*Brachylagus idahoensis*) as endangered. The comment period is reopened to accommodate requests by State resource agencies and private interests for additional time to provide input. We have also scheduled a public meeting during the reopened comment period to discuss the information we have available for this proposed action, and to facilitate submission of additional information and comments from all interested parties.

DATES: The original comment period for the proposed rule was scheduled to close January 29, 2002. With this reopening notification, written comments may now be submitted until February 28, 2002. The public meeting will be held from 7 p.m. to 9 p.m. on Tuesday, February 12, 2002.

ADDRESSES: Written comments, data, reports, map products, and other information concerning the proposed rule should be sent by mail or hand-delivered to the Supervisor, U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Spokane, Washington 99206. The public meeting will be held in the auditorium of the Douglas County Public Utility District Office, 1151 Valley Mall Parkway, East Wenatchee, Washington 98802. Additional information and written comments may also be hand delivered at the public meetings.

FOR FURTHER INFORMATION CONTACT: Chris Warren at the Upper Columbia Fish and Wildlife Office (address listed above; telephone 509/891–6839; facsimile 509/891–6748).

SUPPLEMENTARY INFORMATION:

Background

Historically, the Columbia Basin pygmy rabbit occurred in dense, shrub steppe habitats in five central Washington counties. Currently, this population segment consists of a single known wild colony, totaling fewer than 25 individuals in Douglas County, Washington, and an additional 17 individuals that are being held in captivity. The Columbia Basin pygmy rabbit is imminently threatened by its extremely small population size and restricted distribution, coupled with the risks from catastrophic environmental events, habitat impacts, disease, predation, and loss of genetic heterogeneity.

Pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), we published an emergency rule to list the Columbia Basin pygmy rabbit as endangered on November 30, 2001 (66 FR 59734). The emergency rule provides immediate Federal protection to this distinct population segment for a period of 240 days. We also published a proposed rule on November 30, 2001, to list the Columbia Basin pygmy rabbit as endangered under our normal listing procedures (66 FR 59769).

For further information regarding background biological information, previous Federal actions, factors affecting the species, and conservation measures available to the Columbia Basin pygmy rabbit, please refer to our emergency and proposed rules published in the **Federal Register** on November 30, 2001.

Public Comments Solicited

With this notification, we solicit additional information and comments that may assist us in making a final decision on the proposed rule to list the Columbia Basin pygmy rabbit as endangered. We intend that any final listing action resulting from our proposal will be as accurate and effective as possible. Therefore, we request comments and additional information from the general public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data regarding any threat (or lack thereof) to the Columbia Basin pygmy rabbit;

(2) Information regarding the range, distribution, and population size of this distinct population segment, including the locations of any additional colonies of the Columbia Basin pygmy rabbit;

(3) Information (*e.g.,* maps, data, unpublished reports) and justification regarding why any habitat should or should not be determined to be critical habitat for the Columbia Basin pygmy rabbit as provided by section 4 of the Act;

(4) Current or planned activities that could potentially impact the Columbia Basin pygmy rabbit.

In making any final decision on the proposed action, we will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from the proposal.

Author

The primary author of this notice is Chris Warren of the Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section).

Authority

The authority of this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 18, 2002.

David J. Wesley,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 02–2924 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622, 635, 640, and 654

[Docket No. 010410086-1086-01; I.D. 020801A]

RIN 0648-AN83

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to the Fishery Management Plans of the Gulf of Mexico

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement the Generic Amendment Addressing the Establishment of the Tortugas Marine

Reserves in the Fishery Management Plans of the Gulf of Mexico (Tortugas Amendment), as prepared by the Gulf of Mexico Fishery Management Council (Gulf of Mexico Council). This action would provide enhanced protections for existing marine reserves in the vicinity of the Dry Tortugas, Florida, and would be taken under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The proposed regulations would complement regulations previously issued by NOAA under the authority of the National Marine Sanctuary Act by better informing the public of applicable restrictions and providing enhanced enforcement authority and stricter penalties for violations. Consistent with NOAA's existing regulations, these regulations prohibit fishing for any species and anchoring by fishing vessels within the reserves. The intended effect is to inform the public of these restrictions and to further protect and conserve important marine resources.

DATES: Written comments must be received on or before March 25, 2002.

ADDRESSES: Written comments on the proposed rule must be sent to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments may also be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or the Internet.Requests for copies of the Tortugas Amendment, which includes a regulatory impact review (RIR), an initial regulatory flexibility analysis (IRFA), and a final supplemental environmental impact statement (FSEIS), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; phone: 813–228–2815; fax: 813–225–7015; e-mail: gulf.council@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, phone: 727–570–5305; fax: 727–570–5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The Dry Tortugas are located approximately 70 miles (112 km) west of Key West, a strategic location for a marine reserve. The Dry Tortugas contain the healthiest coral reefs found in the Florida Keys. Coral pinnacles as high as 40 feet (12 m), with the highest coral cover (over 30 percent) found in the Florida Keys, rise up from the ocean floor. These coral formations are bathed by some of the cleanest waters found in the Florida Keys and occur where the tropical waters of the Caribbean mingle with the more temperate waters of the Gulf of Mexico.

The Tortugas region is important because of its location and the resulting effect of unique oceanographic processes. The Dry Tortugas play a dynamic role in supporting marine ecosystems throughout south Florida and the Florida Keys. Marine organisms that spawn in the Tortugas area produce larvae that are spread throughout the Keys by a persistent system of ocean eddies and currents. As the larval stages of various species range in duration from hours for some coral species, to as much as a year for spiny lobster, these eddies and currents provide the retention time in the water column and current pathways necessary for successful recruitment for numerous species. In addition, the upwelling and convergence of the ocean currents in the Dry Tortugas area act to concentrate food supplies for the larvae of numerous animal species.

The Tortugas region, relative to the rest of the Florida Keys, appears to have a greater population abundance and larger average individual size of many key species (e.g., groupers, snappers, and lobster). However, throughout the Florida Keys, including the Tortugas region, there appears to be an overfishing problem. Furthermore, the coral resources of the Florida Keys are under significant ecological stress resulting from coastal development and fishing activities (e.g., sedimentation and pollution, and fishing gear impacts).

The Florida Keys National Marine Sanctuary (FKNMS) is managed under NOAA's National Ocean Service. FKNMS managers completed a collaborative effort with the State of Florida, the Dry Tortugas National Park (managed by the National Park Service), and NMFS to establish the boundaries for two inter-jurisdictional marine reserves known as Tortugas North ecological reserve and Tortugas South ecological reserve. The Tortugas North ecological reserve encompasses an area of 120 square nautical miles (nm2); the Tortugas Amendment affects a 13 nm2 portion of this reserve located in the EEZ. The Tortugas South ecological reserve encompasses 60 nm2 , totally located in the EEZ; the Tortugas Amendment includes this entire area. The Tortugas South ecological reserve includes the Riley's Hump mutton snapper spawning aggregation site proposed by the Gulf of Mexico Council and approved and implemented by NMFS in 1994.

Based on available literature, these two marine reserves are expected to supply adults and larvae to adjacent areas. Additional expected benefits of the Tortugas marine reserves include the following: Establishment of a refuge and replenishment area to ensure continued abundance and diversity of coral reef resources; protection of critical fish spawning stock biomass and recruits from overfishing; physical protection of the coral reef structures; and ''spillover'' effects wherein organisms, such as fish, move from within to outside the reserve area, thereby providing improved fishing opportunities in the vicinity of the reserve.

The Gulf of Mexico fisheries for coastal migratory pelagics, coral and coral reefs, red drum, reef fish, shrimp, spiny lobster, and stone crab are managed under fishery management plans (FMPs) prepared by the Gulf of Mexico Council and approved and implemented by NMFS. These FMPs were prepared by the Gulf of Mexico Council, except for the FMPs for coastal migratory pelagics and spiny lobster, which were prepared jointly by the Gulf of Mexico Council and the South Atlantic Fishery Management Council (South Atlantic Council).

The Tortugas Amendment implemented by this rule amends the following FMPs to provide additional protections in the portion of the Tortugas North ecological reserve that falls within the Gulf of Mexico exclusive economic zone (EEZ) and in the Tortugas South ecological reserve, which resides entirely within the EEZ: Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico; Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico; Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico; Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico; Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico; Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; and Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic. All of these FMPs, except the FMPs for spiny lobster and stone crab, are implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. The FMP for spiny lobster is implemented by regulations at 50 CFR part 640; the FMP for stone crab is implemented by regulations at 50 CFR part 654.

The approved measures of the Tortugas Amendment prohibit fishing for any species, other than Atlantic highly migratory species (Atlantic HMS), within these marine reserves. Additionally, the amendment also prohibits anchoring by all fishing

vessels within the marine reserves. These fishing and anchoring prohibitions are intended to achieve the maximum benefits (see discussion above) from the two marine reserves over their initially anticipated duration of 10 years.

Under the Magnuson-Stevens Act, NMFS, acting on behalf of the Secretary of Commerce, has full management responsibility for Atlantic highly migratory species (HMS). In its Tortugas Amendment, the Gulf of Mexico Council proposed that its fishing and anchoring prohibitions within the reserves apply to Atlantic HMS for several reasons, including significant enforcement considerations as well as the overall biological benefits to the marine reserve ecosystem. The U.S. Coast Guard and NMFS advised the Council that unless fishing for all species and anchoring of all fishing vessels were prohibited within the Tortugas Reserves, there was no way to enforce adequately such prohibitions for just those species managed under the Gulf of Mexico Council's FMPs. Regarding the biological benefits of protecting Atlantic HMS species within the reserves, the region serves as a spawning ground for a variety of Atlantic HMS, including bluefin tuna. The Tortugas region has also been identified under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks as constituting a portion of the essential fish habitat for several tuna species and a variety of shark species. NMFS will consider the comments received on the Tortugas Amendment and on this proposed rule, which contains proposed regulatory language regarding the fishing and anchoring prohibitions as applied to Atlantic HMS. NMFS may adopt fishing and anchoring prohibitions with respect to Atlantic HMS, within the two Reserves.

The Tortugas Amendment protects the marine reserves for a period of at least 10 years, during which period the ecological benefits of the reserves will be evaluated. The prohibition on fishing and anchoring of fishing vessels should minimize human disturbances in the Tortugas reserves and help to restore and maintain their ecological integrity, including a full assemblage of fish, coral, and other benthic invertebrates. The reserves will also create a reference or baseline area for studying human impacts on coral reef ecosystems.

After NMFS published a notice of availability of the Gulf of Mexico Council's Tortugas Amendment for public comment in the **Federal Register** on March 7, 2001 (66 FR 13692). On June 6, 2001, NMFS approved those Tortugas Amendment management measures that amend the following FMPs: Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico; Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico; Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico; Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico; and Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. However, the Tortugas Amendment's proposed measures that would amend the two FMPs prepared jointly (joint FMPs) by the Gulf of Mexico Council and the South Atlantic Council (namely, the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic and the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic) had not yet been adopted by the South Atlantic Council. Therefore, those measures were not eligible for Secretarial review and approval under the Magnuson-Stevens Act at the time the Gulf of Mexico Council submitted its Tortugas amendment to NMFS.

At its meeting of June 18-23, 2001, the South Atlantic Council adopted the measures that would amend the two joint FMPs. Based on this action, NMFS determined that these measures had been properly submitted by the Gulf of Mexico Council and South Atlantic Council and could be reviewed and, if approved, implemented. Accordingly, on July 19, 2001, NMFS published a notice of availability of these amendment measures for public comment through September 17, 2001 (66 FR 37635). On October 16, 2001, NMFS approved the measures amending the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic and the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic.

This proposed rule includes all Tortugas Amendment measures that NMFS approved on June 6, 2001, and October 16, 2001. All comments received by NMFS on the Tortugas Amendment, under both current and previous Secretarial review periods, or on this proposed rule during its comment period will be summarized and addressed in the preamble of the final rule issued to implement the amendment's approved measures.

Classification

NMFS has determined that the Tortugas Amendment is consistent with the national standards of the Magnuson-Stevens Act and other applicable law.

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

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, as follows:

The proposed rule would enhance protections for two existing marine reserves in the vicinity of the Dry Tortugas, Florida, under the authority of the Magnuson-Stevens Fishery Conservation Management Act, complementing regulations already established under the authority of the National Marine Sanctuary Act (NMSA).

The regulations proposed by the Florida Keys National Marine Sanctuary (FKNMS) and published in the **Federal Register** on May 18, 2000 (65 FR 31634) were made effective on March 8, 2001 (66 FR 16120). Those regulations currently prohibit all commercial and recreational fishing as well as anchoring of all vessels (including fishing vessels) within the area of the reserves affected by this action.

While the FKNMS regulations currently prohibit all commercial and recreational fishing, which results in the protection and conservation of important marine resources, there are additional benefits from implementing complementary regulations under the Magnuson-Stevens Act via this proposed rule. The Magnuson-Stevens Act is the primary source of authority for regulating Federal fisheries. Public awareness, particularly of commercial and recreational fishermen that utilize the affected areas, would likely be increased through the adoption of this proposed action. Increased enforcement and stricter penalties for violations would be available under the authority of the Magnuson-Stevens Act.

The Council initially prepared an IRFA, prior to effectiveness of NOAA's NMSA regulations. However, since the preparation of this IRFA, the NOAA's NMSA regulations became effective, rendering the basis for and conclusions of the IRFA moot. Nevertheless, the following summary of the initial IRFA is included to provide historical context on the use of the Tortugas area by commercial entities:

This proposed rule is being considered because several fish species within the Gulf of Mexico are overfished and because there is a need to protect coral and coral reef habitats. The Magnuson-Stevens Act requires the Council to take action to prevent overfishing and to protect essential fish habitat (EFH). The establishment of two marine reserves in the vicinity of the Dry Tortugas contributes to these objectives. Although the Tortugas North and Tortugas South marine ecological reserves are being established under the initiative of the FKNMS, about 48 percent of the proposed marine reserve area is within the Council's jurisdiction. The IRFA indicates that up to 12 for-hire vessels, mainly dive boats, would be affected by the proposed action. In addition, about 164 commercial vessels, mainly shrimp

and reef fish vessels, would be directly affected by the proposed rule. About 11 percent of the annual for-hire revenues of $1.4 million and about 12 percent of the annual commercial revenues of $6.9 million could be negatively affected by the establishment of the marine reserves. No additional reporting, recordkeeping or other compliance costs were identified, and no duplicative, overlapping, or conflicting Federal rules were identified. Note that the findings of the original IRFA are no longer applicable because of the implementation of the FKNMS regulations.

The determination of significant economic impact can be ascertained by examining two criteria, disproportionality and profitability. The disproportionality question is: do the regulations place a substantial number of small entities at a significant competitive disadvantage compared to large entities? All entities affected by this proposed rule are classified as small entities. Thus, the issue of disproportionality is irrelevant in the present case.

The profitability question is: do the regulations significantly reduce profit for a substantial number of small entities? As fishing businesses engaged in the Tortugas area have already been displaced by regulations implemented by the FKNMS, these entities will not experience any significant or adverse economic impacts as a result of this rule.

Accordingly, an initial regulatory flexibility analysis was not required for this proposed rule. However, copies of the RIR and original IRFA are available (see **ADDRESSES**).

The Council prepared a final supplemental environmental impact statement (FSEIS) for the FMP that was filed with the Environmental Protection Agency for public review and comment. A notice of its availability for public comment for 30 days was published in the **Federal Register** on March 16, 2001 (66 FR 15241). According to the FSEIS, the elimination of consumptive uses within the marine reserves will protect EFH from fishery-related impacts and eliminate fishing mortality. Establishment of the marine reserves may result in many benefits to the ecosystem, including increased size and abundance of marine species. This may potentially improve reproductive success which could enhance recruitment to other areas of the Gulf of Mexico and the Florida Keys. The FSEIS states that although commercial and recreational fishermen could experience increased costs because of further restrictions on their activities within the marine reserves, they and non-consumptive users are expected to realize long-term benefits resulting from the maintenance of healthy and diverse marine ecosystems. It is noted that following NMFS' publication in the **Federal Register** of the notice of availability of the Tortugas Amendment for public comment, the FKNMS regulations became effective, thereby prohibiting all commercial and recreational fishing in the marine reserve areas. Accordingly, this proposed rule should not impact commercial and recreational fishermen in terms of a new prohibition on fishing and anchoring in the reserves.

List of Subjects

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

50 CFR Part 640

Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

50 CFR Part 654

Fisheries, Fishing.

Dated: February 1, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 622, 635, 640, and 654 are proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.34, paragraph (d) is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(d) *Tortugas marine reserves.* The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(1) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(2) *Tortugas South.* The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

* * * * *

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

3. The authority citation for part 635 continues to read as follows:

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

4. In § 635.21, paragraph (a)(3) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

(a) * * *

(3) No person may fish for, catch, possess or retain any Atlantic highly migratory species or anchor a fishing vessel in the areas designated at § 622.34(d) of this chapter.

* * * * *

5. In § 635.71, paragraph (a)(35) is added to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(35) Deploy or fish with any fishing gear from a vessel or anchor a fishing vessel in any closed area as specified at § 635.21.

* * * * *

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

6. The authority citation for part 640 continues to read as follows:

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

7. In § 640.7, paragraph (v) is added to read as follows:

§ 640.7 Prohibitions.

* * * * *

(v) Fish for any species or anchor a fishing vessel in a marine reserve as specified in § 640.26.

8. Section 640.26 is added to subpart B to read as follows:

§ 640.26 Tortugas marine reserves.

The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(a) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines

connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(b) *Tortugas South.* The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

PART 654—STONE CRAB FISHERY OF THE GULF OF MEXICO

9. The authority citation for part 654 continues to read as follows:

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

10. In § 654.7, paragraph (o) is added to read as follows:

§ 654.7 Prohibitions.

* * * * *

(o) Fish for any species or anchor a fishing vessel in a marine reserve as specified in § 654.28.

11. Section 654.28 is added to subpart B to read as follows:

§ 654.28 Tortugas marine reserves.

The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(a) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(b) *Tortugas South.* The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

[FR Doc. 02–2997 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 26
Thursday, February 7, 2002

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. 01N–0339]

Medical Devices; Proposed Classification for Medical Washer and Medical Washer-Disinfector

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify the medical washer and medical washer-disinfector intended for general medical purposes to clean and dry surgical instruments, decontaminate or disinfect anesthesia equipment, hollowware, and other medical devices into class II (special controls). Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a guidance document that FDA intends to use as the special control for these devices. After considering public comments on the proposed classification, FDA will publish a final regulation classifying these devices. This action is being taken to establish sufficient regulatory controls that will provide reasonable assurance of the safety and effectiveness of these devices.

DATES: Submit written or electronic comments by May 8, 2002. See section VII of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Chiu S. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301– 443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et. seq.*), as amended by the Medical Device Amendments of 1976 (the amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), and the Food Drug Administration Modernization Act of 1997 (the FDAMA) (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by the FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures (510(k)), without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Consistent with the act and the regulations, FDA consulted with the General Hospital and Personal Use Devices Panel (the Panel), an FDA advisory committee regarding the classification of the medical washers and medical washer-disinfectors.

Medical washers intended for general medical purposes to clean and dry surgical instruments, anesthesia equipment, hollowware, and other medical devices, and medical washer-disinfectors intended additionally to decontaminate or disinfect medical devices were in commercial distribution prior to May 28, 1976, the date of the Medical Device Amendment to the act. Medical washers and medical washer-disinfectors are considered medical devices within the meaning of section 201(h) of the act (21 U.S.C. 321(h)). Although they were legally marketed medical devices, the medical washers and medical washer-disinfectors were not included among the devices that were classified in 1980 by the Panel. Because the medical washers and medical washer-disinfectors are not dedicated to a single type of device, FDA has not considered them as accessories to classified medical devices. Although FDA has classified several generic types of washers and washer-disinfectors by regulation, medical washers and medical washer-disinfectors intended for general medical purposes to reprocess a variety of devices have not been classified by regulation and are therefore considered as unclassified devices.

Prior to June 1998, it was unclear to regulated industry whether the unclassified medical washers and medical washer-disinfectors were devices subject to the 510(k) requirements of the act. On June 2, 1998, FDA published on the Center for Devices and Radiological Health (CDRH)

Internet site the document entitled ''Guidance Document for Washers and Washer-Disinfectors Intended for Processing Medical Devices,'' which clarified their regulatory status at that time. FDA informed industry that these devices were subject to the 510(k) requirements of the act; that FDA would have a Panel meeting for the purpose of classifying these devices; and that FDA would provide guidance on the types of information to be included in a submission. The Panel was convened on September 14, 1998. In the **Federal Register** of November 5, 1998 (63 FR 59794), FDA announced the availability of the draft guidance and invited interested persons to comment on the guidance.

FDA has classified the following generic types of washers and washer-disinfectors that were in commercial distribution prior to May 28, 1976, by regulation. Washers and washer-disinfectors intended to process only ''general purpose articles,'' such as laboratory glassware, pipettes, bottles, and containers, although considered as medical devices, are treated by FDA as ''general purpose'' articles exempt from registration under § 807.65(c) and from the 510(k) requirements of the act.

Washers labeled only to wash and sanitize body waste receptacles, such as bedpans, have been classified as class I devices under 21 CFR 880.6800 (washers for body waste receptacles) and are exempt from the 510(k) requirements of the act (subject to the limitations on exemptions found in § 880.9 (21 CFR 880.9)).

Ultrasonic cleaners, which are intended to clean medical instruments by emission of high frequency soundwaves, and any cleaning solution intended for use with the ultrasonic cleaners, have been classified as class I devices under 21 CFR 880.6150 and are exempt from 510(k) requirements of the act (subject to the limitations on exemptions found in § 880.9).

Products used in the cleaning and disinfection of rigid gas permeable and soft (hydrophilic) contact lenses are classified as class II devices under 21 CFR 886.5918 and 886.5925, respectively.

FDA considers washers, washer-disinfectors, or disinfectors intended solely for the processing of flexible endoscopes as accessories to endoscopes. Under the definition of a medical device, an accessory to a medical device is itself considered a medical device and is regulated in the same class as the associated medical device. Therefore, endoscope washers, endoscope washer-disinfectors, or endoscope disinfectors are considered in the same class as endoscopes under 21 CFR 876.1500. Endoscopes and accessories are class II devices.

II. Recommendation of the Panel

During a public meeting, which was held on September 14, 1998, the Panel made the following recommendation regarding the classification of the general use washers and washer-disinfector. ''General use'' was the identifying terminology used at the time of Panel deliberations.

A. Identification

The Panel recommended that the device be identified as follows: A general use washer or washer-disinfector is a device intended for medical purposes to clean, decontaminate or disinfect, and dry surgical instruments, anesthesia equipment, hollowware and other medical devices. A general use washer or washer-disinfector can be equipped with electromechanical control systems or with microprocessor control systems and may have one or more cleaning and decontamination/disinfection cycles for a variety of medical devices. The device can be a free standing, single or double door unit or a wall recessed, pass-through unit with spray arms, nozzles, and adapters for directing fluid flow onto the external and internal surfaces of the medical devices. It may also have accessory inserts, such as specialized trays and racks, for processing a wide variety of instruments. The washer or washer-disinfector may clean, decontaminate or disinfect, and dry medical devices using preset cycles with defined-contact parameters. The cleaning phase may automatically dilute and dispense the cleaning agent or may require the user to dilute and add the cleaning agent manually. In some instances, manual precleaning of patient exposed devices may be necessary before placing them in the general use washer or washer-disinfector because of complex device designs or because of heavy soiling of the medical devices. The disinfection phase may be either a thermal process using heated water or steam or a chemical process using a liquid chemical germicide.

B. Recommended Classification of the Panel

The Panel unanimously recommended that the general use washer and washer-disinfector be classified into class II. The Panel believed that special controls in addition to the general controls would provide reasonable assurance of the safety and effectiveness of the device. The Panel recommended the following as special controls: FDA guidance, voluntary consensus standards, and user information/education.

C. Summary of Reasons for Recommendation

The Panel considered the information provided by FDA and industry, open discussions during the Panel meeting, and their clinical experience with the device in making their recommendation. The Panel then voted that general use washers and washer-disinfectors that are intended for medical purposes to clean, decontaminate or disinfect, and dry medical devices should be classified into class II. The Panel believed that special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and that there was sufficient information to establish special controls to provide such assurance.

D. Summary of Data Upon Which the Recommendation is Based

The Panel discussed a proposal to classify the general use washers and washer-disinfectors according to their intended use into two classes. Devices with cleaning as the only intended use would be placed in class I, whereas devices that are intended to be used for both cleaning and disinfection would be placed in class II. The Panel, however, noted that most of these devices would be placed in central services departments of healthcare facilities and believed that the majority of the devices would be intended for use as a washer-disinfector system rather than for use as a washer. The Panel recognized that a wide variety of medical devices, such as surgical instruments, anesthesia equipment, hollowware, and many other medical devices, are processed in these general use washers and washer-disinfectors and it is extremely difficult to dissociate the cleaning process from the disinfection process. Consequently, the Panel rejected the option of classifying the device intended only for washing as a class I device. The Panel recommended that the general use washers and washer-disinfectors, whether intended only for cleaning or intended for both cleaning and disinfection, be classified as class II.

The Panel acknowledged that those washers and washer-disinfectors already classified by regulation, such as washers for body waste receptacles, washers for general purpose articles, such as laboratory glassware, ultrasonic cleaners, washers and washer-disinfectors for flexible endoscopes, and contact lens cleaners, would not be affected by this classification.

E. Risks to Health

The Panel identified the following risks associated with the use of these devices: (1) Potential for increased risk of nosocomial infections; if general use washers and washer-disinfectors fail to process medical devices adequately, the medical device may serve as a potential vector for infection; (2) damage to medical devices if the cycle parameters or the liquid chemical germicide are incompatible with the medical device; damaged devices may fail to function or have areas that cannot be reprocessed effectively; (3) exposure of patient and healthcare users to chemical residues; if a liquid chemical germicide is used during the disinfection step, healthcare users and patients can be exposed to toxic residues if the rinse cycles are inadequate; (4) healthcare user exposure to toxic fumes from liquid chemical germicides or burns caused by exposure to hot water/steam used in the disinfection step; (5) electrical hazards; (6) electro-magnetic interference with the electronic components resulting in firmware failures; and (7) software failures.

F. Special Controls

In the **Federal Register** of November 5, 1998 (63 FR 59794), FDA announced the availability of the draft guidance document entitled ''Guidance on the Content and Format of Premarket Notification [510(k)] Submissions of Washers and Washer-Disinfectors.'' The draft guidance outlines the recommended testing to support the intended use of these devices. It recommends physical performance testing demonstrating that the general use washers and washer-disinfectors meet and maintain parameter specifications for each cycle. The draft guidance also provides information on the types of microbicidal performance testing to support the intended level of disinfection. In addition, it contains recommendations for residue testing, software documentation, and electrical and electromagnetic compatibility. The guidance includes recommendations on the types of information that should be included in the labeling for the general use washers and washer-disinfectors to provide the user with sufficient information for the proper use of these devices. FDA reviewed the comments on the draft guidance and has revised the guidance. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document that FDA intends to use as the special control for these devices (the special control guidance document).

Although the Panel recommended voluntary consensus standards as a special control when classifying the ''general use'' washers and washer-disinfectors, as they were termed at the time of Panel deliberations, there are currently no voluntary consensus design or performance standards specific to the ''general use'' washers and washer-disinfectors. There are more general applicable voluntary consensus standards, e.g., electrical safety standards. In the future, when voluntary standards are adopted for ''general use'' washers and washer-disinfectors, they can be incorporated in the FDA special control guidance document.

User information and education is critical to ensure that the users have full knowledge and can assume responsibility for the safe and effective use of the general use washers and washer-disinfectors. The Panel recommended user information and education as a special control. The FDA special control guidance document describes the type of information that should be made available to users of the ''general use'' washers and washer-disinfectors. The special control guidance document can be amended as the information and educational needs are updated.

III. Proposed Classification

FDA believes that in order to reduce the potential for confusion, the identification terms ''general use'' washer and ''general use washer-disinfector'' as recommended by the Panel should be changed to ''medical washer'' and ''medical washer-disinfector.'' The new terms will distinguish these devices from ''general purpose article'' washers and washer-disinfectors that are exempt from 510(k) requirements. FDA also believes that decontamination and disinfection are distinct intended uses that require FDA to distinguish washers from washer-disinfectors in classification descriptions.

FDA concurs with the Panel that the medical washers and washer-disinfectors should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

As the Panel initially considered, FDA believes that the medical washer can be exempt from 510(k) requirements and that some medical washer-disinfectors can also be exempted from 510(k) requirements depending on intended use. The medical washer-disinfector intended to clean and high level disinfect medical devices should be subject to 510(k) requirements because the reusable devices subject to a high level disinfection process may pose a high risk of infection and other serious sequelae if the washer-disinfector is unsafe or ineffective. The medical washer-disinfector intended to clean and provide low or intermediate level disinfection can be exempt from 510(k) requirements because the reusable devices subject to low or intermediate disinfection pose a relatively lower risk of infection and other serious sequelae if the washer-disinfector is unsafe or ineffective.

IV. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Manufacturers of these devices are already subject to 510(k) requirements. Some of these devices will now be exempt from the 510(k) requirement. The guidance will not add significantly to the information FDA presently requires in a 510(k). Therefore, FDA has determined that this proposed rule will impose little or no additional economic impact on any

small entities. The agency therefore certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under to section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

VI. Submission of Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by May 8, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

VII. Proposed Dates

FDA proposes that any final regulation based on this proposal become effective 30 days after its publication in the **Federal Register**.

VIII. References

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Transcript of General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee Meeting, September 14, 1998.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 880 be amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Sections 880.6991 and 880.6992 are added to subpart G to read as follows:

§ 880.6991 Medical washer.

(a) *Identification.* A medical washer is a device that is intended for general medical purposes to clean and dry surgical instruments, anesthesia equipment, hollowware and other medical devices.

(b) *Classification.* Class II (special controls). The special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors.'' The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

§ 880.6992 Medical washer-disinfector.

(a) *Identification.* A medical washer-disinfector is a device that is intended for general medical purposes to clean, decontaminate, disinfect, and dry surgical instruments, anesthesia equipment, hollowware, and other medical devices.

(b) *Classification.* Class II (special controls). The special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors.'' Medical washer-disinfectors that are intended only to clean, and provide low or intermediate level disinfection and dry surgical instruments, anesthesia equipment, hollowware, and other medical devices are exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 880.9.

Dated: August 24, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3019 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 01N–0411]

Orthopedic Devices; Proposed Classification for the Resorbable Calcium Salt Bone Void Filler Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify the resorbable calcium salt bone void filler device intended to fill bony voids or gaps, caused by trauma or surgery, that are not intrinsic to the stability of the bony structure into class II (special controls). The agency is also publishing the recommendation of the Orthopedic and Rehabilitation Devices Panel (the Panel) regarding the classification of this device. After considering public comments on the proposed classification, FDA will publish a final regulation classifying this device. This action is being taken to establish sufficient regulatory controls that will provide reasonable assurance of the safety and effectiveness of this device. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of a draft guidance document that the agency proposes to use as a special control for the device.

DATES: Submit written or electronic comments by May 8, 2002. See section XIII of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Nadine Y. Sloan, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1296.

SUPPLEMENTARY INFORMATION:

I. Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629) and the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115) established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval). Under the 1976 amendments, class II devices were defined as those devices for which there is insufficient information to show that general controls themselves will ensure safety and effectiveness, but for which there is sufficient information to establish performance standards to provide such assurance.

The SMDA broadened the definition of class II devices to mean those devices for which there is insufficient

information to show that general controls themselves will assure safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance. Special controls may include performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and any other appropriate actions the agency deems necessary (section 513(a)(1)(B) of the act).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has met the following three requirements: (1) Received a recommendation from a device classification Panel (an FDA advisory committee); (2) published the Panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act (21 U.S.C. 360c(f)) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with section 513(f)(2) of the act as amended by FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval.

The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations. A preamendments device that has been classified into class III may be marketed, by premarket notification, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

In 1987, when other orthopedic devices were classified (52 FR 33686 at 33702, September 4, 1987), FDA was not aware that the calcium sulfate bone void filler device, a resorbable bone void filler, intended for orthopedic use in filling bony voids or gaps not intrinsic to the stability of the bony structure, was a preamendment device and inadvertently omitted classifying it. On December 12, 1997, FDA received a Classification Proposal and Summary of Safety and Effectiveness Information for the OsteoSet™ Calcium Sulfate Bone Void Filler from Wright Medical Technology, Inc., requesting that the device be classified into class II (Ref. 1). Consistent with the act and the regulations, FDA consulted with the Panel regarding the classification of this device.

II. Device Identification

FDA is proposing the following device name and identification name based on the Panel's recommendation (Ref. 2) and the agency's review:

A resorbable calcium salt bone void filler device is a resorbable implant intended to fill bony voids or gaps caused by trauma or surgery that are not intrinsic to the stability of the bony structure.

FDA has broadened the classification name and identification of the resorbable calcium salt bone void filler device because of the similarity of the calcium sulfate bone void filler device to other resorbable calcium salt bone void filler devices.

III. Recommendation of the Panel

During a public meeting on January 12 and 13, 1998, the Panel unanimously recommended that the calcium sulfate bone void filler device be classified into class II (Ref. 2). The Panel believed that classification in class II with the recommended special controls of FDA guidance documents and FDA recognized voluntary consensus standards would provide reasonable assurance of the safety and effectiveness of the device.

IV. Summary of the Reasons for the Recommendation

The Panel believed that the calcium sulfate bone void filler device, a resorbable calcium salt bone void filler device, should be classified into class II because special controls, in addition to general controls would provide reasonable assurance of the safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance. Because FDA believes that the safety and effectiveness of bone void filler devices composed of other resorbable calcium salts may also be assured through special controls, in addition to general controls, the agency has broadened the device name to resorbable calcium salt bone void filler device to include bone void filler devices made of other resorbable calcium salts.

V. Summary of the Data Upon Which the Recommendation is Based

The Panel based its recommendation on the information contained in the petition, the information provided by FDA, and their personal knowledge of the device. In addition to information concerning the potential risks to health associated with the use of the resorbable calcium salt bone void filler device described in section VI of this document, there is reasonable knowledge of the benefits of the device. Specifically, the device provides an alternative treatment to use of either autogenous bone grafts, without the potential adverse effects of pain and morbidity associated with a bone harvest procedure, or use of allogeneic bone grafts, without the potential risk of disease transmission, including virus transmission. The device is also more readily and plentifully available than both alternative treatments.

VI. Risks to Health

After considering the information in the petition, the Panel's deliberations, as well as the published literature and medical device reports (MDRs), FDA has evaluated the risks to health associated with the use of the resorbable calcium salt bone void filler device. There were no MDRs for the OsteoSet™ calcium sulfate bone void filler, nor were there any MDRs for any other preamendments resorbable calcium sulfate bone void filler or postamendments resorbable calcium salt bone void filler. FDA now believes that the following are risks to health associated with use of the device: Infection of the soft tissue and/or bone (osteomyelitis) and fever; adverse tissue reaction; transient hypercalcemia; incomplete bone ingrowth, delayed union, and nonunion; fracture of the newly formed bone; and disease transmission and undesirable immune response associated with use of a biological source device material.

A. Infection of the Soft Tissue and/or Bone (Osteomyelitis) and Fever

Infection of the soft tissue and/or bone (osteomyelitis) and fever are potential risks to health associated with all surgical procedures and implanted orthopedic devices (Ref. 1). Improper or impure material composition may irritate the wound and exacerbate a preexisting infection and improper sterilization or packaging may increase the risk of infection. Use of a device that

is not pyrogen-free may elicit a fever response.

B. Adverse Tissue Reaction

Adverse tissue reaction is a potential risk to health associated with all implanted devices (Ref. 1). The use of this device in a wound will elicit a mild acute inflammatory reaction typical of a normal foreign body response. Inappropriate or impure device material composition may increase the severity of a local tissue reaction or may cause a systemic tissue reaction. Also, for a device intended to set in vivo, inappropriate device material composition may result in a significantly more exothermic setting reaction that may cause tissue necrosis.

C. Transient Hypercalcemia

Inappropriate material composition may lead to substantially more rapid resorption of the implant, which may contribute to, or may cause, transient hypercalcemia. For patients receiving resorbable calcium sulfate bone void filler, transient hypercalcemia usually resolves without any adverse clinical sequelae (Ref. 1). Implanting the resorbable calcium salt bone void filler device in a patient with a preexisting calcium metabolism disorder (e.g., hypercalcemia) may lead to elevated, unsafe, transient hypercalcemia.

D. Incomplete Bone Ingrowth, Delayed Union, and Nonunion

Incomplete bone growth into the treated void or gap, delayed union, and nonunion are potential risks to health that may require further surgical treatment. Device-related factors that may contribute to these risks are an improper material composition that resorbs too quickly or too slowly, or causes an infection or a severe local tissue reaction. Other factors, not related to the device, which may also contribute to incomplete ingrowth of new bone include inadequate preparation of the osseous defect and improper placement of the device.

E. Fracture of the Newly Formed Bone

Formation of new bone that is not as strong as the host bone may occur, and may result in fracture of the bone that may require further surgical treatment.

F. Disease Transmission and Undesirable Immune Response Associated With Use of a Device Material Derived From a Biological Source

Disease transmission, including virus transmission, and an undesirable immune response may occur if a calcium salt or calcium salt additive derived from a biological source, e.g., either animal or human tissue, is used that has not been adequately deproteinated or immunologically inactivated.

VII. Special Controls

FDA believes that the class II special control draft guidance document entitled ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device,'' in addition to general controls, is adequate to control the identified risks to health associated with use of the resorbable calcium salt bone void filler device. FDA agrees with the Panel that FDA guidance documents and voluntary consensus standards are appropriate special controls to reasonably assure the safety and effectiveness of the device. FDA believes that the class II special controls draft guidance document, which incorporates FDA guidance documents, voluntary consensus standards, material characterization, performance testing, and instructions for use, addresses the Panel's recommendation for a guidance document and voluntary consensus standard special controls.

The class II special controls draft guidance document addresses the risks to health associated with the resorbable calcium salt bone void filler device in the following five ways: (1) Adherence to the FDA guidance documents will assure that the device is safe for long-term implantation, control the risk of infection by assuring that only a sterile device is implanted, minimize the additional risk of eliciting a fever response, and assure that only a biocompatible material is used; (2) adherence to the voluntary consensus standards in the guidance document will assure that the device material has an appropriate composition and purity; (3) adherence to the material characterization recommendation will assure that the device has appropriate material properties for bone ingrowth and device resorption; (4) adherence to the performance testing recommendation will assure that implantation of the material provides an adequate environment for bony ingrowth and has the intended dissolution properties. For a calcium salt intended to set in vivo, it will also assure that the device material has an appropriate composition so that the setting reaction is not significantly exothermic to cause tissue necrosis. It will also assure that the device material has an appropriate composition to achieve the intended bone formation and material resorption, and that the newly formed bone is sufficiently strong. Finally, adherence to this section will help control the risks of disease transmission, including virus transmission, and undesirable immune response associated with implantation of a calcium salt or calcium salt additive derived from a biological source, e.g., either animal or human bone that has been inadequately deproteinated or immunologically inactivated; and (5) adherence to the instructions for use will help control the risk of an elevated, unsafe, transient hypercalcemia in patients with a preexisting calcium metabolism disorder.

VIII. Proposed Classification

Based on the available information, FDA believes that the resorbable calcium salt bone void filler device should be classified into class II because special controls, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the device with the identified risks to health associated with the use of the device, and there is sufficient information to establish special controls to provide such assurance.

IX. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

X. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory

options that would minimize any significant impact of a rule on small entities. As unclassified devices, these devices are already subject to general controls such as premarket notification. The premarket notification guidance document will not substantially change the way in which these devices are regulated. The agency therefore certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XI. Paperwork Reduction Act of 1995

This proposed rule does not contain information collection provisions that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

XII. Submission of Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by May 8, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

XIII. Proposed Dates

FDA proposes that any final regulation based on this proposal become effective 30 days after its publication in the **Federal Register**.

XIV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Wright Medical Technology, Inc., Arlington, TN, Classification Proposal and Summary of Safety and Effectiveness Information for the OsteoSet™ Calcium Sulfate Bone Void Filler, received December 12, 1997.

2. Transcript of the Orthopedic and Rehabilitation Devices Panel meeting, January 12 and 13, 1998, pp. 1–10 and 299–372.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 888 be amended as follows:

PART 888—ORTHOPEDIC DEVICES

1. The authority citation for 21 CFR part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 888.3045 is added to subpart D to read as follows:

§ 888.3045 Resorbable calcium salt bone void filler device.

(a) *Identification.* A resorbable calcium salt bone void filler device is a resorbable implant intended to fill bony voids or gaps, caused by trauma or surgery, that are not intrinsic to the stability of the bony structure.

(b) *Classification.* Class II (special controls). The special control for this device is the FDA guidance document entitled ''Class II Special Controls Guidance: Resorbable Calcium Salt Bone Void Filler Device.''

Dated: October 5, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3017 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 936]

RIN: 1512–AA07

Yadkin Valley Viticultural Area (2001R–88P)

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms has received a petition proposing the establishment of ''Yadkin Valley'' as a viticultural area in North Carolina. The proposed viticultural area consists of approximately 1,231,000 acres encompassing all of Surry, Wilkes, Yadkin and portions of Stokes, Forsyth, and Davie counties.

DATES: Written comments must be received by April 8, 2002.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221; (ATTN: Notice No. 936). To comment by facsimile or e-mail, see the ''Public Participation'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Tim DeVanney, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone 202–927–8210.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

What Is ATF's Authority To Establish a Viticultural Area?

The Bureau of Alcohol, Tobacco and Firearms (ATF), as the delegate of the Secretary of the Treasury, has authority under the Federal Alcohol Administration Act, 27 U.S.C. 205(e), to prescribe regulations that insure that alcohol beverages are labeled or marked to ''provide the consumer with adequate information as to the identity'' of the products.

ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) on August 23, 1978. This decision revised the regulations in 27 CFR part 4, Labeling and Advertising of Wine, to allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692), which added 27 CFR part 9, American Viticultural Areas, the listing of approved viticultural areas, the names of which may be used as appellations of origin.

What Is the Definition of a Viticultural Area?

Section 4.25a(e)(1), title 27 CFR, defines a viticultural area as a delimited grape-growing region distinguishable by geographical features. Viticultural features such as soil, climate, elevation, topography, etc., distinguish it from surrounding areas.

What Is Required To Establish a Viticultural Area?

Any interested person may petition ATF to establish a grape growing region as a viticultural area. The petition must include:

- Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;
- Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

• Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

• A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

• A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Yadkin Valley Petition

ATF received a petition from Ms. Patricia McRitchie on behalf of Shelton Vineyards, Inc., Dobson, North Carolina, proposing to establish a viticultural area within the State of North Carolina, to be known as ''Yadkin Valley.'' The viticultural area encompasses Surry, Wilkes, and Yadkin counties and portions of Stokes, Forsyth, and Davie counties, all in North Carolina. The proposed viticultural area is located entirely within the Yadkin River watershed.

The proposed area encompasses approximately 1,924 square miles or 1,231,000 acres. Within these boundaries, there are over 30 growers that devote approximately 350 acres to the cultivation of wine grapes. Currently, there are three bonded wineries and at least two other wineries under construction.

What Name Evidence Has Been Provided?

According to the petitioner, the proposed viticultural area has been known as the Yadkin Valley since pre-colonial times. The first written historical appearance of the name Yadkin (also referred to as Yattken or Yattkin) was in 1674 in the writing of an early trader, Abraham Wood, whose English scouts passed through the area in 1673. It was used in reference to the Native American tribe found living along the river known as Yadkin. Subsequently, the name Yadkin was applied to many natural features and man-made structures in the area. In fact, the only references to Yadkin as a place name are to places located in North Carolina: Yadkin Valley, the Yadkin River, Yadkin County, the towns of Yadkin Falls, Yadkin College, and Yadkinville. It is also used to name businesses, schools, and organizations located in the northwestern piedmont of the State.

The petitioner states that there is rich historical and anthropological evidence of settlement and cultivation in the Yadkin Valley. Native American settlements date back to approximately 500 B.C. The first non-Native settlers, the Moravians, arrived in the Yadkin Valley in the 1740's. They originally scouted land in the Blue Ridge Mountains near Boone, but did not find a satisfactory site for settlement. The Moravians followed the Yadkin River east, finally reaching the three forks of the Muddy Creek, a tributary of Yadkin River. It was here that the first of these settlements were made in what are now Forsyth and Stokes counties. These settlements were Bethabara, established in 1753, and Bethania, established in 1759. Bethabara was a fortified settlement built to protect early settlers from attacks by Indians who would sweep down into the Yadkin Valley from the Blue Ridge Mountains during the French and Indian War. The Moravians were meticulous recordkeepers and references to the Yadkin Valley can be found in pre-colonial writings as well as in later resources.

The petitioner contends that references to the Yadkin Valley can be found in histories of the region during the American Revolution and the Civil War periods. Two of the best known Revolutionary battles in the Yadkin Valley are the Whig victories at Kings Mountain and the Battle of Shallow Ford. According to Ann Brownlee, in ''The Battle of Shallow Ford'' (12/1/96, 2/24/01 *http://www.velocenet.net/shallowford/battle.htm*), these battles were believed to have ''turned the tide of the War for Independence in North Carolina to the Patriots' advantage.''

The petitioner states that the period immediately after the Civil War was highlighted by a steady influx of settlers into the Yadkin Valley and was characterized by subsistent farming on its rich soils. Toward the latter part of the 19th century, the focus was on cotton and tobacco. By the early 20th century, the change to tobacco as a cash crop was secure. At the close of the 20th century, the predominance of tobacco growing in the northwest piedmont of North Carolina waned. In its place is an increased interest in grape growing, which is rooted in pre-colonial North Carolina.

The petitioner states that, in an article titled ''N.C. Winery History'' (North Carolina Grape Council Web site, 2/24/01, *http://www.ncagr/com/markets/commodit/horticul/grape/winehist.htm*), the first cultivated wine grape in the United States was grown in North Carolina. The first known recorded account of the scuppernong grape is found in the logbook of explorer Giovanni de Verranzano. He wrote in 1524, ''Many vines growing naturally there [in North Carolina] that would no doubt yield excellent wines.''

The wine industry in North Carolina thrived through the 19th and 20th centuries until prohibition. At that time, the industry, which was centered in the eastern part of the State, was based on muscadine wine.

The petitioner contends that one of the first modern major plantings of vinifera grapes in North Carolina occurred in 1972, when Jack Kroustalis established Westbend Vineyards, located in the Yadkin Valley. According to ''Carolina Wine Country'', ''[t]he vines flourished in the rich soil of the Yadkin River Valley.'' In 1988, Kroustalis built the first bonded winery in the Yadkin Valley. Other growers in Yadkin Valley took note of Westbend Vineyard's success with vinifera grapes and followed suit. By the end of 2000, over 350 acres of grapes were planted in the Yadkin Valley. The North Carolina Department of Agriculture has recognized this area as a ''unique and valuable winegrowing region.''

In 1999, Shelton Vineyards began planting 200 acres of vinifera grapes on land considered perfectly suited to vinifera grape growing. The following year, they opened a state-of-the-art 30,000 case winery. There are currently two wineries under construction in the proposed viticultural area. The Yadkin Valley Wine Grower's Cooperative was recently incorporated.

In 1999, Surry Community College began offering continuing education viticulture courses. Spurred by the tremendous interest in grape growing, the College initiated a two-year viticulture program, which began in the fall of 2000. The program was designed with the intent of educating future grape growers to take advantage of the favorable growing environment provided by the Yadkin Valley. In December of 2000, the Golden Leaf Foundation awarded the College over $130,000 to support the establishment of a demonstration vineyard and winery for use by students in the program. The petitioner contends that this provides further evidence and recognition of the promise that Yadkin Valley holds as a valuable and distinct viticultural area.

Reference materials used to prepare this petition consistently include the entire counties of Wilkes, Surry, and Yadkin in the Yadkin Valley, as well as portions of Stokes and Forsyth Counties. Davie and Iredell Counties are also commonly included. However, the petitioner contends that, for reasons discussed in the following section of the petition, Iredell County and the southern portion of Davie County

should not be included in the proposed Yadkin Valley viticultural area.

The foregoing is evidence that Yadkin Valley is locally and nationally known as encompassing the area proposed by this petition.

What Evidence Relating to Geographical Features Has Been Provided?

Soil

The information in this section was prepared by Roger J. Leab, Soil Scientist, Natural Resource Conservation Service, United States Department of Agriculture. Mr. Leab was Soil Survey Project Leader for Surry County and Stokes County. He is currently the Soil Survey Project Leader for Alamance County. The soil information was compiled from the published soil surveys of Wilkes, Stoke, Yadkin, Davie, and Forsyth Counties and the data collected for the soon-to-be-published soil survey of Surry County.

The soils of the proposed Yadkin Valley viticultural area are formed mainly from residuum (saprolite) weathered from felsic metamorphic rocks (gneisses, schists, and phyllites) of the Blue Ridge Geologic Belt and the Smith River Allochothon and from metamorphosed granitic rocks of the inner Piedmont Belt. The extreme southeastern part of the area is formed from saprolite weathered from igneous intrusive rocks (granites, gabbros and diorites) and some gneisses and schists, all of the Charlotte Belt.

Most of the proposed viticultural area is in the mesic soil temperature regime, which, at a depth of 20 inches, has an average annual soil temperature of 47 to 59 degrees Fahrenheit. The extreme southeastern part of the area is in the thermic temperature regime, which is the 59 to 72 degree Fahrenheit range.

The dominant soil series formed from residuum in the mesic area are Fairview, Clifford, Woolwine, Westfield, Rhodhiss, and Toast soils. The dominant soil series formed from residuum in the thermic area are Pacolet, Cecil, Madison, Appling, and Wedowee soils. There are also some large areas of soils, which formed in old fluvial sediments of high stream terraces. These are the Braddock series in the mesic area and the Masada, Hiwassee, and Wickham series in the thermic area. These soils all have clayey or fine-loamy subsoils with good internal structure and moderate permeability. They are mostly very deep and well drained. These soils are acidic and have low natural fertility, requiring a well-structured fertility plan.

The soil series that formed in residuum from the mafic intrusive rocks (gabbros and diorites), which occur scattered along the extreme southeastern part of the proposed viticultural area, have slightly better natural fertility. However, they have subsoils with mixed mineralogy clays. The Gaston and Mecklenburg series have moderate or moderately slow permeability and are suitable to moderately suitable for viticulture. However, the Enon and Iredell series have high shrink-swell clayey subsoils, which perch water during wet periods and result in less than desirable internal drainage.

The less than desirable, high shrink-swell clayey soils are more abundant to the south and east of the proposed viticultural area. The Blue Ridge Mountains are to the west and north of the proposed area. The petitioner contends that these limitations define the Yadkin Valley as a unique viticultural area.

Climate

Data for precipitation, temperature and heat summation were provided by the State Climate Office of North Carolina.

Hardiness Zone. The proposed viticultural area is in Zone 7a of the USDA Hardiness Zone Map. The surrounding areas are in Zones 6b and 7b. This zone is well suited for growing grapes while the adjacent zones are not as favorable for growing vinifera grapes. For example, the Columbia Valley viticultural area in Washington State is also located in Zone 7a.

The Yadkin Valley is located in the warm temperate latitude between 36′00″ and 36′30″ N. This is an area well suited to growing vinifera grapes while latitudes below 35′00″ are not suited to vinifera grape growing, according to Gordon S. Howell and Timothy K Mansfield's article, ''Microclimate and the Grapevine: Site Selection for Vineyards (A Review),'' in ''Vinifera Wine Growers Journal,'' Fall 1977, 373.

Precipitation. The Yadkin Valley has an average rainfall of 46.42 inches. The area to the west and northwest receives, on average, more than 68 inches of rain per year. The area to the south and east receives, on average, 43.37 inches of rain per year. In general, the Yadkin Valley receives less precipitation than the area to the west and northwest and slightly more than the areas to the south and the east.

Temperature. The Yadkin Valley has average maximum annual temperatures of 69.85 degrees Fahrenheit and average minimum annual temperatures of 44.90 degrees Fahrenheit. The area to the west-northwest has an average maximum temperature of 58.6 degrees Fahrenheit and an average minimum annual temperature of 40.00 degrees Fahrenheit. The area to the east has an average maximum annual temperature of 68.4 degrees Fahrenheit and an average minimum annual temperature of 46.0 degrees Fahrenheit. The area to the south has an average maximum annual temperature of 71.5 degrees Fahrenheit and an average minimum annual temperature of 48.1 degrees Fahrenheit.

In summary, the Yadkin Valley is much warmer than the area to the west and northwest and has slightly higher maximum and minimum temperatures than the area to the east. The Yadkin Valley has lower maximum and minimum temperatures than the area to the south. Temperature differences become more pronounced the further south one travels. In addition, as you proceed east past the Greensboro area, the temperatures, both maximum and minimum, become warmer than in the proposed viticultural area.

Heat Summation. Using Amerine and Winkler heat summation definitions, the proposed viticultural area is in climatic region IV, with 3743 degree-days. The areas to the east are in region IV. The area to the west-northwest is in region I, and the area to the south is in region V (Greensboro, NC is close to region V).

The data for the following analyses are taken from the North Carolina State University Horticulture Information Leaflet ''Average Growing Season for Selected North Carolina Locations'' (12/96, revised 12/98) by Katharine Perry.

Frost-Free Season/Growing Season. The proposed viticultural area enjoys a frost-free season lasting from April 22 to October 15. This is a growing season of 176 days and is two to four weeks longer than the region to the west. The frost-free/growing season in the proposed viticultural area is similar to the area immediately to the south. In contrast, the regions to the east-southeast have a frost-free and growing season four to six weeks longer than the proposed viticultural area.

Climate Summary. The proposed viticultural area has more moderate temperatures and precipitation than the surrounding areas. The growing season and frost-dates fall within the optimum range for cultivation of premium vinifera grapes. These data support the proposition that the Yadkin Valley possesses climatic conditions distinguishing it from the surrounding areas.

Geology

Matthew Mayberry, Chairman/President, River Ridge Land Company, Inc., provided the following geological commentary.

The rocks and subsequent soils of the Blue Ridge and Piedmont Physiographic Provinces of the proposed viticultural area have origins extending back to the early formation of the earth's continental landmasses. Some rocks of the subject area have been dated to approximately 1.8 billion years old.

The geologic history is tremendously complex and involves plate tectonics (continental drift, continental collisions, subduction zones, intercontinental deformations) and the whole spectrum of uplifting and erosional wearing down for the entire mountain building cycle. Each of these cycles required several hundred million years during which the ongoing uplift and erosional wearing down processes were constantly active. The erosional cycle gradually reduces land surfaces from mountains to relatively level surfaces, gently sloping toward a depositional basin (ocean/sea). Geological evidence indicates at least three complete tectonic cycles, the last of which involved a collision and later separation of the Euro African Plate with the North American Plate. This produced a mountain range approximating the present day Andes Mountains of South America and eventually resulted in the creation of the Atlantic Ocean and the present day plate positions.

During a period of three hundred million years, following the build up of this original Appalachian Mountain system, the forces of weather and erosion have likely removed thousands of meters of rock with the resulting Piedmont and Blue Ridge surfaces of today. Evidence of three erosional cycles is represented by present day mountain peaks, *e.g.*, Mount Mitchell in North Carolina and Mount Rogers in Virginia. These peaks represent the oldest leveling cycle. The peaks of Kings Mountain, Pilot Mountain, Sauratown Mountain and the ridges of the Blue Ridge system represent the next erosional cycle. This middle cycle is definitely an older cycle (400,000,000 years) than the present-day Piedmont and Coastal Plain, which represent the third leveling cycle with their gentle sloping surface to the Atlantic Ocean. A current hypothesis is that the Appalachian Mountains and Piedmont are in a cycle where uplift is exceeding erosion by about 100 feet per 1,000,000 years for the Appalachian system of today.

The highly complex rocks of the present day Blue Ridge and Piedmont provinces represent a core area that has been present and re-crystallized and re-metamorphosed through several of these mountain building cycles to produce the complex schists, gneisses and igneous rocks of today. Relics of a couple of the hot spots that re-crystallized rock are the granites of Mount Airy and Stone Mountain, North Carolina. The weathering of these Piedmont rocks has produced soils with chemical and physical properties that are very amenable to the viticulture industry. These soils and the climate of the proposed Yadkin Valley viticultural area cover a spectrum that is equal to most vineyards of Europe and California.

After the Yadkin River's origin and descent from mountain springs in the Blowing Rock, North Carolina area, it encounters a major structural feature known as the Brevard Shear Zone (fault system), which also defines the Blue Ridge Escarpment in the area, paralleled by the river. At the base of the Blue Ridge Escarpment, the Yadkin River turns and flows northeastward under the structural control of this shear zone for a distance of approximately 50 miles before bending to the east between the northeast end of the Brushy Mountains and Pilot Mountain. At the Surry, Yadkin, and Forsyth County corner, the Yadkin turns southward and later becomes the Pee Dee River at High Rock Lake, about six miles northwest of Salisbury, North Carolina.

What Boundary Evidence Has Been Provided?

Matthew Mayberry, Chairman/President, River Ridge Land Company, Inc. provided the boundary description.

The area of the proposed Yadkin Valley viticultural area covers approximately 1,924 square miles or 1,231,000 acres in Wilkes, Surry, Yadkin and parts of Stokes, Forsyth, and Davie counties. The subject area is identified on two 1:250,000 scale USGS maps:

(1) Winston-Salem, N.C.; VA., Tenn. 1953 Limited Revision 1962 and,

(2) Charlotte, North Carolina; South Carolina 1953 Revised 1974.

The proposed Yadkin Valley viticultural area boundary is defined as a series of compass bearings and corresponding distances determined with a protractor and a 1:250,000 scale, based on and read from the U.S.G.S. maps. Primarily, the proposed viticultural area is defined by county lines. In cases where directions change, where county lines are too irregular to measure, a ''trend direction bearing'' with straight-line miles is reported. The beginning point is defined as a point 3.6 miles west of the northeast corner of Surry County on the Surry County and North Carolina/Virginia state line at the crest of Slate Mountain.

The boundaries of the proposed Yadkin Valley viticultural area are more particularly discussed in proposed § 9.174 (c) of the regulations, as identified below in this Notice.

Regulatory Analyses and Notices

Is This a Significant Regulatory Action as Defined in Executive Order 12866?

This regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, this proposed rule is not subject to the analysis required by this Executive Order.

How Does the Regulatory Flexibility Act Apply to This Proposed Rule?

The proposed regulations will not have significant economic impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement or approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. We believe that the establishment of viticultural areas allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify various wines. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from that area. No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

Does the Paperwork Reduction Act Apply to This Proposed Rule?

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(j)) and its implementing regulations, 5 CFR part 1320, do not apply to this proposed rule because no requirement to collect information is proposed.

Public Participation

Who May Comment on This Notice?

ATF solicits comments from all interested parties. ATF specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration, if it is practical to do so. Assurance of consideration can only be given to comments received on or before the closing date.

Copies of this petition, the proposed regulations, the appropriate maps, and any written comments received may be viewed by appointment at the ATF Reference Library, Office of Liaison and

Public Information, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927–7890. To receive copies of comments, you must file a Freedom of Information Act (FOIA) request. For instructions on filing a FOIA request, call (202) 927–8480 or refer to the internet address: *http://www.atf.treas.gov/about/foia/foia.htm.*

For the convenience of the public, ATF will post comments received in response to this notice on the ATF web site. All comments posted on our web site will show the name of the commenter. Street addresses, telephone numbers, and e-mail addresses are removed. We may also omit voluminous attachments or material that we do not consider suitable for posting. In all cases, the full comment will be available in the library or through FOIA requests, as noted above. To access online copies of the comments on this rulemaking, visit *http://www.atf.treas.gov/,* and select ''Regulations,'' then ''Proposed rules'' and this notice. Click on the ''view comments'' button.

Will ATF Keep My Comments Confidential?

ATF will not recognize any comment as confidential. All comments and materials will be disclosed to the public. If you consider your material to be confidential or inappropriate for disclosure to the public, do not include it in the comments. We will also disclose the name of any person who submits a comment.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing by writing the Director within the 60-day comment period. However, the Director reserves the right to determine whether a public hearing will be held.

How Do I Send Facsimile Comments?

To submit facsimile transmissions, use (202) 927–8525. Facsimile comments must:

- Be legible.
- Reference this notice number.
- Be on paper 8½ × 11'' in size.
- Contain a legible written signature.
- Not be more than three pages.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

How Do I Send Electronic Mail (E-Mail) Comments?

To submit comments by e-mail, send the comments to: *nprm@atfhq.atf.treas.gov.* You must follow these instructions.

E-mail comments must:

- Contain your name, mailing address, and e-mail address.
- Reference this notice number.
- Be legible when printed on no more than three pages, 8½ × 11'' in size.

We will not acknowledge receipt of e-mail. E-mail comments are treated as originals.

How Do I Send Comments to the ATF Internet Web Site?

There is a comment form provided with the online copy of the proposed rule on the ATF internet web site at: *http://www.atf.treas.gov.*

Drafting Information

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

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9.174 to read as follows:

* * * * *

§ 9.174 Yadkin Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Yadkin Valley''.

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the Yadkin Valley viticultural area are two United States Geological Survey (U.S.G.S.) topographic maps, scale 1:250,000:

(1) Winston-Salem, N.C.; VA; Tenn. (1953, Limited Revision 1962), and,

(2) Charlotte, North Carolina; South Carolina. (1953, Revised 1974).

(c) *Boundaries.* The Yadkin Valley viticultural area is located in the state of North Carolina within Wilkes, Surry, Yadkin and part of Stokes, Forsyth, and Davie Counties. The boundaries are as follows:

(1) Beginning with the Winston-Salem, N.C.; VA; Tenn. map, the beginning point is 3.6 miles west of the northeast corner of Surry County on the Surry County and North Carolina/Virginia state line. From the beginning point, proceed south 25.5 degrees east, this boundary line follows the Yadkin River Basin boundary line, approximately 8.0 miles, to the intersection of the Surry/Stokes County line;

(2) Then follow the Surry/Stokes County line, approximately 1.5 miles south;

(3) Then bear south 57 degrees east, for approximately 7.8 miles, following the Yadkin River Basin boundary line to Sauratown Mountain peak (at the 2,465 foot contour line);

(4) Then bear northeastward along the Yadkin River Basin boundary line to the Gap (between Sauratown and Hanging Rock Mountains), at the State Route 66/Yadkin River Basin boundary line intersection;

(5) Then bear south, following State Route 66 to the U.S. Route 52/State Route 66 intersection;

(6) Then follow U.S. Route 52 south to Rural Hall, N.C., to the intersection of the Southern Railway track and U.S. Route 52;

(7) Then bear south, following the Southern Railway track to where it intersects with U.S. Route 158;

(8) Then bear southwest, following U.S. Route 158 (onto the Charlotte, North Carolina; South Carolina quadrangle map) to the intersection of U.S. Highway 601/U.S. Route 158 at Mocksville, N.C.;

(9) Then bear northwest, following U.S. Highway 601 (onto the Winston-Salem, N.C.; VA; Tenn. quadrangle map) to the Davie/Yadkin County line;

(10) Then continue west along the Yadkin/Davie County line, to the Yadkin/Davie/Iredell County line intersection, to the Yadkin/Iredell County line, to the Yadkin/Iredell/Wilkes County line intersection, to the Iredell/Wilkes County line, to the Iredell/Wilkes/Alexander County line intersection, to the Wilkes/Alexander County line, to the Wilkes/Alexander/Caldwell County line intersection;

(11) Then bear northwesterly along the Wilkes/Caldwell County line, to the Wilkes/Caldwell/Watauga County intersection;

(12) Then bear northeasterly then northwesterly along the Wilkes/Watauga County line to the intersection of the Wilkes/Watauga/Ashe County lines;

(13) Then alternately bear northeasterly then southeasterly along the Wilkes/Ashe County line, to the Wilkes/Ashe/Alleghany County line intersection;

(14) Then alternately bear northeasterly then southeasterly along the Wilkes/Alleghany County line to the

Wilkes/Alleghany/Surry County line intersection;

(15) Then alternately bear northeasterly then northwesterly and then northeasterly again, along Alleghany/Surry County line to the intersection of the Alleghany/Surry/Grayson County lines at the North Carolina/Virginia border;

(16) Then bear east along the Surry/Grayson County line to the Surry/Grayson/Carroll County line intersection;

(17) Then continue east along the Surry/Carroll County line through the intersection of the Surry/Carroll/Patrick County lines following the Surry/Patrick County/North Carolina/Virginia state line to the beginning point, 3.6 miles west of the northeast corner of Surry County.

Dated: January 23, 2002.

Bradley A. Buckles,

Director.

[FR Doc. 02–2956 Filed 2–6–02; 8:45 am]

BILLING CODE 4810–31–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2002]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is issuing a notice of proposed rulemaking on the requirements for giving copyright owners reasonable notice of the use of their works for sound recordings under statutory license and for how records of such use shall be kept and made available to copyright owners. The Digital Performance Right in Sound Recordings Act of 1995 and the Digital Millennium Copyright Act enacted in 1998 require the Office to adopt these regulations.

DATES: Comments are due by March 11, 2002. Reply comments are due by April 8, 2002.

ADDRESSES: An original and ten copies of any comment shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE, Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

The Digital Performance Right in Sound Recordings Act of 1995 (DPRA) amended 17 U.S.C. 114 to give sound recording copyright owners an exclusive right to perform their works publicly by means of a digital audio transmission, subject to certain limitations and exemptions. Pub. L. No. 104–39, 109 Stat. 336 (1995). Among the limitations placed on the performance of a sound recording was the creation of a statutory license that permits certain subscription digital audio Services to publicly perform those sound recordings through digital audio transmission. In order to operate under the license, eligible subscription digital audio Services must pay the statutorily required fees and comply with certain other conditions, such as adherence to notice and recordkeeping requirements.

In 1998, Congress passed the Digital Millennium Copyright Act (DMCA), which expanded the scope of the section 114 license. It amended section 114 by adding three new categories of Services that may operate under the license, and by redesignating the subscription Services covered by the DPRA statutory license as ''preexisting subscription Services.'' Pub. L. No. 105–304, 112 Stat. 2860, 2887 (1998). The three new service categories are: (1) Preexisting satellite digital audio radio Services, (2) new subscription Services and (3) eligible nonsubscription transmission Services. The DMCA also amended 17 U.S.C. 112 to add another new license that is available to permit Services to make ephemeral recordings of a sound recording to facilitate the transmissions permitted under section 114.

Both the DPRA and the DMCA direct the Librarian of Congress to establish regulations to require eligible Services to give copyright owners reasonable notice that their sound recordings are being used under one or both of the licenses and create and maintain records of use and make them available to copyright owners. *See* Secs. 112(e)(4) and 114(f)(4)(A).

Interim Rule for Digital Audio Subscription Transmissions

On May 13, 1996, the Copyright Office published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** requesting comments on the requirements by which copyright owners should receive reasonable notice of the use of their works from subscription digital transmission Services and how records of such use should be kept and made available to copyright owners. The Office asked commentators to consider both the adequacy of notice to sound recording copyright owners and the administrative burdens placed on digital transmission Services in providing notice and maintaining records of use. 61 FR 22004 (May 13, 1996).

On November 14, 1996, and again on January 27, 1999, the Copyright Office met with the parties to facilitate agreement on the notice and recordkeeping requirements under section 114, and to discuss the proper regulatory and recordkeeping role of the Office.[1]

Based on the comments filed in response to the first NPRM and the information gleaned from the subsequent meetings, the Copyright Office published a second NPRM on June 24, 1997, presenting certain preliminary decisions and asking the parties for further comments.[2] 62 FR 34035 (June 24, 1997). In 1998, after extensive study, the Copyright Office issued Interim Regulations to implement the notice and recordkeeping requirements for section 114 that were enacted in 1995 as part of the DPRA. 63 FR 34289 (June 24, 1998). 37 CFR 201.35–201.37. The interim rules took effect on June 28, 1998. The rules were issued on an interim basis in light of the rapidly developing nature of the digital transmission Service industry and the possibility that new technology might be developed which would allow the reporting requirements to be either

[1] The comments, meeting summaries, and meeting handouts are available in the Public Information Office of the Copyright Office, James Madison Memorial Building, Room LM–401, First and Independence Ave., SE., Washington, DC.

[2] The version that was published in the **Federal Register** on June 24, 1998 is a synopsis of the Interim Regulation in Docket No. RM 96–3B, adopted June 15, 1998. The full text is available for inspection and copying during normal business hours in the Public Information Office of the Copyright Office, Room LM–401, and in the Public Records Office of the Licensing Division of the Copyright Office, Room LM–458, James Madison Memorial Building, First and Independence Avenue, SE, Washington, DC 20559–6000. The full text is also available via the Copyright Office home page at *http://www.loc.gov/copyright.*

expanded or reduced, depending upon the needs of the industries.

Since that time, the subscription digital audio Services (now known as the ''preexisting subscription Services'') have filed notices of use and maintained records of use in accordance with these rules. These rules, however, were not adapted to cover the new categories of Services that operate under the licenses in sections 112 and 114, as amended by the DMCA.

Current Rulemaking Proceeding

The purpose of this proposed rulemaking is to provide interested parties with an opportunity to comment on the Interim regulations and to amend these same rules to include the requirements of the 1998 DMCA amendments that expanded the section 114 license and created the new section 112 license. For a full discussion of the issues underpinning the Interim regulations, please refer to the earlier NPRMs, 61 FR 22004 (May 13, 1996) and 62 FR 34035 (June 24, 1997), and the notice announcing the interim rules. 63 FR 34289 (June 24, 1998).

1. Preliminary Considerations

On May 24, 2001, the Copyright Office received a petition from the Recording Industry Association of America (RIAA) and its SoundExchange division requesting that the Office conduct rulemaking proceedings to develop notice and recordkeeping requirements that substantively address the 1998 DMCA amendments. RIAA, however, advised against establishing any notice or recordkeeping requirements for pre-existing satellite digital audio radio Services, as defined in 17 U.S.C. 114(j)(10), or for pre-existing subscription Services employing transmission media other than those used by such Services on July 31, 1998. RIAA petition at 1–2. This suggestion was based on the fact that RIAA and identified Services were engaged in negotiation discussions regarding notice and recordkeeping issues for these Services which they hoped would result in agreement that would be jointly proposed to the Office for adoption in a second rulemaking proceeding. RIAA petition at 2.

The Office agrees that there is a need to adopt additional notice and recordkeeping requirements for eligible nonsubscription Services at this time in order to have them in place when the current CARP proceeding is concluded. Adoption of such rules will enable copyright owners to receive their royalty payments as expeditiously as possible. See U.S. Copyright Office, Order in Docket No. 99–6 CARP DTRA 1 & 2, Docket No. 2000–3 CARP DTRA2 (December 4, 2000 Order.)

The scope of the rules proposed by the Office, however, covers all Services that operate under the section 112 and 114 licenses. The Office takes this approach because preexisting digital audio satellite Services and new types of subscription Services are already in operation and should have the benefit of knowing what record keeping requirements they must use so that they can structure their businesses accordingly. Moreover, it is likely that the basic requirements for notice and recordkeeping will be similar for all Services. For this reason, the proposed rule is an amended version of the interim rule and addresses the notice and record keeping requirements for all categories of Services.

2. Elements of Proposed Regulations

To make it explicit that the provisions of 37 CFR 201.35–201.37 apply to the Services added by the DMCA, statutory references to them have been inserted as appropriate throughout. Also, the statutory definition for each Service has been added to the definition sections of 37 CFR 201.35–201.37, either expressly or by a cross reference. A definition of ''AM/FM Webcast'' has also been included in the recordkeeping provisions for section 201.36.

The Office also proposes amending 37 CFR 201.35–201.37 throughout to make those provisions applicable to section 112 licenses in the same way that they apply to section 114 licenses, although differences in the statutory requirements have been taken into account where appropriate. Therefore, statutory references to section 112 licenses have been incorporated along with references to section 114 licenses.

This approach follows RIAA's recommendation with regard to the recordkeeping requirements for section 112 licenses. However, while RIAA recommended that 37 CFR 201.35 be used as a model for section 112 notice requirements, it advocated putting the section 112 notice requirements in a separate section because ''the existing notice regulations are so replete with references to the subject matter of the statutory license as to make it confusing to integrate the two notice provisions.'' RIAA petition at 11. However, the Copyright Office has decided not to follow that approach at this time and proposes to amend 37 CFR 201.35 to apply its notice provisions to both section 112 and 114 licenses. The Office does not believe that such an approach is confusing, and believes that such an approach is more efficient and will result in less paperwork for the Office and for Services operating under the statutory license. For example, the proposed rule provides that a Service may file a single initial notice stating the Service's intention to use either the section 114 statutory license, or the section 112 statutory license, or both.

Initial Notice. The proposed changes to the notice requirements of 37 CFR 201.35 are intended to apply to situations in which a Service is operating under only one license and those in which a Service is operating under both. Consistent with that approach, the amended rules propose use of a single standard form for both the section 114 license and the section 112 license. A Service will be required to expressly indicate on a standard form Notice of Use of Sound Recordings under Statutory License the license(s) for which the notice is being filed.[3] The form will also require that the Service indicate the categories of license (e.g., preexisting subscription service, non-subscription transmission service, etc.) for which it seeks the license. In addition, the Service must provide the date or the expected date of the initial digital transmission of a sound recording made under section 114 and the date of creation of an ephemeral phonorecord made under section 112.

The Office proposes to require all Services, including those which have previously filed a general Notice of Use for the section 114 license, to file a new Notice of Use. It is the Office's impression that many Services that have filed Initial Notices under the current regulation have ceased using the statutory license and, in many cases, have gone out of business altogether. Requiring all Services to refile a Notice of Use will make the Office's records more reliable, retiring records identifying Services that are no longer using the statutory license. The Office invites comments on this proposal.

Moreover, the Office proposes that all Notices of Use be prepared using a standard form developed for this purpose. In this way, there will be an accurate uniform record currently identifying all Services using these statutory licenses, indicating which licenses are to be used, the type of transmissions to be made under the section 114 license, and information concerning the date of first transmission or the date for making an ephemeral recording of a sound recording. Under current practice, in which parties may submit a notice based on a suggested,

[3] The Notice of Use of Sound Recordings under Statutory License would replace the Initial Notice of Digital Transmission of Sound Recordings under Statutory License found in the current version of section 201.35.

but nonmandatory, format, a Notice is more likely to be misfiled and the information in the Notice is less likely to be easily recognized. Parties may comment on the elements required as part of the notice, on when the updated notice should be filed, and on the layout and utility of the proposed standard form. A prototype of the proposed form has been posted on the Copyright Office website at: *http://www.loc.gov/copyright/forms/form112–114nou.pdf.*

In general, Services transmitting sound recordings under statutory license will be required to file an initial notice with the Copyright Office as before, including the Service name, address, telephone number, and information on how to gain access to the online website or home page of the Service or entity, where information may be posted under these regulations concerning the use of sound recordings under statutory license. If the proposed rules are adopted, the notices will be placed in the public file in the Licensing Division of the Copyright Office, where copyright owners may go to access the information concerning use of sound recordings under the licenses. The Office proposes to discontinue its current practice of posting copies of all notices on its website. The Office questions the continued utility of making this information available on the website, which requires the expenditure of substantial resources. It does not appear that removing the notices from the website would be likely to deprive interested parties of the information found in the notices. The Office proposes to provide copies of all notices of use to the Collective or Collectives designated through the CARP process to receive and distribute royalties under the statutory license, and believes that this, combined with the availability of the notices for inspection and copying in the Licensing Division, adequately makes the information in the notices available to all interested parties.

Moreover, the Office seeks comment on a possible change to the requirement that all notices be filed in the Copyright Office. Would it be more efficient for a Service to file its Notice of Use directly with the designated collection entity, rather than with the Copyright Office? What would be the propriety and efficiencies of having Services file Notices of Use not with the Office, but directly with the Collective designated to receive royalties from the statutory licensees, and requiring the Collective to make the notices available to the public for inspection and copying?

Moreover, the Office is seeking comment on the advisability of requiring periodic filings of the notices of use in order to establish a continually current and updated file of Services operating under either the section 114 and section 112 licenses. If the Office finds there is a need for maintaining an updated file, the final rule will specify that each Service must file a new Notice of Use with the Office every year (or other time period to be determined).

In any event, a new Service will still be required to file its Notice of Use prior to the date of first transmission or the making of an ephemeral recording, and a Service will continue to be required to update its filing within 45 days of a change in the information reported. If notices are to be filed with the Copyright Office, all notices shall be accompanied by the filing fee (currently $20) specified in section 201.3(c) of title 37 of the Code of Federal Regulations. On the other hand, if the Office adopts a rule requiring Services to file the Notices of Use directly with the designated collective, there is an open question on whether there should be a filing fee and how much that fee should be. Interested parties should address this issue in their comments to the Office.

Reports of Use. Where appropriate, the existing recordkeeping requirements have been revised to reflect the changes introduced by the DMCA by inserting the appropriate statutory references. The proposed amendment sets forth specific reporting requirements for each Service category. In fashioning the proposed new regulations, the Office is adopting RIAA's recommended changes for recordkeeping requirements for new subscription Services and for Services making eligible nonsubscription transmissions under section 114 and applies the same rules to the preexisting satellite digital audio radio Services. In addition, the proposed regulations incorporate RIAA's recommendation for section 112 recordkeeping requirements. The Office is taking this approach because the required information seems designed to accomplish the basic reporting objective of providing information with which copyright owners can generally monitor compliance with the terms of the licenses.

As before, a preexisting subscription Service making digital transmissions in the same transmission medium used by such Service on July 31, 1998, would be required to submit reports of use with an Intended Playlist containing all the elements required in the Interim regulations. No changes have been made to the requirements for those Services' Intended Playlists. The amended rules, however, require other types of Services to submit Intended Playlists that provide additional information, such as the type of program and the time zone from which the transmission originated.

In addition to the information in the Intended Playlists, RIAA has made additional requests for information in two instances. In the case of eligible nonsubscription transmissions and transmissions made by a new subscription Service, RIAA has requested that these Services include a ''Listener's Log'' in the Report of Use. The ''Listener's Log'' will identify the name of the Service, the channel or program accessed, information on the user, such as date and time the user logged in and out, the time zone of the place at which the user received the transmission, the user identifier, and the country in which the user received the transmission. RIAA has also requested that a Service making ephemeral phonorecords of sound recordings under section 112(e) include an ''Ephemeral Phonorecord Log'' in its record of use. The ''Ephemeral Phonorecord Log'' would, among other things, include the name of the Service, the date the phonorecord was made or destroyed, and specific information about the sound recording from which the ephemeral phonorecord was made. Commenters should discuss in detail the reasons for including or excluding specific elements of the Listener's Log and the Ephemeral Phonorecord Log.

On its face, the request for the Intended Playlists, Listener's Log, and Ephemeral Phonorecord Log seems reasonably based on the premise that the copyright owners need certain specific information to monitor compliance and use by the Services. In support of its request for the detailed information, RIAA argues that the information it seeks from the Services is ''easily provided, [] not burdensome, and in fact, is currently provided by a number of licensees who have obtained licenses through negotiations with the RIAA and/or Sound Exchange.'' RIAA Petition at 10–11. RIAA further justifies the need for the additional reporting requirements on the basis of differences in statutory requirements for the different licenses and on the basis of the different business models used within the different categories of Services. RIAA petition at 9. Other interested parties, however, may find the requirements too stringent and burdensome in spite of RIAA's assertions. Such parties should identify any problems they perceive with the proposed regulations and explain with specificity the reasons why the regulations are unworkable or unduly burdensome, or exceed the needs of the copyright owners.

3. Final Rules vs. Interim Rules

The Copyright Office issued regulations governing notice and record keeping for the preexisting Services operating under the section 114 statutory licenses as interim regulations because the industry was young and there was a reasonable expectation that the rules would need revision in a short period of time. The Office, however, intends to issue final rules at the conclusion of this proceeding which shall govern all Services operating under both the section 112 and section 114 statutory licenses. Of course, an affected party can always seek revision of the rules at a future time if and when the need for change arises.

List of Subjects in 37 CFR Part 201

Copyright, Recordings.

Proposed Regulation

In consideration of the foregoing, the Copyright Office proposes amending part 201 of 37 CFR to read as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for Part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Sections 201.35 and 201.36 are revised to read as follows:

§ 201.35 Notice of Use of Sound Recordings under Statutory License.

(a) *General.* This section prescribes rules under which copyright owners shall receive notice of use of their sound recordings when used under either sections 112(e) or 114(d)(2) of title 17 of the United States Code, or both.

(b) *Definitions.* (1) A *Notice of Use of Sound Recordings under Statutory License* is a written notice to sound recording copyright owners of the use of their works under section 114(d)(2) or section 112(e) of title 17 of the United States Code, or both, and is required under this section to be filed by a Service in the Copyright Office.

(2) A *Service* is an entity engaged in either the digital transmission of sound recordings pursuant to section 114(d)(2) of title 17 of the United States Code or making ephemeral phonorecords of sound recordings pursuant to section 112(e) of title 17 of the United States Code or both. For purposes of this section, the definition of a service includes an entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet, regardless of whether the transmission is made by the broadcaster that originates the AM/FM signal or by a third party, provided that such transmission meets the applicable requirements of the statutory license set forth in 17 U.S.C. 114(d)(2). A Service may be further characterized as either a preexisting subscription service, preexisting satellite digital audio radio service, new subscription service, non-subscription transmission service or a combination of those:

(i) A *preexisting subscription service* is a service that performs sound recordings by means of noninteractive audio-only subscription digital audio transmissions, which was in existence and was making such transmissions to the public for a fee on or before July 31, 1998, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.

(ii) A *preexisting satellite digital audio radio service* is a subscription satellite digital audio radio service provided pursuant to a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998, and any renewal of such license to the extent of the scope of the original license, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.

(iii) A *new subscription service* is a service that performs sound recordings by means of noninteractive subscription digital audio transmissions and that is not a preexisting subscription service or a preexisting satellite digital audio radio service.

(iv) A *non-subscription transmission service* is a service that makes noninteractive nonsubscription digital audio transmissions that are not exempt under subsection 114(d)(1) and are made as part of a service that provides audio programming consisting, in whole or in part, of performances of sound recordings, including transmissions of broadcast transmissions, if the primary purpose of the service is to provide to the public such audio or other entertainment programming, and the primary purpose of the service is not to sell, advertise, or promote particular products or services other than sound recordings, live concerts, or other music-related events.

(c) *Forms and content.* A Notice of Use of Sound Recordings under Statutory License shall be prepared on a form that may be obtained from the Copyright Office website or from the Licensing Division, and shall include the following information:

(1) The full legal name of the Service that is either commencing digital transmission of sound recordings or making ephemeral phonorecords of sound recordings under statutory license or doing both.

(2) The full address, including a specific number and street name or rural route, of the place of business of the Service. A post office box or similar designation will not be sufficient except where it is the only address that can be used in that geographic location.

(3) The telephone number and facsimile number of the Service.

(4) Information on how to gain access to the online website or home page of the Service, or where information may be posted under this section concerning the use of sound recordings under statutory license.

(5) Identification of each license under which the Service intends to operate, including the identification of each of the following categories under which the Service will be making digital transmissions of sound recordings: preexisting subscription service, preexisting digital audio radio service, new subscription service and non-subscription transmission service.

(6) The date or expected date of the initial digital transmission of a sound recording to be made under the section 114 statutory license and/or the date or the expected date of the initial use of the section 112(e) license for the purpose of making ephemeral recordings of the sound recordings.

(7) Identification of any amendments required by paragraph (f) of this section.

(d) *Signature.* The Notice shall include the signature of the appropriate officer or representative of the Service that is either transmitting sound recordings or making ephemeral phonorecords of sound recordings under statutory license or doing both. The signature shall be accompanied by the printed or typewritten name and the title of the person signing the Notice, and by the date of the signature.

(e) *Filing notices; Fees.* The original Notice and three copies shall be filed with the Licensing Division of the Copyright Office, and shall be accompanied by the filing fee set forth in § 201.3(c) of this part. Notices shall be placed in the public records of the Licensing Division. The address of the Licensing Division is: Library of Congress, Copyright Office, Licensing Division, 101 Independence Avenue, SE., Washington, DC 20557–6400.

(1) A Service that, prior to [the effective date of the final rule], has already commenced making digital transmissions of sound recordings pursuant to section 114(d)(2) of title 17

of the United States Code or making ephemeral phonorecords of sound recordings pursuant to section 112(e) of title 17 of the United States Code, or both, and that has already filed an Initial Notice of Digital Transmission of Sound Recordings under Statutory License, and that intends to continue to make digital transmissions or ephemeral phonorecords following [the effective date of the final rule], shall file a Notice of Use of Sound Recordings under Statutory License with the Licensing Division of the Copyright Office no later than 60 days following [the effective date of the final rule].

(2) A Service that, on or after [the effective date of the final rule], commences making digital transmissions and ephemeral phonorecords of sound recordings under statutory license shall file a Notice of Use of Sound Recordings under Statutory License with the Licensing Division of the Copyright Office prior to the making of the first ephemeral phonorecord of the sound recording and prior to the first digital transmission of the sound recording.

(3) A Service that, on or after [the effective date of the final rule], commences making only ephemeral phonorecords of sound recordings, shall file a Notice of Use of Sound Recordings under Statutory License with the Licensing Division of the Copyright Office prior to the making of the first ephemeral recording under the statutory license.

(f) *Amendment.* A Service shall file a new Notice of Use of Sound Recordings under Statutory License within 45 days after any of the information contained in the Notice on file with the Licensing Division has changed, and shall indicate in the space provided on the form provided by the Copyright Office that the Notice is an amended filing. The Licensing Division shall retain copies of all prior Notices filed by the Service.

§ 201.36 Report of Use of Sound Recordings under Statutory License.

(a) *General.* This section prescribes rules under which Services shall serve copyright owners with reports of use of their sound recordings under either section 112(e) or section 114(d)(2) of title 17 of the United States Code, or both.

(b) *Definitions.* (1) A *Report of Use of Sound Recordings under Statutory License* is a report required under this section to be provided by a Service that is either transmitting sound recordings or making ephemeral phonorecords of sound recordings under statutory license or both.

(2) A *Service* shall have the same definition as provided in § 201.35(b)(2) of this part.

(3) An *AM/FM Webcast* is a transmission made by an entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet, regardless of whether the transmission is made by the broadcaster that originates the AM/FM signal or by a third party, provided that such transmission meets the applicable requirements of the statutory license set forth in 17 U.S.C. 114(d)(2).

(4) A *Collective* is a collection and distribution organization that is designated under one or both of the statutory licenses, either by settlement agreement reached under section 112(e)(3), section 112(e)(6), section 114(f)(1)(A), section 114(f)(1)(C)(i), section 114(f)(2)(A), or section 114(f)(2)(C)(i) and adopted pursuant to 37 CFR 251.63(b), or by an order of the Librarian pursuant to 17 U.S.C. 802(f).

(c) *Service.* Reports of Use shall be served upon Collectives designated under the applicable statutory license that are identified in the records of the Licensing Division of the Copyright Office as having been designated under the statutory license, either by settlement agreement reached under section 112(e)(3), section 112(e)(6), section 114(f)(1)(A), section 114(f)(1)(C)(i), section 114(f)(2)(A), or section 114(f)(2)(C)(i) and adopted pursuant to 37 CFR 251.63(b), or by decision of a Copyright Arbitration Royalty Panel (CARP) under section 112(e)(4), section 112(e)(6), section 114(f)(1)(B), section 114(f)(1)(C)(ii), section 114(f)(2)(B), or section 114(f)(2)(C)(ii) or by an order of the Librarian pursuant to 17 U.S.C. 802(f). Reports of Use shall be served, by certified or registered mail, or by other means if agreed upon by the respective Service and Collective, on or before the twentieth day after the close of each month, commencing with [the month succeeding the month in which the final rule becomes effective].

(d) *Posting.* In the event that no Collective is designated under the applicable statutory license, or if all designated Collectives have terminated collection and distribution operations, a Service transmitting sound recordings under statutory license shall post and make available online its Reports of Use. Services shall post their Reports of Use online on or before the 20th day after the close of each month, and make them available to all sound recording copyright owners for a period of 90 days. Services may require use of passwords for access to posted Reports of Use, but must make passwords available in a timely manner and free of charge or other restrictions. Services may predicate provision of a password upon:

(1) Information relating to identity, location and status as a sound recording copyright owner; and

(2) A ''click-wrap'' agreement not to use information in the Report of Use for purposes other than royalty collection, royalty distribution, and determining compliance with statutory license requirements, without the express consent of the Service providing the Report of Use.

(e) *Content.* (1) *Heading.* A ''Report of Use of Sound Recordings under Statutory License'' shall be identified as such by prominent caption or heading,

(2) *Intended Playlists.* For a Service making digital transmissions of sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2), each report of use shall include a Service's ''Intended Playlists'' for each channel on each day of the reported month.

(i) In the case of transmissions of sound recordings made pursuant to a statutory license under 17 U.S.C. 114(d)(2) by a Service that is a preexisting subscription service in the same transmission medium used by such Service on July 31, 1998, the ''Intended Playlists'' shall include a consecutive listing of every recording scheduled to be transmitted, and shall contain the following information in the following order:

(A) The name of the Service or entity;

(B) The channel;

(C) The sound recording title;

(D) The featured recording artist, group, or orchestra;

(E) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the Service for purchase of the sound recording);

(F) The recording label;

(G) The catalog number;

(H) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(I) The date of transmission; and

(J) The time of transmission.

(ii) In the case of all other Services not covered by paragraph (e)(2)(i) of this section, that are transmitting sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2), the ''Intended Playlists'' shall include a consecutive listing of every recording scheduled to be transmitted, or if transmissions are not scheduled in advance, every recording actually transmitted, and shall contain the following information in the following order:

(A) The name of the Service or entity;

(B) The channel or program; or in the case of an AM/FM Webcast, the station identifier used by the Service, including the band designation and the FCC facility identification number of the broadcast station that is transmitted; provided that if a program is generated as a random list of sound recordings from a predetermined list, the channel or program must be a unique identifier differentiating each user's randomized playlist from all other users' randomized playlists;

(C) The type of program: ''A'' (for an ''archived program'' as defined section 114(j)(2)), ''L'' (for ''looped'' if the program is a ''continuous program'' as defined in section 114(j)(4)), ''V'' (for ''live'' if the program is transmitted substantially at the time it is first performed in its entirety), or ''PS'' (for ''prescheduled'' if the program is an identifiable program transmitted at times that have been publicly announced in advance);

(D) For programs other than archived programs, the date of transmission;

(E) For programs other than archived programs; the time of transmission of the sound recording;

(F) The time zone of the place from which the transmission originated (as an offset from Greenwich Mean Time);

(G) For archived programs, the numeric designation of the place of the sound recording within the order of the program;

(H) The duration of the transmission of the sound recording (to the nearest second);

(I) The sound recording title;

(J) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(K) The release year identified in the copyright notice on the album and, in the case of compilation albums created for commercial purposes, the release year identified in the copyright notice for the individual track;

(L) The featured recording artist, group, or orchestra;

(M) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the Service for purchase of the sound recording);

(N) The recording label;

(O) The Universal Product Code of the retail album;

(P) The catalog number;

(Q) The copyright owner information provided in the copyright notice on the retail album (e.g., following the symbol ℗) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual track; and

(R) The musical genre of the channel or program, or in the case of AM/FM Webcast, the broadcast station format.

(3) *Listener's Log.* Except for a preexisting subscription Service, a Service that transmits sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2) shall also include such Service's ''Listener Log.'' The ''Listener Log'' shall contain the following information in the following order for each session during which a user is logged in to receive transmissions as part of the Service:

(i) The name of the Service or entity;

(ii) The channel or program, using an identifier corresponding to that in the Intended Playlist;

(iii) The date and time that the user logged in (local time at user's location);

(iv) The date and time that the user logged out (local time at the user's location);

(v) The time zone of the place at which the user received transmissions (as an offset from Greenwich Mean Time);

(vi) The unique user identifier assigned to a particular user or session; and

(vii) The country in which the user received transmissions.

(4) *Ephemeral Phonorecord Log.* In the case of a Service that has made ephemeral phonorecords of sound recordings pursuant to a statutory license under 17 U.S.C. 112(e), the Service shall include an ''Ephemeral Phonorecord Log.'' The ''Ephemeral Phonorecord Log'' shall contain the following information in the following order for each act of creation or destruction of ephemeral phonorecords of sound recordings under statutory license:

(i) The name of the Service or entity;

(ii) Whether the ephemeral phonorecord was created or destroyed;

(iii) The date the ephemeral phonorecord was created or destroyed;

(iv) The sound recording title;

(v) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(vi) The release year identified in the copyright notice on the album and, in the case of compilation albums created for commercial purposes, the release year identified in the copyright notice for the individual track;

(vii) The featured recording artist, group or orchestra;

(viii) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the Service for purchase of the sound recording);

(ix) The recording label;

(x) The catalog number;

(xi) The Universal Product Code of the retail album;

(xii) The copyright owner information provided in the copyright notice of the retail album (e.g. following the symbol © ℗) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual track; and

(xiii) The number of ephemeral phonorecords that were created or destroyed.

(5) *System failure.* The Report of Use shall include a report of any system failure resulting in a deviation from the Intended Playlists of scheduled sound recordings. Such report shall include the date, time and duration of any system failure.

(f) *Signature.* Reports of Use shall include a signed statement by the appropriate officer or representative of the Service attesting, under penalty of perjury, that the information contained in the Report is believed to be accurate and is maintained by the Service in its ordinary course of business. The signature shall be accompanied by the printed or typewritten name and title of the person signing the Report, and by the date of signature.

(g) *Format.* Reports of Use should be provided on a standard machine-readable medium, such as diskette, optical disc, or magneto-optical disc, and should conform as closely as possible to the following specifications:

(1) In the case of transmissions made as part of a Service that is a preexisting subscription Service in the same transmission medium used by such Service on July 31, 1998:

(i) ASCII delimited format, using pipe characters as delimiter, with no headers or footers;

(ii) Carats (^) should surround strings;

(iii) No carats (^) should surround dates and numbers;

(iv) Dates should be indicated by: MM/DD/YYYY;

(v) Times should be based on a 24-hour clock: HH:MM:SS;

(vi) A carriage return should be at the end of each line; and

(vii) All data for one record should be on a single line.

(2) In the case of all other Services not covered by paragraph (g)(1) of this section that are transmitting sound recordings pursuant to a statutory license under 17 U.S.C. 114(d)(2) and in the case of Ephemeral Phonorecord Logs:

(i) ASCII delimited format, using pipe characters as delimiter, with no headers or footers;

(ii) Field names should not be included as the first row of the file;

(iii) Carats (^) should surround strings;

(iv) No carats (^) should surround dates and numbers;

(v) Dates and times should be indicated by: DDMMYYYYhhmmss, where DD is the two-digit day of the log period; MM is the two-digit month of the log period; YYYY is the four-digit year of the log period; hh is the two-digit hour of the log period; mm is the two-digit minute of the log period; ss is the two-digit second of the log period; single digit days, months, hours, minutes and second should be prepended with a zero; and times are local times using a 24-hour clock;

(vi) A carriage return should be at the end of each line;

(vii) All data for one record should be on a single line;

(viii) All data for each month and each log type should be contained in a single file;

(ix) Files may be compressed in ZIP or GZ format; and

(x) Files should be named Service Name_Log Type_MMYYYY, where Log Type should be Play List, Listener or Ephemeral.

(h) *Confidentiality.* Copyright owners, their agents and Collectives shall not disseminate information in the Reports of Use to any persons not entitled to it, nor utilize the information for purposes other than royalty collection and distribution, and determining compliance with statutory license requirements, without express consent of the Service providing the Report of Use.

(i) *Documentation.* All statutory licensees shall, for a period of at least three years from the date of service or posting of the Report of Use, keep and retain a copy of the Report of Use. For reporting periods from February 1, 1996, through August 31, 1998, the Service shall serve upon all designated Collectives and retain for a period of three years from the date of transmission records of use indicating which sound recordings were performed and the number of times each recording was performed, but is not required to produce full Reports of Use or Intended Playlists for those periods.

3. Section 201.37 (a) and (b) are revised to read as follows:

§ 201.37 Designated Collective.

(a) *General.* This section prescribes rules governing a Collective designated to collect and distribute statutory royalties for use of the statutory licenses set forth in sections 112(e) and 114(d)(2) of title 17 of the United States Code.

(b) *Definitions.* (1) A *Collective* shall have the same definition as provided in § 201.36(b)(4) of this part.

(2) A *Service* shall have the same definition as provided in § 201.35(b)(2) of this part.

* * * * *

Dated: February 1, 2002.

David O. Carson,

General Counsel.

[FR Doc. 02–2842 Filed 2–6–02; 8:45 am]

BILLING CODE 1410–31–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. 2002–11419]

RIN 2127–AI70

Request for Comments; National Academy of Science Study and Future Fuel Economy Improvements, Model Years 2005–2010

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

ACTION: Request for comments.

SUMMARY: The National Energy Policy directs the Secretary of Transportation to:

Review and provide recommendations on establishing Corporate Average Fuel Economy (CAFE) standards with due consideration of the National Academy of Sciences (NAS) study to be released in July 2001. Responsibly crafted CAFE standards should increase efficiency without negatively impacting the U.S. automotive industry. The determination of future fuel economy standards must therefore be addressed analytically and based on sound science.

Consider passenger safety, economic concerns and disparate impact on the U.S. versus foreign fleet of automobiles.

Look at other market-based approaches to increasing the national average fuel economy of new motor vehicles.

The agency is requesting comment on these policy recommendations, particularly the conclusions of the recently completed NAS report on fuel economy, as it looks beyond 2004. The purpose of this request is to acquire information to assist the agency in developing a proposal for those years beyond 2004. NHTSA currently plans to cover some or all of model years 2005 to 2010 in the proposal. The agency is seeking information that will help it assess the extent to which manufacturers can improve light truck fuel economy during those years, the benefits and costs to consumers of fuel economy improvements, the benefits to the nation of reducing fuel consumption, and the number of model years that should be covered by the proposal. NHTSA is also seeking comments on possible reforms to the Corporate Average Fuel Economy program, as it applies to both passenger cars and light trucks, to protect passenger safety, advance fuel-efficient technologies, and obtain benefits of market-based approaches.

DATES: Comments must be received on or before May 8, 2002.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, call Ken Katz, Lead Engineer, Consumer Programs Division, Office of Planning and Consumer Programs, at (202) 366–0846, facsimile (202) 493–2290, electronic mail *kkatz@nhtsa.dot.gov*. For legal issues, call Otto Matheke, Office of the Chief Counsel, at (202) 366–5263.

SUPPLEMENTARY INFORMATION:

I. Introduction

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, Congress enacted the Energy Policy and Conservation Act (EPCA). The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Title V has been amended from time to time and codified without substantive change as Chapter 329 of Title 49 of the United States Code. Chapter 329 provides for the issuance of average fuel economy standards for passenger automobiles and automobiles that are not passenger automobiles (light trucks).

Section 32902(a) of Chapter 329 states that the Secretary of Transportation

shall prescribe by regulation corporate average fuel economy (CAFE) standards for light trucks for each model year. That section also states that ''[e]ach standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' (The Secretary has delegated the authority to implement the automotive fuel economy program to the Administrator of NHTSA. 49 CFR 1.50(f).) Section 32902(f) provides that, in determining the maximum feasible average fuel economy level, we shall consider four criteria: technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. Using this authority, we have set light truck CAFE standards through MY 2003. See 49 CFR 533.5(a). The standard for MY 2003 is 20.7 miles per gallon (mpg)(66 FR 17513; April 12, 2001).

We began the process of establishing light truck CAFE standards for model years after MY 1997 by publishing an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register**. 59 FR 16324; April 6, 1994. The ANPRM outlined the agency's intention to set standards for some, or all, of the model years from 1998 to 2006.

On November 15, 1995, the Department of Transportation and Related Agencies Appropriations Act for FY 1996 was enacted. Pub. L. 104–50. Section 330 of that Act provided:

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

We then issued a notice of proposed rulemaking (NPRM) limited to MY 1998, proposing to set the light truck CAFE standard for that year at 20.7 mpg, the same standard as had been set for MY 1997. 61 FR 145 (January 3, 1996). This 20.7 mpg-standard was adopted by a final rule issued on March 29, 1996. 61 FR 14680 (April 3, 1996).

On September 30, 1996, the Department of Transportation and Related Agencies Appropriations Act for FY 1997 was enacted. Pub. L. 104–205. Section 323 of that Act provided:

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

On March 31, 1997, we issued a final rule (62 FR 15859) establishing light truck fuel economy standards for MY 1999. This final rule was not preceded by an NPRM. The agency concluded that the restriction contained in Section 323 of the FY 1997 Appropriations Act prevented us from issuing any standards at a level other than the standard set for MY 1998. Because we had no other course of action, we determined that issuing an NPRM was unnecessary and contrary to the public interest.

Because the same limitation on the setting for CAFE standards was included in the appropriations acts for each of FYs 1998–2001, we followed that same procedure during those fiscal years and did not issue any NPRMs in the series of rulemakings we conducted to establish the light truck fuel economy standards for MYs 2000–2003. The agency concluded in those rulemakings, as it had when setting the MY 1999 standard, that the restrictions contained in the appropriations acts prevented us from issuing any standards other than the standard set for the prior model year. We also determined that issuing an NPRM was unnecessary and contrary to the public interest because we had no other course of action.

The Department of Transportation and Related Agencies Appropriations Act for FY 2001 was enacted on October 23, 2000. Pub. L. 106–346. This law provided appropriations for the Department of Transportation for FY 2001, and is the law under which we issued the light truck CAFE standard for MY 2003. While Section 320 of that Act contains a restriction on CAFE rulemaking identical to that contained in prior appropriation acts, the Conference Committee Report for that Act directed the National Academy of Sciences (NAS) to conduct a study to evaluate the effectiveness and impacts of CAFE standards (H.R. Conf. Rep. No. 106–940, at 117–118).

The NAS submitted its report to the Department of Transportation on July 30, 2001. The final report is being released in January 2002. The report points out that technologies exist that could significantly increase passenger car and light truck fuel economy within 15 years. However, the study found that ''the fuel economy improvement that occurred during the 1970s and early 1980s involved considerable downweighting and downsizing'' and that that downweighting and downsizing, ''some of which was due to CAFE standards,'' resulted in additional fatalities. (NAS, 4–14 and 6–1) Specifically, ''to the extent that the size and weight of the fleet have been constrained by CAFE requirements * * * those requirements have caused more injuries and fatalities on the road than would otherwise have occurred.'' (NAS, 2–29). However, the NAS found that if future weight reductions occur in only the heaviest of the light-duty vehicles, that can produce overall improvements in vehicle safety. (NAS, 4–14) NAS also found that to minimize financial impacts on manufacturers, their suppliers, their employees, and consumers, sufficient lead time, consistent with normal product life cycles, should be given. The report stated that there are advanced technologies that could be employed, without negatively affecting the automobile industry, if sufficient lead time were provided to the manufacturers. In NAS' view, the selection of fuel economy levels will require uncertain and difficult trade-offs among environmental benefits, vehicle safety, cost, energy independence, and consumer preferences. It also suggests that changing the CAFE regulatory program to one based on vehicle attributes, such as weight, and allowing ''credit trading'' could eliminate the current CAFE program's encouragement of downweighting or the production and sale of more small cars and also reduce costs. (NAS, 6–5) Recognizing the many trade-offs that must be considered in setting fuel economy standards, the committee took no position on what the appropriate CAFE standards should be for future years, leaving that question for policymakers to answer.

Secretary of Transportation Norman Y. Mineta asked House and Senate Appropriations Committees to lift the restriction on the agency spending funds on CAFE in the summer of 2001. The Department of Transportation and Related Agencies Appropriations Act for FY 2002 (Public Law 107–87) was enacted on December 18, 2001, and does not contain a provision restricting the Secretary's authority to prescribe fuel economy standards. Accordingly, the agency will fully consider the NAS report and other factors in its future CAFE rulemaking.

As the agency has been unable to spend any funds in violation of the terms of Section 320 of the FY 2001 Appropriations Act and the predecessor restrictions in earlier appropriations acts, it has not been able to lay the factual or analytical foundation necessary for rulemaking to establish new CAFE levels. To prepare for any fuel economy standard, the agency must collect information relating to prospective CAFE levels, analyze and

weigh the information in light of the statutory criteria for determining the practicable maximum feasible average fuel economy level, and incorporate its information and analysis into a rulemaking action to set the standard, with opportunity for notice and comment.

To allow the agency to begin developing a proposal for light truck average fuel economy standards for model years after MY 2004, NHTSA is issuing this notice.

There are several important developments in the oil and vehicle markets that provide a useful context for today's notice.

With respect to the oil market, the United States imported 15 percent of its oil needs in 1955. The import share reached 35.8 percent in 1975, the year in which EPCA was passed, and rose to 46.5 percent in 1977. Although the share declined to below 30 percent in the early 1980s, lately, the United States has again become increasingly dependent on imported oil. Since 1991, import share has risen from 39.6 percent to 52.9 percent in 2000, which is an all time high level of oil imports.

Thus, the United States now imports a substantially higher percentage of its oil needs than it did during 1975. Moreover, the percentage of its oil supplied by OPEC is similar to that of 1975. Oil continues to account for nearly 40 percent of all energy used in the United States, and 95 percent of the energy consumed in the transportation sector. Petroleum demand is projected to grow at an average annual rate of 1.5 percent through 2020, led by growth in the transportation sector, which is expected to account for more than 70 percent of petroleum demand in 2020.

Domestic oil production has declined steadily since reaching a peak of 10.6 million barrels per day in 1985. By 1992, it dropped to 9.0 million barrels per day. Domestic production is expected to continue declining by roughly 0.2 percent from 2000 to 2020, with 2020 production estimated at 5.6 million barrels per day. While the United States is currently the world's second largest oil producer, it contains only about three percent of the world's known oil reserves. Persian Gulf countries contain 63 percent of known world reserves, and Eastern European countries contain 9 percent. The Department of Energy projects a continuing decline in domestic oil production to between 3.77 and 7.21 million barrels per day in 2010.

With respect to the vehicle market, in the early 1980's, during the energy crisis brought on by events in Iran, gasoline prices rose rapidly. That rise significantly increased consumer demand for more fuel-efficient vehicles. Thereafter, however, gasoline prices fell sharply and have remained at very low levels for a decade. The inflation-adjusted price of gasoline in the U.S. reached a post-World War II low in the 1993–1995 period and has risen slightly since. The fuel cost of vehicle travel in constant dollars is only half of what it was *before* the price shocks of the 1970s. Consumers place much greater emphasis on safety, cost, and high performance, and make little demand for improved light truck fuel economy. Vehicle performance levels (e.g., ability to accelerate) are now significantly higher than they were when EPCA was enacted. The NAS study found that ''recent increases in vehicle weight, while resulting in some loss of fuel economy, have probably resulted in a reduction of motor vehicle crash fatalities.'' (NAS, 2–29)

In the absence of strong consumer demand or other market pressure for increased efficiency, there is little motivation for manufacturers to make significant technological improvements to light truck fuel economy. Indeed, light truck fuel economy has been gradually declining since MY 1987 and is not expected to change in the next several years. The average light truck fuel economy was 20.7 mpg in MY 1985, and 20.5 mpg in MY 1995, ten model years later. Lately, light truck CAFE has hovered near 21.0 mpg, with the levels for the past three years ranging from 20.9 to 21.3 mpg. Fuel economy data reported by the Environmental Protection Agency shows that unadjusted light truck fuel economy levels have been below 21.0 mpg since 1993, with levels hovering near 20.5 mpg over the past 5 years or so.

A third reason why light truck CAFE standards assume increased importance now is the continued growth in market share of those vehicles. In 2001, for the first time, sales of light trucks surpassed those of passenger cars, accounting for 50.46 percent of all vehicles sold. In contrast, light trucks comprised 48.78 percent of the market in 2000. According to the Automotive News Data Center, there were 8,667,089 light trucks and 8,510,356 passenger cars sold in 2001, for a total of 17,177,445 vehicles sold. In addition, the sales of light trucks set a monthly record with 908,474 units sold in October 2001. That figure surpassed the previous record of 827,692, set in March 2000 (Bureau of Transportation Statistics).

The growth in the light truck market has been substantial and according to some estimates is achieving sales figures today that were not predicted until several years in the future. For example, the Automotive News Data Center and J.D. Power projected sales of 8.24 million light trucks in MY 2003 and 8.67 million by MY 2005. Thus, because 8.67 million light trucks were sold in 2001, the estimated market size for light trucks was accomplished four years earlier than predicted. Some of this increase in the light truck sales may be accounted for by the 0 percent financing offers made by most of the major manufacturers starting in October 2001, however none of these offers was limited to light trucks only. Further historical evidence for this rapid growth is the fact that light trucks comprised 40 percent of the total light vehicle production in MY 1995, which was more than double their share in MY 1980. The increase in light truck market share is vitally important, because as light trucks increase their market share, so does their impact on energy consumption and the importance of their potential contribution in addressing the Nation's need to conserve energy.

Additionally, the National Energy Policy, released in May 2001, included recommendations regarding the path that the Administration's energy policy should take and included specific recommendations regarding vehicle fuel economy and CAFE. The National Energy Policy was designed to promote dependable, affordable and environmentally sound energy for the future. The Policy envisions a comprehensive long-term strategy that uses leading edge technology to produce an integrated energy, environmental and economic policy. The report recommends that—

- The President direct the Secretary of Transportation to review and provide recommendations on establishing CAFE standards with due consideration of the National Academy of Sciences study released in July 2001. The President further directs that the CAFE standards be responsibly crafted and increase efficiency without negatively impacting the U.S. automotive industry; and that, the determination of future fuel economy standards be addressed analytically and based on sound science.
- The President direct the Secretary of Transportation to consider passenger safety, economic concerns, and disparate impact on the U.S. versus foreign fleet of automobiles.
- The President direct the Secretary of Transportation to look at other market-based approaches to increasing the national average fuel economy of new motor vehicles.

This notice requests comments to assist NHTSA in developing a proposal for light truck CAFE standards for model years after 2004, possibly through MY 2010. In addition, this notice requests comments on possible modifications and/or reforms to the CAFE program. Any significant reforms to the CAFE program may affect NHTSA's decision about the number of model years that should be covered by a proposed rule under the current CAFE program structure.

To aid the agency in obtaining useful comments, this notice discusses a variety of issues that are considered by NHTSA in evaluating fuel economy, and asks a number of questions and makes a number of requests for data. For easy reference, the questions and requests are numbered consecutively throughout the document.

In providing a comment on a particular matter or in responding to a particular question, interested persons are requested to provide any relevant factual information to support their conclusions or opinions, including but not limited to test data, statistical and cost data, and the source of such information.

In addition to the questions in the body of this notice, NHTSA is also including an appendix to this notice, which consists of a number of additional questions directed primarily toward light truck manufacturers. The appendix questions address their product plans through MY 2010 and the assumptions underlying those plans. The agency would appreciate answers that are as responsive as possible so that appropriate weight can be given to the many factors whose magnitude now can only be estimated. While the questions in the appendix are directed toward manufacturers, the agency welcomes comments from all interested persons in response to those questions.

II. The Statute

Chapter 329 of Title 49 of the U.S. Code requires the Secretary of Transportation to issue light truck fuel economy standards for each model year. The Code provides that the fuel economy standards must be set at the maximum feasible average fuel economy level. In determining the maximum feasible average fuel economy level, the Secretary is required under section 32902(f) of Title 49 to consider four factors: technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. The Secretary is permitted but not required to set separate standards for different classes of light trucks. (Responsibility for the automotive fuel economy program was delegated by the Secretary of Transportation to the Administrator of NHTSA (41 FR 25015, June 22, 1976).)

Based on definitions and judicial interpretations of similar terms in other statutes, the agency interprets ''feasible'' to refer to something that is capable of being done. Therefore, a standard set at the maximum feasible average fuel economy level must: (1) be capable of being done and (2) be at the highest level that is capable of being done, taking account of what manufacturers are able to do in light of technological feasibility, economic practicability, how other motor vehicle standards of the Government affect average fuel economy, and the need of the United States to conserve energy.

Executive Order 12866 requires that the findings of cost-benefit analysis be considered in the development of major rules. When considering the appropriate design and stringency of future standards, NHTSA will consider the incremental costs and benefits of alternative options.

The statute does not expressly state whether the concept of feasibility is to be determined on a manufacturer-by-manufacturer basis or on an industry-wide basis. As discussed in many fuel economy notices, it is clear from the legislative history that Congress did not intend that standards simply be set at the level of the least capable manufacturer. Instead, NHTSA must take industry-wide considerations into account in determining the maximum feasible average fuel economy level.

NHTSA has consistently set light truck standards at a level that can be achieved by manufacturers whose vehicles constitute a substantial share of the market. Because of the relatively high volume of production by those manufacturers, their capability bears a strong and close relationship to that of the industry as a whole.

III. Issues in Developing a Proposal for MY 2005–2010

Among the significant issues involved in developing a proposal for the MY 2005–2010 light truck CAFE standards is the extent of the ability of manufacturers to improve their light truck fuel economy during that period. In the last 18 months, Ford, General Motors and DaimlerChrysler have all issued statements regarding the fuel economy level their vehicles will be able to achieve over the next five or so years. In July 2000, Ford made a voluntary commitment to increase the fuel economy of its sport utility vehicle (SUV) fleet in the United States by 25 percent by the 2005 calendar year. General Motors stated that its SUV fleet would have an even higher average fuel economy than Ford's sport utility vehicle fleet, and that its overall average fuel economy for light trucks in 2005 would also be higher than Ford's. DaimlerChrysler stated that the fleet average fuel economy of all its vehicles—both passenger cars and light trucks—would match or exceed those of other full-line manufacturers. However, no timetable was set for achieving this goal, nor did DaimlerChrysler commit to achieving fuel economy goals in specific market segments such as SUVs. In order to help it analyze manufacturer capabilities for improving light truck fuel economy, NHTSA requests information or comments on the questions that follow.

NHTSA is interested in the technology that could be available for improving fuel economy. It is particularly interested in technological advancements and on manufacturers' future plans for the inclusion of technologies that have been developed under the Partnership for a New Generation of Vehicles (PNGV). The Department of Energy announced a new Freedom CAR initiative earlier this month that will aim at higher risk, higher reward technologies that will apply to vehicle models that are in high demand, including minivans, SUVs, and pickups. The National Research Council of the National Academy of Sciences also found that the structure and goals of the PNGV program were wrong. We are interested in adopting specific changes recommended by NAS to improve the program. Ford, General Motors and DaimlerChrysler have all introduced concept cars that achieve at least 70 mpg. It is anticipated that many of the technologies employed on these vehicles will be included in future product plans and that significant gains on fuel economy can be achieved by their application.

1. The NAS Study found that the CAFE program, as currently structured, has contributed to traffic fatalities and injuries. As an agency whose primary responsibility is safety and is therefore deeply concerned about the NAS finding, NHTSA requests comments on this NAS finding. Among our questions are: Is the safety impact understated or overstated? Would NAS's proposed changes to CAFE reduce this safety penalty? Could CAFE standards be modified so that manufacturers are encouraged to achieve improved fuel economy through application of technology instead of through downsizing and downweighting?

NHTSA requests comments on the extent to which increases in light truck fuel efficiency are feasible during MYs 2005–2010 and on whether any of these increases would involve means—such as significant weight and size reduction—that could adversely affect safety. We note that the NAS found that if future weight reductions occur in only the heaviest of the light-duty vehicles, that can produce overall improvements in vehicle safety. If there would be adverse effects, how could they be mitigated?

2. What is the technological feasibility and economic practicability of various fuel efficiency enhancing technologies that fall under the general headings of engine, vehicle and transmission technologies? Please comment on each of the following technologies, listed under the general headings below:

Engine Technologies

Engine friction and other mechanical/hydrodynamic loss reduction; advanced low-friction lubricants; multi-valve, overhead camshaft valve trains; variable valve timing; variable valve lift and timing; intake valve throttling; cylinder deactivation; engine accessory improvement; engine downsizing and supercharging; camless valve actuation; variable compression ratio engines; electronic engine controls; direct fuel injection for spark ignition or diesel engines; lean burn-fast burn combustion; and two-stroke engines.

Transmission Technologies

Five-speed automatic transmission; six-speed automatic transmission; continuously variable transmission; advanced continuously variable transmission; automatic shift manual transmission; and automatic transmission with aggressive shift logic.

Vehicle Technologies

Aerodynamic drag reduction; and electronic controls; lowering rolling resistance; vehicle weight reduction; substitution of lighter-weight materials; 42 Volt electrical system; integrated starter/generator; hybrid drive trains; and fuel cells.

In answering this question, please address, for each of these technologies, as well as any other relevant/related technologies:

(a) The impact on fuel efficiency;

(b) Costs and benefits to the consumer;

(c) Manufacturer costs;

(d) Lead time;

(e) Degree of current use in passenger cars and light trucks;

(f) Impacts on safety, including injuries and fatalities; and

(g) Potential fleet penetration.

(h) Effects of environmental (especially vehicles emissions standards) and other regulations on their application/penetration.

In considering fleet penetration, please address whether some technologies might be appropriate for use on light truck models that would not need high load carrying or towing capability because of primarily personal passenger car type usage. For reference, NHTSA, at the direction of the Congress, commissioned a study entitled *Light Truck Capabilities, Utility Requirements and Uses: Implications for Fuel Economy* which was published in April 1996. (This study is available from the agency as report number DOT HS 808 378.) Included in that study is a brief summary of fuel economy technologies, their benefits, and their potential conflicts with light truck attributes.

3. What is the cost-effectiveness of each technology identified in Question 2, as well as any other relevant technologies, assuming alternative plausible gasoline prices forecast for MY 2005–2010, and assuming alternative payback periods ranging from 3 years to 10 years?

4. Taking into account the response to Question 2, and the statements recently made by Ford and General Motors about the fuel economy of their vehicles by 2005, and DaimlerChrysler's response, indicate the ability of each manufacturer to improve its light truck CAFE for each model year during the MY 2005–2010 timeframe. Specify the fuel economy improvements on a vehicle-by-vehicle basis that will result in the achievement of the manufacturer's fuel economy pledges. For each vehicle, please list the specific technologies that will be employed and the increase in fuel economy attributed to such technology. By what model year would maximum penetration of all current fuel economy enhancing technologies be feasible? Why wouldn't such maximum penetration be feasible earlier than that model year?

5. What analyses of manufacturer light truck fuel economy capabilities for MY 2005–2010 are available? What are the strengths and weaknesses of each such analysis?

6. What data are available on the usage characteristics of light trucks, i.e., how many passengers and/or how much cargo the different types of light trucks typically carry? What survey and other data are available on the importance that consumers place on the fuel economy of light trucks relative to other vehicle attributes?

7. By their nature, fuel economy standards lower the marginal cost of driving. What effect does this cost difference have on vehicle miles traveled?

8. To what extent are other Federal standards likely to affect manufacturers' CAFE capabilities in MYs 2005–2010? Answers to this question should include not only the effects of such standards when first implemented, but also the prospect for reducing those effects subsequently.

In the final rule establishing light truck CAFE standards for MYs 1996–1997 (59 FR 16312 (April 6, 1994)), NHTSA stated that it believed that CAFE standards for the last decade have not had any measurable effect on light truck weight or size; and, hence, safety. In support of that belief, the agency noted that the levels of the light truck CAFE standards have not varied significantly for more than a decade. The light truck CAFE standards for MY 1987–89 and MY 1994 were set at 20.5 mpg, and, as far back as MY 1984, the standard was only slightly lower at 20.0 mpg. NHTSA also noted that, in setting the light truck CAFE standards over the last decade, the agency has not included in its analyses of manufacturer capabilities any product plan actions that would significantly affect the weight, size or cost of the vehicles the manufacturers planned to offer. Further, the average equivalent test weight of light trucks increased from 3,805 pounds in MY 1984 to 4,360 pounds in MY 1996.

9. In setting CAFE standards, the agency takes into consideration that there are often technological risks associated with actually achieving the full potential fuel economy improvement from a particular type of technology. How should the agency take technological risks into account in setting these light truck CAFE standards? What technological risks are associated with gaining the full potential fuel economy improvements from any of the available types of fuel economy enhancing technologies? What are the prospects for overcoming those risks or offsetting their effects on CAFE capability?

The National Academy of Sciences Study and CAFE Reform

On July 30, 2001, the National Academy of Sciences released its report entitled, ''Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards.'' This report included fifteen findings and seven recommendations. Several of the recommendations address possible modifications to the CAFE program.

Possible modifications to the CAFE program (as it applies to passenger cars as well as light trucks) could include changes to the current structure (i.e., changing the vehicle classification definitions) or could involve more significant reforms (i.e., weight-based standards, credit trading).

A possible modification to CAFE, which has received considerable attention, is an approach with fuel economy targets that are dependent on vehicle attributes, such as vehicle weight, size or load. The NAS recommended this approach, referred to as an attribute-based system, because it would ''create incentives to reduce the variance in vehicle weights between large and small vehicles, thus providing for overall vehicle safety. It has the potential to increase fuel economy with fewer negative effects on safety and consumer choice.'' Under the current CAFE program, each manufacturer must meet a production-weighted harmonic average for each fleet of vehicles sold. In an attribute-based system, each manufacturer might have to meet an overall production-weighted fuel economy average, and/or each manufacturer might have to meet a different fuel economy average for the vehicles that were produced in each specific size, weight or load class.

10. Please comment on the idea of an attribute-based system. Provide feedback on which attribute(s) such a system should be based on and the specific classes of vehicles that might fall under each class. In addition, please suggest the fuel economy level associated with each specific class of that attribute-based system (e.g., vehicles weighing from 2,000 lbs. GVWR to 2,500 GVWR would have to meet an average of xx.x MPG).

Another modification that has been suggested is fuel economy credits that could be traded among vehicle manufacturers. The NAS found that ''changing the current CAFE system to one featuring tradable fuel economy credits and a 'cap' on the price of these credits appears to be particularly attractive. It would provide incentives for all manufacturers, including those that exceed the fuel economy targets, to continually increase fuel economy, while allowing manufacturers flexibility to meet consumer preferences.'' Currently, each manufacturer can only earn credits if it exceeds the standards in any particular year. A manufacturer can carry the credits earned for a particular class of vehicles forward or backward to offset CAFE shortfalls within that same class of vehicles. However, it can neither apply the credits to another of its classes of vehicles nor trade them with other manufacturers. (Thus, if the agency used its authority to set standards for different classes of light trucks, the statute would prevent trading credits between those classes.) If the CAFE program could be modified to allow manufacturers to apply fuel economy credits throughout their own fleets and to trade them with other manufacturers. Credits could be obtained directly from other manufacturers or indirectly from the U.S. Government. This modification has the potential to increase the economic efficiency and flexibility of the CAFE system.

11. Please comment on the possibility of tradable fuel economy credits and the potential cost and benefits to each manufacturer.

The elimination of the two-fleet rule, providing for a domestic passenger car fleet and an import passenger car fleet, has been suggested as a possible modification to CAFE. The distinction is based on the proportion of the car's value that is defined as being domestic; an import is defined as a car with less than 75 percent domestic content. If a manufacturer has both a domestic passenger car fleet and an import passenger car fleet, each fleet must separately meet the passenger car standard. If this rule were eliminated, such a manufacturer could place all its passenger cars in a single fleet.

12. Please comment on the effect that elimination of the two-fleet rule would have on manufacturers, consumers, employment, the U.S. marketplace, and on the automotive industry in general.

A possible modification that has also received considerable attention in Congress and the media is the re-classification of vehicles under the CAFE system. When CAFE was originally conceived, it provided for setting different standards for passenger vehicles and work/cargo vehicles, classified as light trucks. This has allowed light trucks to have higher fuel consumption because extra power, different gearing, and other attributes that were considered necessary for their utilitarian, load-carrying attributes. At that point, in 1975, these vehicles comprised about 20 percent of the market. Light trucks now comprise approximately 50 percent of new vehicles sold. Most important, the functional distinction between cars and trucks (cars for personal use and trucks for work cargo use) has broken down, initially with the introduction of minivans, and more recently with sport utility and cross-over vehicles that are used almost exclusively for passenger transport. NHTSA has the statutory authority to change how these vehicles are classified and may do so in the future to reflect the usage of many types of light trucks as passenger vehicles. However, any modification would accommodate the inability of true work/cargo vehicles to achieve as high fuel economy, due to their utilitarian nature.

13. Please provide suggestions for modifications of the vehicle classification. These suggestions should be as detailed as possible and should state the logic and rationale for the modification, as well as suggested definitions. An analysis of the pros and cons of each suggested modification should also be provided.

Another possible modification to the CAFE program would be raising the maximum gross vehicle weight rating of vehicles covered by the CAFE standards from 8,500 lbs. to 10,000 lbs. Manufacturers currently are selling several models of large sport utility vehicles over the 8,500 lbs. weight limit that are being utilized as passenger vehicles. Because the gross vehicle weight rating is based on manufacturer supplied information on the load carrying capacity of their vehicles, the agency is concerned that some vehicles, which are primarily used as passenger vehicles, are not included in manufacturers' light truck fleets. The agency has the statutory authority to make this change.

14. Please provide comments on the possibility of raising the maximum gross vehicle weight rating and on the effects that this would have on manufacturers, consumers, U.S. automotive industry employment and the automotive industry in general.

15. NHTSA requests comments on the above possible modifications to the CAFE program and other modifications that have been discussed, such as those mentioned in the National Academy of Sciences study. In addressing these possible modifications, please identify their positives and negatives; their estimated costs and benefits; their effect on manufacturers, suppliers, employees, and consumers; and the policy implications of each. The agency requests that each manufacturer specify how much lead time would be needed to respond to each possible modification and provide that information in terms of product planning cycles. To assist NHTSA, please be as specific as possible and provide any information that you believe will be helpful.

The National Academy of Sciences report also included an assessment of the technological potential for improving the fuel efficiency of 10 different classes of vehicles (subcompact cars, compact cars, SUVs, pickups, minivans, etc.), and included a

''break-even'' analysis for each of these classes. The report identified packages of existing and emerging technologies that could be introduced over the next ten years and that would result in fuel economy improvement up to the point at which further increases in fuel economy would not be reimbursed by fuel savings. It placed these technologies into three product development paths for each of ten vehicle classes. The paths were chosen to represent potential vehicle development steps that would offer increasing levels of fuel economy gain at incrementally increasing costs. In doing the analysis, the committee kept the size and performance characteristics of the vehicles' constant, while increasing vehicle weight five percent to account for future safety requirements.

Two break-even analyses were done for each path. One covered a 14-year period that reflects the entire life of the vehicle, while the other covered a 3-year period that reflects the first purchaser's ownership period. The committee theorized that all consumers do not take the same things into consideration when purchasing a vehicle, and realized that some consumers will be trading in their vehicles on a constant cycle. The 3-year period also represents the average lease term, and thus can serve as a starting point for analyzing the emphasis that vehicle leasers place on fuel economy and advanced technology.

To assist NHTSA in its rulemaking, we ask you to comment on the following:

16. In examining the three paths that were chosen, please comment on whether they represent likely scenarios for technology bundling. If not, please comment on which technologies are likely to be bundled together and please identify the specific vehicle types and vehicles/models that might include them. In addition, please comment on the technologies already included on the vehicle types/models, the projected vehicle weight and the percent of total model sales anticipated for each model (i.e., CVT—45%, 5-Speed Automatic—40%, 5-Speed Manual—5%). Finally, please comment on the assumptions the NAS made in evaluating the three paths. Are there more plausible alternative assumptions?

17. Should hybrid and fuel cell vehicles have been included in the paths? If so, which ones and which specific vehicle types? What technologies would be included with these types of vehicles?

18. Do you believe that the NAS study over or under estimated the fuel economy benefits from specific technologies? If so, which ones and why? Please provide NHTSA with your data that suggest a different benefit resulting from the application of these technologies.

19. Do you agree with the figures derived in the NAS break-even analysis? If not, why? Please address specific areas of differences, explain your reason(s) why, and provide supporting data for your reasons and arguments.

20. For the forthcoming rulemaking and future CAFE rulemakings, benefit analysis will play an important role in NHTSA decisionmaking. NHTSA therefore seeks comments on the following specific benefit issues: Can you provide, in addition to the material in the NAS report, any methods and data that would be helpful in identifying, quantifying, and expressing in dollar units the potential benefits of alternative CAFE standards (including energy security, environmental, and other considerations)? Are there any ancillary studies that NHTSA or other federal agencies should commission to provide a stronger technical foundation for making benefit estimates in future CAFE rulemakings?

IV. Impact Analyses

A. Economic Impacts

This notice was reviewed under E.O. 12866. The agency has considered the potential economic implications of this rulemaking and determined that it is significant within the meaning of the Department's regulatory policies and regulatory procedures. A preliminary regulatory evaluation will be prepared and placed in the public docket before any notice of proposed rulemaking is published.

B. Environmental Impacts

We have not conducted an evaluation of the impacts of this request for comments under the National Environmental Policy Act. There is no requirement for such an evaluation where, as here, the agency is requesting comments on a possible future rulemaking.

C. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this request for comments would have on small entities. I certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. Few, if any, light truck manufacturers subject to a possible proposed rule subsequent to this notice would be classified as a ''small business'' under the Regulatory Flexibility Act.

The Regulatory Flexibility Act of 1980 (Public Law 96–354) requires each agency to evaluate the potential effects of a rule on small businesses. Establishment of a fuel economy standard for light trucks affects motor vehicle manufacturers, few of which are small entities. The Small Business Administration (SBA) has set size standards for determining if a business within a specific industrial classification is a small business. The Standard Industrial Classification code used by the SBA for Motor Vehicles and Passenger Car Bodies (3711) defines a small manufacturer as one having 1,000 employees or fewer.

Very few single stage manufacturers of motor vehicles within the United States have 1,000 or fewer employees. Those that do are not likely to have sufficient resources to design, develop, produce and market a light truck. For this reason, we certify that this request for comments and any subsequent proposal would not have a significant economic impact on a substantial number of small entities.

D. Federalism

E.O. 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' E.O. 13132 defines the term ''Policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under E.O. 13132, NHTSA may not issue a regulation that has federalism implication, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This request for comments and any subsequent proposal would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this notice.

E. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually.

F. Paperwork Reduction Act

There are no information collection requirements in this proposal.

G. Regulation Identifier Number (RIN)

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

H. Plain Language

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

—Have we organized the material to suit the public's needs?
—Are the requirements in the notice clearly stated?
—Does the notice contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the notice easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the notice easier to understand?

If you have any responses to these questions, please forward them to Otto Matheke, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This request for comments and any subsequent proposal does not have a disproportionate effect on children. The primary effect of this request for comments and any subsequent proposal is to conserve energy resources by setting fuel economy standards for light trucks.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [1] in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

In issuing this notice, the agency is simply seeking information to help it establishing a future goal for manufacturers to meet. Therefore, setting this future standard does not involve the use of any voluntary standards.

V. Comments

Submission of Comments

How Can I Influence NHTSA's Thinking on This Notice?

In developing this notice, we tried to address the concerns of all our stakeholders. Your comments will help us determine what standards should be set for light truck fuel economy. We invite you to provide different views on questions we ask, new approaches and technologies we did not ask about, new data, how this notice may affect you, or other relevant information. We welcome your views on all aspects of this notice, but request comments on specific issues throughout this notice. We grouped these specific requests near the end of the sections in which we discuss the relevant issues. Your comments will be most effective if you follow the suggestions below:

- Explain your views and reasoning as clearly as possible.
- Provide empirical evidence, wherever possible, to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the notice, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number of the proceeding with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

[1] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specifications and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a proposed rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on Asearch.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Authority: 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

Issued on: February 1, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

APPENDIX

I. Definitions

As used in this appendix—

1. ''Automobile,'' ''fuel economy,'' ''manufacturer,'' and ''model year,'' have the meaning given them in Section 501 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001.

2. ''Cargo-carrying volume,'' ''gross vehicle weight rating'' (GVWR), and ''passenger-carrying volume'' are used as defined in 49 CFR 523.2.

3. ''Basic engine'' has the meaning given in 40 CFR 600.002–85(a)(21). When identifying a basic engine, respondent should provide the following information:

(i) Engine displacement (in cubic inches).

(ii) Number of cylinders or rotors.

(iii) Number of valves per cylinder.

(iv) Cylinder configuration (V, in-line, etc.).

(v) Number of carburetor barrels, if applicable.

(vi) Other engine characteristics, abbreviated as follows:

DD—Direct Injection Diesel
ID—Indirect Injection Diesel
TB—Throttle Body Fuel Injection S.I. (Spark Ignition)
MP—Multipoint Fuel Injection S.I.
TD—Turbocharged Diesel
TS—Turbocharged S.I.
FFS—Feedback Fuel System
2C—Two-stroke engines
VVT—Variable valve timing
VVLT—Variable valve lift and timing
SOHC—Single overhead camshaft
DOHC—Dual overhead camshafts
CYDA—Cylinder deactivation
IVT—Intake valve throttling
CVA—Camless valve actuation
VCR—Variable compression ratio
LBFB—lean burn-fast burn combustion

4. ''Domestically manufactured'' is used as defined in Section 503(b)(2)(E) of the Act.

5. ''Light truck'' means an automobile of the type described in 49 CFR part 523.5.

6. A ''model'' of light truck is a line, such as the Chevrolet C1500 or Astro, Ford F150 or E150, Jeep Wrangler, etc., which exists within a manufacturer's fleet.

7. ''Model Type'' is used as defined in 40 CFR 600.002–85(a)(19).

8. ''Percent fuel economy improvements'' means that percentage which corresponds to the amount by which respondent could improve the fuel economy of vehicles in a given model or class through the application of a specified technology, averaged over all vehicles of that model or in that class which feasibly could use the technology. Projections of percent fuel economy improvement should be based on the assumption of maximum efforts by respondent to achieve the highest possible fuel economy increase through the application of the technology. The baseline for determination of percent fuel economy improvement is the level of technology and vehicle performance with respect to acceleration and gradeability for respondent's 2001 model year light trucks in the equivalent class.

9. ''Percent production implementation rate'' means that percentage which corresponds to the maximum number of light trucks of a specified class, which could feasibly employ a given type of technology if respondent made maximum efforts to apply the technology by a specified model year.

10. ''Production percentage'' means the percent of respondent's light trucks of a specified model projected to be manufactured in a specified model year.

11. ''Project'' or ''projection'' refers to the best estimates made by respondent, whether or not based on less than certain information.

12. ''Redesign'' means any change, or combination of changes, to a vehicle that would change its weight by 50 pounds or more or change its frontal area or aerodynamic drag coefficient by 2 percent or more.

13. ''Relating to'' means constituting, defining, containing, explaining, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.

14. ''Respondent'' means each manufacturer (including all its divisions) providing answers to the questions set forth in this appendix, and its officers, employees, agents or servants.

15. ''Test Weight'' is used as defined in 40 CFR 86.082–2.

16. ''Transmission class'' is used as defined in 40 CFR 600.002–05(22)(a). When identifying a transmission class, respondent also must indicate whether the type of transmission, and whether it is equipped with a lockup torque converter (LUTC), a split torque converter (STC), and/or a wide gear ratio range (WR) and specify the number of forward gears or whether the transmissions a continuously variable design (CVT). If the transmission is of a hybrid type, that should also be indicated.

17. ''Truckline'' means the name assigned by the Environmental Protection Agency to a different group of vehicles within a make or car division in accordance with that agency's 1994 model year pickup, van (cargo vans and passenger vans are considered separate truck lines), and special purpose vehicle criteria.

18. ''Utility vehicle'' means a form of light truck, either two-wheel drive (4x2) or four-wheel drive (4x4), and is exemplified by a Jeep Wrangler or Cherokee, a Chevrolet Blazer, Ford Explorer, or a Toyota Land Cruiser.

19. The term ''van'' is used as defined in 40 CFR 86.082–2.

20. ''Variants of existing engines'' means versions of an existing basic engine that

differ from that engine in terms of displacement, method of aspiration, induction system or that weigh at least 25 pounds more or less than that engine.

II. Assumptions

All assumptions concerning emission standards, damageability regulations, safety standards, etc., should be listed and described in detail by the respondent.

III. Specifications

1. Identify all light truck models currently offered for sale in MY 2001 whose production you project discontinuing before MY 2005 and identify the last model year in which each will be offered.

2. Identify all basic engines offered by respondent in MY 2001 light trucks which respondent projects it will cease to offer for sale in light trucks before MY 2005, and identify the last model year in which each will be offered.

3. Does the respondent currently project offering for sale for the time period of MY 2005–2010 any new or redesigned light trucks, including vehicles smaller than those now produced? If so, provide the following information for each model (e.g., Chevrolet C1500, Ford F150). Model types that are essentially identical except for their nameplates (e.g., Dodge Caravan/Plymouth Voyager) may be combined into one item. See Table A for a sample format; 4x2 and 4x4 light trucks are different models.

a. Body types to be offered for sale (e.g., regular cab, super cab).

b. Description of basic engines, or power sources (i.e., fuel cell) including optional horsepower and torque ratings, if any; displacement; number and configuration of cylinders; type of fuel injection system; fuel type; number of valves per cylinder, and whether it is 2-cycle or 4-cycle or uses variable valve timing.

c. Transmission type (manual, automatic, number of forward speeds, hybrid, overdrive, etc., as applicable), including gear ratios and final drive, alternative ratios offered, driveline configuration, and special features such as torque converter lockup clutches, electronic controls or CVT design.

d. (i) The range of GVW ratings to be offered for each body type.

(ii) The range of test weights for each body type.

e. All wheelbases.

f. Estimated power absorption unit (PAU) setting, in hp.

g. The range of projected EPA composite fuel economies for each body type in the initial model year of production.

h. Projected introduction date (model year).

i. Projected sales for each model year from the projected year of introduction through MY 2010, expressed both as an absolute number of units sold and as percentage of all light trucks sold by respondent.

j. Projections of:

(i) Existing models replaced by new models.

(ii) Reduced sales of respondent's existing models as a result of the sale of each of the new models.

(iii) New sales not captured from any of the respondent's existing models.

4. Does respondent project introducing any variants of existing basic engines or any new basic engines, other than those mentioned in your response to Question 3, in its light truck fleets in MYs 2005–2010? If so, for each basic engine or variant indicate:

a. The projected year of introduction,

b. Type (e.g., spark ignition, direct injection diesel, 2-cycle, alternative fuel use),

c. Displacement,

d. Type of induction system (e.g., fuel injection with turbocharger, naturally aspirated),

e. Cylinder configuration (e.g., V–8, V–6, I–4),

f. Number of valves per cylinder (e.g., 2, 3, 4, 6),

g. Horsepower and torque ratings,

h. Models in which engines are to be used, giving the introduction model year for each model if different from ''a,'' above. (See Table B for a sample format.)

5. Relative to MY 2001 levels, for MYs 2005–2010, please provide information, by truckline and as an average effect on a manufacturer's entire light truck fleet, on the weight and/or fuel economy impacts of the following standards or equipment:

a. Federal Motor Vehicle Safety Standard (FMVSS 208) Automatic Restraints

b. FMVSS 201 Occupant Protection in Interior Impact

c. Voluntary installation of safety equipment (e.g., antilock brakes)

e. Environmental Protection Agency regulations

f. California Air Resources Board requirements

g. Other applicable motor vehicle regulations affecting fuel economy.

6. For each of the model years 2005–2010, and for each light truck model projected to be manufactured by respondent (if answers differ for the various models), provide the requested information for each of items ''6a'' through ''6o'' listed below:

(i) description of the nature of the technological improvement;

(ii) the percent fuel economy improvement averaged over the model;

(iii) the basis for your answer to 6(ii), (e.g., data from dynamometer tests conducted by respondent, engineering analysis, computer simulation, reports of test by others);

(iv) the percent production implementation rate and the reasons limiting the implementation rate;

(v) a description of the 2001 baseline technologies and the 2001 implementation rate; and

(vi) the reasons for differing answers you provide to items (ii) and (iv) for different models in each model year. Include as a part of your answer to 6(ii) and 6(iv) a tabular presentation, a sample portion of which is shown in Table C.

a. Improved automatic transmissions. Projections of percent fuel economy improvements should include benefits of lock-up or bypassed torque converters, electronic control of shift points and torque converter lock-up, and other measures which should be described.

b. Improved manual transmissions. Projections of percent of fuel economy improvement should include the benefits of increasing mechanical efficiency, using improved transmission lubricants, and other measures (specify).

c. Overdrive transmissions. If not covered in ''a'' or ''b'' above, project the percentage of fuel economy improvement attributable to overdrive transmissions (integral or auxiliary gear boxes), two-speed axles, or other similar devices intended to increase the range of available gear ratios. Describe the devices to be used and the application by model, engine, axle ratio, etc.

d. Use of engine crankcase lubricants of lower viscosity or with additives to improve friction characteristics or accelerate engine break-in, or otherwise improved lubricants to lower engine friction horsepower. When describing the 2001 baseline, specify the viscosity of and any fuel economy-improving additives used in the factory-fill lubricants.

e. Reduction of engine parasitic losses through improvement of engine-driven accessories or accessory drives. Typical engine-driven accessories include water pump, cooling fan, alternator, power steering pump, air conditioning compressor, and vacuum pump.

f. Reduction of tire rolling losses, through changes in inflation pressure, use of materials or constructions with less hysteresis, geometry changes (e.g., increased aspect ratio), reduction in sidewall and tread deflection, and other methods. When describing the 2001 baseline, include a description of the tire types used and the percent usage rate of each type.

g. Reduction in other driveline losses, including losses in the non-powered wheels, the differential assembly, wheel bearings, universal joints, brake drag losses, use of improves lubricants in the differential and wheel bearing, and optimizing suspension geometry (e.g., to minimize tire scrubbing loss).

h. Reduction of aerodynamic drag.

i. Turbocharging or supercharging.

j. Improvements in the efficiency of 4-cycle spark ignition engines including (1) increased compression ratio; (2) leaner air-to-fuel ratio; (3) revised combustion chamber configuration; (4) fuel injection; (5) electronic fuel metering; (6) interactive electronic control of engine operating parameters (spark advance, exhaust gas recirculation, air-to-fuel ratio); (8) variable valve timing or valve lift; (9) multiple valves per cylinder; (10) friction reduction by means such as low tension piston rings and roller cam followers; (11) higher temperature operation; and (12) other methods (specify).

k. Naturally aspirated diesel engines, with direct or indirect fuel injection.

l. Turbocharged or supercharged diesel engines with direct or indirect fuel injection.

m. Stratified-charge reciprocating or rotary engines, with direct or indirect fuel injection.

n. Two cycle spark ignition engines.

o. Use of hybrid drivetrains

p. Use of fuel cells; provide a thorough description of the fuel cell technology employed, including fuel type and power output.

q. Other technologies for improving fuel economy or efficiency.

7. For each model of respondent's light truck fleet projected to be manufactured in

each of MYs 2005–2010, describe the methods used to achieve reductions in average test weight. For each specified model year and model, describe the extent to which each of the following methods for reducing vehicle weight will be used. Separate listings are to be used for 4x2 light trucks and 4x4 light trucks.

a. Substitution of materials.

b. ''Downsizing'' of existing vehicle design to reduce weight while maintaining interior roominess and comfort for passengers, and utility, i.e., the same or approximately the same, payload and cargo volume, using the same basic body configuration and driveline layout as current counterparts.

c. Use of new vehicle body configuration concepts, which provides reduced weight for approximately the same payload and cargo volume.

8. For each model year 2005–2010, list all projected light truck model types and provide the information specified in ''a'' through ''k'' below for each model type.

The information should be in tabular form, with a separate table for each model year. Each grouping is to be subdivided into separate listings for models with 4x2 and 4x4 drive systems. Engines having the same displacement but belonging to different engine families are to be grouped separately.

The vehicles are to be sorted first by truckline, second by basic engine, and third by transmission type. For these groupings, the average test weights are to be placed in ascending order. List the categories in terms ''a'' through ''k'' below in the order specified from left to right across the top of the table. Include in the table for each model year the total sales-weighted harmonic average fuel economy and average test weight for imported and domestic light trucks for each truckline and for all of the respondent's light trucks.

a. Truckline, e.g., C1500, F–150, B–150. Model types that are essentially identical except for their nameplates (e.g., Chevrolet S–10/GMC S–15 and Dodge Caravan/Plymouth Voyager) may be combined into one line item.

b. Light truck vehicle type, e.g., compact pickup, cargo van, passenger van, utility, truck-based station wagon, and chassis cab. Other light truck designations, which are adequately defined, can be used if these are not suitable.

c. Basic engine: Include the engine characteristics used in Definition 3.

d. Transmission class (e.g., A3, L4, A40D, M5, CVT): Include the characteristics used in Definition 16.

e. Average ratio of engine speed to vehicle speed in top gear (N/V), rounded to one decimal place.

f. Average test weight.

g. Average PAU setting: Provide the value and show whether the value (or estimated value) is based on coastdown testing (T) or calculated from the vehicle frontal area (C). Round the PAU value to one decimal Place.

h. Composite fuel economy (Sales weighted, harmonically averaged over the specified vehicles, rounded to the nearest 0.1 mpg).

i. Projected sales for the vehicles described in each line item.

9. For each transmission identified in response to 8(d) above, provide a listing showing whether the transmission is manual or automatic, the gear ratios for the transmission, and the models that will use the transmission.

10. Indicate any MY 2005–2010 light truck model types that have higher average test weights than comparable MY 2001 model types. Describe the reasons for any weight increases (e.g., increased option content, less use of premium materials) and provide supporting justification.

11. For each new or redesigned vehicle identified in response to Question 3 and each new engine or fuel economy improvement identified in your response to Questions 3, 5, and 6, provide your best estimate of the following, in terms of constant 1996 dollars:

(a) Total capital costs required to implement the new/redesigned model or improvement according to the implementation schedules specified in your response. Subdivide the capital costs into tooling, facilities, launch, and engineering costs.

(b) The maximum production capacity, expressed in units of capacity per year, associated with the capital expenditure in (a) above. Specify the number of production shifts on which your response is based and define ''maximum capacity'' as used in your answer.

(c) The actual capacity that is planned to be used each year for each new/redesigned model or fuel economy improvement.

(d) The increase in variable costs per affected unit, based on the production volume specified in (b) above.

(e) The equivalent retail price increase per affected vehicle for each new/redesigned model or improvement. Provide an example describing methodology used to determine the equivalent retail price increase.

12. Please provide respondent's actual and projected U.S. light truck sales, 4x2 and 4x4, 0–8,500 lbs. GVWR and 8501–10,000 lbs., GVWR for each model year from 1996 through 2002, inclusive. Please subdivide the data into the following vehicle categories:

i. Standard Pickup Heavy (e.g., C2500/3500, F–250/350, Ram 2500/3500)

ii. Standard Pickup Light (e.g., C1500, F–150, Ram 1500)

iii. Compact Pickup (e.g., S–10, Ranger, Dakota)

iv. Standard Cargo Vans Heavy (e.g., G3500, E–250/350, B3500)

v. Standard Cargo Vans Light (e.g., G1500/2500, E–150, B1500/2500)

vi. Standard Passenger Vans Heavy (e.g., G3500, E–250/350, B3500)

vii. Standard Passenger Vans Light (e.g., G1500/2500, E–150, B1500/2500)

viii. Compact Cargo Vans (e.g., Astro, Aerostar, Mini Ram Van)

ix. Compact Passenger Vans (e.g., Astro, Villager, Voyager)

x. Standard Utilities (e.g., K1500 Tahoe, Expedition)

xi. Compact Utilities (e.g., Blazer, Explorer, Wrangler, RAV4)

xii. Other (e.g., Suburban)

See Table D for a sample format.

13. Please provide your estimates of projected *total industry* U.S. light (0–10,000 lbs, GVWR) truck sales for each model year from 2005 through 2010, inclusive. Please subdivide the data into 4x2 and 4x4 sales and into the vehicle categories listed in the sample format in Table E.

14. Please provide your company's assumptions for U.S. gasoline and diesel fuel prices during 2005 through 2010.

15. Please provide projected production capacity available for the North American market (at standard production rates) for each of your company's light truckline designations during MYs 2005–2010.

16. Please provide your estimate of production lead time for new models, your expected model life in years, and the number of years over which tooling costs are amortized.

Note: The parenthetical numbers in Tables A through E refer to the items in section III, specifications.

TABLE A—NEW MODELS

[Model: A–1 Standard Pickup; Drivetrain Configuration: 4x2, Front Engine/Rear Drive]

Body type (3a.)	Passenger volume ft3	No. of seating positions	Cargo volume, ft3	Wheelbase, in. (3e.)	PAU setting, hp (3f.)
Regular cab, short bed	50	3	48	115	7.5
Regular cab, long bed	50	3	64	133	7.8
Extended cab, long bed	75	4	64	151	8.2
Crew cab, long bed	100	6	64	170	9.0

Engine options (3b.)	Config./ number of cyl.	Fuel system	HP @ RPM	Torque @ RPM
160 CID, Turbocharged [1]	I–4	MPI	140 @ 4200	90 @ 3400
235 CID	V–6	TBI	150 @ 3800	125 @2800
235 CID, 4-valve [2]	V–6	MPI	180 @ 4500	130 @ 3200
285 CID	V–8	MPI	200 @ 4200	150 @ 3000

[1] Not available with crew cab.
[2] Available with automatic transmission only.

Ratios (3c.)	Transmission type		
	Manual overdrive	Manual creeper	Automatic with electronic controls and TCLU
1st Gear	4.50	6.50	3.20
2nd Gear	3.00	3.60	2.50
3rd Gear	1.75	1.80	1.50
4th Gear	1.00	1.00	1.00
5th Gear	0.80	.....	.....
Reverse Gear	4.70	6.10	3.00
Torque Converter	.....	.....	2.10
Axle	3.54/3.73	3.54/3.73	3.23/3.54

Body type (3a.)	Range of GVWR (3d.(i))	Range of test weights (3d.(ii)	Range of composite fuel economy ratings (3g.)
Regular Cab, Short Bed	6,050–7,000	4,250–4,500	16.0–17.5
Regular Cab, Long Bed	6,100–7,200	4,250–4,500	16.0–17.2
Extended Cab, Long Bed	6,100–7,400	4,500–5,000	15.5–17.0
Crew Cab, Long Bed	6,300–7,800	4,500–5,000	14.5–16.5

Model year	Production (3i)	Share of fleet, % (3i)	Notes (3h, 3j)
2001	36,000	5	Mid-year introduction, North American production
2002	78,000	10	
2004	110,000	13	Extended cab introduced
2005	120,000	14	Facelift

New models

Model year (3j.)	New model designation	Model replaced or augmented	Sales derived from old model	Additional sales anticipated
2002	A–Std Pickup	T–Std Pickup	20,000	10,000
2003	A–Std Pickup	T–Std Pickup	50,000	30,000

TABLE B—NEW ENGINES

New/Redesigned engines

Year of introduction by model (4a./h.)	Type (4b.)	Displacement, L. (4c.)	Induction system (4d.)	Configuration (4e.)	Valves per cylinder (4f.)	Horsepower @rpm (4g.)	Torque, lb-ft @rpm (4g.)
2002—Std Pickups 2004—StdVans	2-cycle, Diesel	4.42	Turbo-charged, Direct injection.	W–9	3	250@4000	190 @ 3500

TABLE C—TECHNOLOGY IMPROVEMENTS

Technological improvement	Percent fuel economy improvement, %	Percent production share				
		2002	2003	2004	2005	2006
(6a) Improved Auto Trans.						
LT–1	7.0	0	0	15	25	55
LT–2	6.5	0	0	0	20	25
LT–3	5.0	0	10	30	60	60
(6b) Improved Manual Trans.						
LV–1	1.0	2	5	5	5	5
U–1	0.7	0	0	0	8	10

TABLE D—ACTUAL AND PROJECTED U.S. SALES (12.)

[Amalgamated Motors 2WD Light Truck Sales Projections]

Model Line	Model Year					
	2001	2002	2003	2004	2005	etc.
0–8,500 lbs.GVWR						
Std Pickup Heavy	43,500					
Std Pickup Light	509,340					
Compact Pickup	120,000					
Std Cargo Van Heavy	60,000					
Std Cargo Van Light	20,000					
Compact Cargo Van	29,310					
Std Passenger Van Heavy	54,196					
Std Passenger Van Light	38,900					
Compact Passenger Van	30,000					
Std Utility	53,800					
Compact Utility	44,000					
Other (Specify)						
8,501–10,000 Lbs.GVWR						
Std Pickup Heavy	5,500					
Std Vans Heavy	4,000					
Other (Specify)						
Total	1,012,546					

TABLE E—TOTAL U.S. TRUCK SALES (13.)

Model type	2001	2002	2003	2004	2005	etc.
1. 2WD Light Trucks						
a. Pickup						
Compact						
Mid-size						
Standard						
b. Cargo Vans						
Compact						
Standard						
c. Passenger Vans						
Compact						
Standard						
d. Utilities						
Compact						
Standard						
Pass. Car Based						
e. Truck Based Station Wagons						
f. Other (Specify)						
2. 4WD Light Trucks [Same Breakout as 2WD]						
3. Total Light Trucks [2WD + 4WD]						

[FR Doc. 02–2874 Filed 2–1–02; 4:15 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1080–A117

Endangered and Threatened Wildlife and Plants; Reopening of the Comment Period and Announcement of a Public Meeting for the Proposed Rule To List the Columbia Basin Pygmy Rabbit as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule; notice of reopening of comment period and announcement of public meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), provide notice of the reopening of the comment period for the proposed rule to list the Columbia Basin distinct population segment of the pygmy rabbit (*Brachylagus idahoensis*) as endangered. The comment period is reopened to accommodate requests by State resource agencies and private interests for additional time to provide input. We have also scheduled a public meeting during the reopened comment period to discuss the information we have available for this proposed action, and to facilitate submission of additional information and comments from all interested parties.

DATES: The original comment period for the proposed rule was scheduled to close January 29, 2002. With this reopening notification, written comments may now be submitted until February 28, 2002. The public meeting will be held from 7 p.m. to 9 p.m. on Tuesday, February 12, 2002.

ADDRESSES: Written comments, data, reports, map products, and other information concerning the proposed rule should be sent by mail or hand-delivered to the Supervisor, U.S. Fish and Wildlife Service, Upper Columbia Fish and Wildlife Office, 11103 East Montgomery Drive, Spokane, Washington 99206. The public meeting will be held in the auditorium of the Douglas County Public Utility District Office, 1151 Valley Mall Parkway, East Wenatchee, Washington 98802. Additional information and written comments may also be hand delivered at the public meetings.

FOR FURTHER INFORMATION CONTACT: Chris Warren at the Upper Columbia Fish and Wildlife Office (address listed above; telephone 509/891–6839; facsimile 509/891–6748).

SUPPLEMENTARY INFORMATION:

Background

Historically, the Columbia Basin pygmy rabbit occurred in dense, shrub steppe habitats in five central Washington counties. Currently, this population segment consists of a single known wild colony, totaling fewer than 25 individuals in Douglas County, Washington, and an additional 17 individuals that are being held in captivity. The Columbia Basin pygmy rabbit is imminently threatened by its extremely small population size and restricted distribution, coupled with the risks from catastrophic environmental events, habitat impacts, disease, predation, and loss of genetic heterogeneity.

Pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), we published an emergency rule to list the Columbia Basin pygmy rabbit as endangered on November 30, 2001 (66 FR 59734). The emergency rule provides immediate Federal protection to this distinct population segment for a period of 240 days. We also published a proposed rule on November 30, 2001, to list the Columbia Basin pygmy rabbit as endangered under our normal listing procedures (66 FR 59769).

For further information regarding background biological information, previous Federal actions, factors affecting the species, and conservation measures available to the Columbia Basin pygmy rabbit, please refer to our emergency and proposed rules published in the **Federal Register** on November 30, 2001.

Public Comments Solicited

With this notification, we solicit additional information and comments that may assist us in making a final decision on the proposed rule to list the Columbia Basin pygmy rabbit as endangered. We intend that any final listing action resulting from our proposal will be as accurate and effective as possible. Therefore, we request comments and additional information from the general public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data regarding any threat (or lack thereof) to the Columbia Basin pygmy rabbit;

(2) Information regarding the range, distribution, and population size of this distinct population segment, including the locations of any additional colonies of the Columbia Basin pygmy rabbit;

(3) Information (*e.g.,* maps, data, unpublished reports) and justification regarding why any habitat should or should not be determined to be critical habitat for the Columbia Basin pygmy rabbit as provided by section 4 of the Act;

(4) Current or planned activities that could potentially impact the Columbia Basin pygmy rabbit.

In making any final decision on the proposed action, we will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from the proposal.

Author

The primary author of this notice is Chris Warren of the Upper Columbia Fish and Wildlife Office (see **ADDRESSES** section).

Authority

The authority of this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 18, 2002.

David J. Wesley,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 02–2924 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622, 635, 640, and 654

[Docket No. 010410086-1086-01; I.D. 020801A]

RIN 0648-AN83

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to the Fishery Management Plans of the Gulf of Mexico

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement the Generic Amendment Addressing the Establishment of the Tortugas Marine

Reserves in the Fishery Management Plans of the Gulf of Mexico (Tortugas Amendment), as prepared by the Gulf of Mexico Fishery Management Council (Gulf of Mexico Council). This action would provide enhanced protections for existing marine reserves in the vicinity of the Dry Tortugas, Florida, and would be taken under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The proposed regulations would complement regulations previously issued by NOAA under the authority of the National Marine Sanctuary Act by better informing the public of applicable restrictions and providing enhanced enforcement authority and stricter penalties for violations. Consistent with NOAA's existing regulations, these regulations prohibit fishing for any species and anchoring by fishing vessels within the reserves. The intended effect is to inform the public of these restrictions and to further protect and conserve important marine resources.

DATES: Written comments must be received on or before March 25, 2002.

ADDRESSES: Written comments on the proposed rule must be sent to Peter Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments may also be sent via fax to 727–570–5583. Comments will not be accepted if submitted via e-mail or the Internet.Requests for copies of the Tortugas Amendment, which includes a regulatory impact review (RIR), an initial regulatory flexibility analysis (IRFA), and a final supplemental environmental impact statement (FSEIS), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619–2266; phone: 813–228–2815; fax: 813–225–7015; e-mail: gulf.council@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, phone: 727–570–5305; fax: 727–570–5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The Dry Tortugas are located approximately 70 miles (112 km) west of Key West, a strategic location for a marine reserve. The Dry Tortugas contain the healthiest coral reefs found in the Florida Keys. Coral pinnacles as high as 40 feet (12 m), with the highest coral cover (over 30 percent) found in the Florida Keys, rise up from the ocean floor. These coral formations are bathed by some of the cleanest waters found in the Florida Keys and occur where the tropical waters of the Caribbean mingle with the more temperate waters of the Gulf of Mexico.

The Tortugas region is important because of its location and the resulting effect of unique oceanographic processes. The Dry Tortugas play a dynamic role in supporting marine ecosystems throughout south Florida and the Florida Keys. Marine organisms that spawn in the Tortugas area produce larvae that are spread throughout the Keys by a persistent system of ocean eddies and currents. As the larval stages of various species range in duration from hours for some coral species, to as much as a year for spiny lobster, these eddies and currents provide the retention time in the water column and current pathways necessary for successful recruitment for numerous species. In addition, the upwelling and convergence of the ocean currents in the Dry Tortugas area act to concentrate food supplies for the larvae of numerous animal species.

The Tortugas region, relative to the rest of the Florida Keys, appears to have a greater population abundance and larger average individual size of many key species (e.g., groupers, snappers, and lobster). However, throughout the Florida Keys, including the Tortugas region, there appears to be an overfishing problem. Furthermore, the coral resources of the Florida Keys are under significant ecological stress resulting from coastal development and fishing activities (e.g., sedimentation and pollution, and fishing gear impacts).

The Florida Keys National Marine Sanctuary (FKNMS) is managed under NOAA's National Ocean Service. FKNMS managers completed a collaborative effort with the State of Florida, the Dry Tortugas National Park (managed by the National Park Service), and NMFS to establish the boundaries for two inter-jurisdictional marine reserves known as Tortugas North ecological reserve and Tortugas South ecological reserve. The Tortugas North ecological reserve encompasses an area of 120 square nautical miles (nm2); the Tortugas Amendment affects a 13 nm2 portion of this reserve located in the EEZ. The Tortugas South ecological reserve encompasses 60 nm2 , totally located in the EEZ; the Tortugas Amendment includes this entire area. The Tortugas South ecological reserve includes the Riley's Hump mutton snapper spawning aggregation site proposed by the Gulf of Mexico Council and approved and implemented by NMFS in 1994.

Based on available literature, these two marine reserves are expected to supply adults and larvae to adjacent areas. Additional expected benefits of the Tortugas marine reserves include the following: Establishment of a refuge and replenishment area to ensure continued abundance and diversity of coral reef resources; protection of critical fish spawning stock biomass and recruits from overfishing; physical protection of the coral reef structures; and ''spillover'' effects wherein organisms, such as fish, move from within to outside the reserve area, thereby providing improved fishing opportunities in the vicinity of the reserve.

The Gulf of Mexico fisheries for coastal migratory pelagics, coral and coral reefs, red drum, reef fish, shrimp, spiny lobster, and stone crab are managed under fishery management plans (FMPs) prepared by the Gulf of Mexico Council and approved and implemented by NMFS. These FMPs were prepared by the Gulf of Mexico Council, except for the FMPs for coastal migratory pelagics and spiny lobster, which were prepared jointly by the Gulf of Mexico Council and the South Atlantic Fishery Management Council (South Atlantic Council).

The Tortugas Amendment implemented by this rule amends the following FMPs to provide additional protections in the portion of the Tortugas North ecological reserve that falls within the Gulf of Mexico exclusive economic zone (EEZ) and in the Tortugas South ecological reserve, which resides entirely within the EEZ: Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico; Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico; Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico; Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico; Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico; Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; and Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic. All of these FMPs, except the FMPs for spiny lobster and stone crab, are implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. The FMP for spiny lobster is implemented by regulations at 50 CFR part 640; the FMP for stone crab is implemented by regulations at 50 CFR part 654.

The approved measures of the Tortugas Amendment prohibit fishing for any species, other than Atlantic highly migratory species (Atlantic HMS), within these marine reserves. Additionally, the amendment also prohibits anchoring by all fishing

vessels within the marine reserves. These fishing and anchoring prohibitions are intended to achieve the maximum benefits (see discussion above) from the two marine reserves over their initially anticipated duration of 10 years.

Under the Magnuson-Stevens Act, NMFS, acting on behalf of the Secretary of Commerce, has full management responsibility for Atlantic highly migratory species (HMS). In its Tortugas Amendment, the Gulf of Mexico Council proposed that its fishing and anchoring prohibitions within the reserves apply to Atlantic HMS for several reasons, including significant enforcement considerations as well as the overall biological benefits to the marine reserve ecosystem. The U.S. Coast Guard and NMFS advised the Council that unless fishing for all species and anchoring of all fishing vessels were prohibited within the Tortugas Reserves, there was no way to enforce adequately such prohibitions for just those species managed under the Gulf of Mexico Council's FMPs. Regarding the biological benefits of protecting Atlantic HMS species within the reserves, the region serves as a spawning ground for a variety of Atlantic HMS, including bluefin tuna. The Tortugas region has also been identified under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks as constituting a portion of the essential fish habitat for several tuna species and a variety of shark species. NMFS will consider the comments received on the Tortugas Amendment and on this proposed rule, which contains proposed regulatory language regarding the fishing and anchoring prohibitions as applied to Atlantic HMS. NMFS may adopt fishing and anchoring prohibitions with respect to Atlantic HMS, within the two Reserves.

The Tortugas Amendment protects the marine reserves for a period of at least 10 years, during which period the ecological benefits of the reserves will be evaluated. The prohibition on fishing and anchoring of fishing vessels should minimize human disturbances in the Tortugas reserves and help to restore and maintain their ecological integrity, including a full assemblage of fish, coral, and other benthic invertebrates. The reserves will also create a reference or baseline area for studying human impacts on coral reef ecosystems.

After NMFS published a notice of availability of the Gulf of Mexico Council's Tortugas Amendment for public comment in the **Federal Register** on March 7, 2001 (66 FR 13692). On June 6, 2001, NMFS approved those Tortugas Amendment management measures that amend the following FMPs: Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico; Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico; Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico; Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico; and Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. However, the Tortugas Amendment's proposed measures that would amend the two FMPs prepared jointly (joint FMPs) by the Gulf of Mexico Council and the South Atlantic Council (namely, the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic and the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic) had not yet been adopted by the South Atlantic Council. Therefore, those measures were not eligible for Secretarial review and approval under the Magnuson-Stevens Act at the time the Gulf of Mexico Council submitted its Tortugas amendment to NMFS.

At its meeting of June 18-23, 2001, the South Atlantic Council adopted the measures that would amend the two joint FMPs. Based on this action, NMFS determined that these measures had been properly submitted by the Gulf of Mexico Council and South Atlantic Council and could be reviewed and, if approved, implemented. Accordingly, on July 19, 2001, NMFS published a notice of availability of these amendment measures for public comment through September 17, 2001 (66 FR 37635). On October 16, 2001, NMFS approved the measures amending the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic and the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic.

This proposed rule includes all Tortugas Amendment measures that NMFS approved on June 6, 2001, and October 16, 2001. All comments received by NMFS on the Tortugas Amendment, under both current and previous Secretarial review periods, or on this proposed rule during its comment period will be summarized and addressed in the preamble of the final rule issued to implement the amendment's approved measures.

Classification

NMFS has determined that the Tortugas Amendment is consistent with the national standards of the Magnuson-Stevens Act and other applicable law.

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

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, as follows:

The proposed rule would enhance protections for two existing marine reserves in the vicinity of the Dry Tortugas, Florida, under the authority of the Magnuson-Stevens Fishery Conservation Management Act, complementing regulations already established under the authority of the National Marine Sanctuary Act (NMSA).

The regulations proposed by the Florida Keys National Marine Sanctuary (FKNMS) and published in the **Federal Register** on May 18, 2000 (65 FR 31634) were made effective on March 8, 2001 (66 FR 16120). Those regulations currently prohibit all commercial and recreational fishing as well as anchoring of all vessels (including fishing vessels) within the area of the reserves affected by this action.

While the FKNMS regulations currently prohibit all commercial and recreational fishing, which results in the protection and conservation of important marine resources, there are additional benefits from implementing complementary regulations under the Magnuson-Stevens Act via this proposed rule. The Magnuson-Stevens Act is the primary source of authority for regulating Federal fisheries. Public awareness, particularly of commercial and recreational fishermen that utilize the affected areas, would likely be increased through the adoption of this proposed action. Increased enforcement and stricter penalties for violations would be available under the authority of the Magnuson-Stevens Act.

The Council initially prepared an IRFA, prior to effectiveness of NOAA's NMSA regulations. However, since the preparation of this IRFA, the NOAA's NMSA regulations became effective, rendering the basis for and conclusions of the IRFA moot. Nevertheless, the following summary of the initial IRFA is included to provide historical context on the use of the Tortugas area by commercial entities:

This proposed rule is being considered because several fish species within the Gulf of Mexico are overfished and because there is a need to protect coral and coral reef habitats. The Magnuson-Stevens Act requires the Council to take action to prevent overfishing and to protect essential fish habitat (EFH). The establishment of two marine reserves in the vicinity of the Dry Tortugas contributes to these objectives. Although the Tortugas North and Tortugas South marine ecological reserves are being established under the initiative of the FKNMS, about 48 percent of the proposed marine reserve area is within the Council's jurisdiction. The IRFA indicates that up to 12 for-hire vessels, mainly dive boats, would be affected by the proposed action. In addition, about 164 commercial vessels, mainly shrimp

and reef fish vessels, would be directly affected by the proposed rule. About 11 percent of the annual for-hire revenues of $1.4 million and about 12 percent of the annual commercial revenues of $6.9 million could be negatively affected by the establishment of the marine reserves. No additional reporting, recordkeeping or other compliance costs were identified, and no duplicative, overlapping, or conflicting Federal rules were identified. Note that the findings of the original IRFA are no longer applicable because of the implementation of the FKNMS regulations.

The determination of significant economic impact can be ascertained by examining two criteria, disproportionality and profitability. The disproportionality question is: do the regulations place a substantial number of small entities at a significant competitive disadvantage compared to large entities? All entities affected by this proposed rule are classified as small entities. Thus, the issue of disproportionality is irrelevant in the present case.

The profitability question is: do the regulations significantly reduce profit for a substantial number of small entities? As fishing businesses engaged in the Tortugas area have already been displaced by regulations implemented by the FKNMS, these entities will not experience any significant or adverse economic impacts as a result of this rule.

Accordingly, an initial regulatory flexibility analysis was not required for this proposed rule. However, copies of the RIR and original IRFA are available (see **ADDRESSES**).

The Council prepared a final supplemental environmental impact statement (FSEIS) for the FMP that was filed with the Environmental Protection Agency for public review and comment. A notice of its availability for public comment for 30 days was published in the **Federal Register** on March 16, 2001 (66 FR 15241). According to the FSEIS, the elimination of consumptive uses within the marine reserves will protect EFH from fishery-related impacts and eliminate fishing mortality. Establishment of the marine reserves may result in many benefits to the ecosystem, including increased size and abundance of marine species. This may potentially improve reproductive success which could enhance recruitment to other areas of the Gulf of Mexico and the Florida Keys. The FSEIS states that although commercial and recreational fishermen could experience increased costs because of further restrictions on their activities within the marine reserves, they and non-consumptive users are expected to realize long-term benefits resulting from the maintenance of healthy and diverse marine ecosystems. It is noted that following NMFS' publication in the **Federal Register** of the notice of availability of the Tortugas Amendment for public comment, the FKNMS regulations became effective, thereby prohibiting all commercial and recreational fishing in the marine reserve areas. Accordingly, this proposed rule should not impact commercial and recreational fishermen in terms of a new prohibition on fishing and anchoring in the reserves.

List of Subjects

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

50 CFR Part 640

Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

50 CFR Part 654

Fisheries, Fishing.

Dated: February 1, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 622, 635, 640, and 654 are proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.34, paragraph (d) is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(d) *Tortugas marine reserves.* The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(1) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(2) *Tortugas South.* The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

* * * * *

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

3. The authority citation for part 635 continues to read as follows:

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

4. In § 635.21, paragraph (a)(3) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

(a) * * *

(3) No person may fish for, catch, possess or retain any Atlantic highly migratory species or anchor a fishing vessel in the areas designated at § 622.34(d) of this chapter.

* * * * *

5. In § 635.71, paragraph (a)(35) is added to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(35) Deploy or fish with any fishing gear from a vessel or anchor a fishing vessel in any closed area as specified at § 635.21.

* * * * *

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

6. The authority citation for part 640 continues to read as follows:

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

7. In § 640.7, paragraph (v) is added to read as follows:

§ 640.7 Prohibitions.

* * * * *

(v) Fish for any species or anchor a fishing vessel in a marine reserve as specified in § 640.26.

8. Section 640.26 is added to subpart B to read as follows:

§ 640.26 Tortugas marine reserves.

The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(a) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines

connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(b) *Tortugas South.* The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

PART 654—STONE CRAB FISHERY OF THE GULF OF MEXICO

9. The authority citation for part 654 continues to read as follows:

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

10. In § 654.7, paragraph (o) is added to read as follows:

§ 654.7 Prohibitions.

* * * * *

(o) Fish for any species or anchor a fishing vessel in a marine reserve as specified in § 654.28.

11. Section 654.28 is added to subpart B to read as follows:

§ 654.28 Tortugas marine reserves.

The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(a) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines connecting the following points: From point A at 24°40′00″ N. lat., 83°06′00″ W. long. to point B at 24°46′00″ N. lat., 83°06′00″ W. long. to point C at 24°46′00″ N. lat., 83°00′00″ W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40′00″ N. lat., 83°06′00″ W. long.

(b) *Tortugas South.* The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33′00″	83°09′00″
B	24°33′00″	83°05′00″
C	24°18′00″	83°05′00″
D	24°18′00″	83°09′00″
A	24°33′00″	83°09′00″

[FR Doc. 02–2997 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 26
Thursday, February 7, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet on February 18, 2002, in Yreka, California. The purpose of the meeting is organizational and will serve as an orientation to RAC committee members regarding the Secure Rural School and Community Self-Determination Act of 2000. Members will also critic the February 15, 2002 Public Proposal Workshop and the results of the first public outreach.

DATES: The meeting will be held February 18, 2002 from 3 p.m. to 6 p.m.

ADDRESSES: The meeting will be held at the Miners Inn and Convention Center, 122 E. Miner Street, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Heidi Perry, Meeting Coordinator, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097, (530) 841–4468; e-mail *hperry@fs.fed.us*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Roles and Responsibilities for Advisory Committees; (2) Critic Public Proposal Workshop; (3) Project Submittal Process; (4) Project Timelines and (5) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: January 29, 2002.

Edward L. Matthews,

Acting Forest Supervisor.

[FR Doc. 02–2923 Filed 2–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will meet Wednesday, February 20, 2002 in Boise, Idaho for a business meeting. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Randy Swick, McCall District Ranger and Designated Federal Officer, at (208) 634–0400.

SUPPLEMENTARY INFORMATION: The business meeting on February 20, begins at 10:30 AM, at the Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho. Agenda topics will include development and approval of form for submitting project proposals, development of procedures for soliciting project proposals, a guest speaker, and an open public forum.

Dated: January 30, 2002.

David F. Alexander,

Forest Supervisor.

[FR Doc. 02–2969 Filed 2–6–02; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa 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 of the Iowa Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 12 p.m. on February 27, 2002, at the Marriott, 700 Grand Avenue, Des Moines, Iowa 50309. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). 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, February 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–2891 Filed 2–6–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Mississippi 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 of the Mississippi Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on February 28, 2002, at the Crowne Plaza, 200 East Amite Street, Jackson, Mississippi 39201. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). 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, February 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–2892 Filed 2–6–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–803]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Extruded Rubber Thread From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and partial rescission of antidumping administrative review.

SUMMARY: In response to a request by the petitioner and one producer/exporter of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on extruded rubber thread (rubber thread) from Indonesia for the period May 1, 2000 through April 30, 2001 (hereafter referred as the period of review).

We preliminary determine that during the period of review (POR), P.T. Swasthi Parama Mulya (Swasthi) did not make sales of the subject merchandise at less than normal value. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service to liquidate entries of subject merchandise by these companies without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this proceeding should also submit with them: (1) A statement of the issues; (2) a brief summary of their comments; and (3) a table of authorities. Further, parties submitting written comments, should provide the Department with an additional electronic copy of the public version of any such comments on a 3.5″ floppy diskette.

EFFECTIVE DATE: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Lyman Armstrong, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3965 or (202) 482–3601, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department regulations refer to the regulations codified at 19 CFR part 351 (2001).

Case History

On May 21, 1999, the Department published in the **Federal Register** the antidumping duty order on rubber thread from Indonesia (64 FR 27755). On May 1, 2001, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order, for the period May 1, 2000, through April 30, 2001 (66 FR 21740).

On May 31, 2001, we received a request to review the antidumping duty order with respect to Swasthi from North American Rubber Thread, the petitioner in this case, in accordance with 19 CFR 351.213(b)(1). On May 31, 2001, we also received a request to review the antidumping order from Filati Lastex Sdn. Bhd. (Filati), an exporter/producer of rubber thread, in accordance with 19 CFR 351.213(b)(2). On June 19, 2001, we published the notice of initiation of this antidumping duty administrative review of Filati and Swasthi covering the period May 1, 2000, through April 30, 2001. *See Notice of Initiation,* 66 FR 32934 (June 19, 2001).

On July 23, 2001, we sent the antidumping duty questionnaires to Filati and Swashti.

On August 17, 2001, Filati withdrew its request for review. Thus, we are rescinding the review of Filati, because Filati withdrew its request and there were no additional requests for a review of Filati from any other interested party. *See* the *Partial Rescission* section below.

For Swasthi, the Department disregarded sales that failed the cost test during the most recently completed segment of the proceeding in which Swasthi participated. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Extruded Rubber Thread From Indonesia,* 64 FR 27755 (May 21, 1999). Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that Swasthi sales of the foreign like product were made at prices below the cost of production (COP). Therefore, we initiated a cost investigation at the time we initiated an antidumping review.

Swasthi submitted its section A through D questionnaire response on September 21, 2001.

The Department issued a supplemental section A through D questionnaire to Swasthi on November 9, 2001. Swasthi submitted its response to our supplemental questionnaire on December 11, 2001. The Department issued a second supplemental section A through D questionnaire to Swasthi on December 27, 2001. We received Swasthi's response to our second supplemental questionnaire on January 14, 2002.

Partial Rescission of Antidumping Duty Administrative Review

On August 17, 2001, Filati withdrew its request for a review. Because there were no other request for review for Filati, and because Filati's letter withdrawing its request was timely filed, we are rescinding the review with respect to Filati in accordance with 19 CFR 351.213(d)(1).

Scope of Review

For purposes of this review, the product covered is extruded rubber thread (ERT) from Indonesia. ERT is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inches or 140 gauge, to 1.42 mm, which 0.056 inch or 18 gauge, in diameter.

ERT is currently classified under subheading 4007.00.00 of the *Harmonized Tariff Schedule* (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

Comparisons to Normal Value

To determine whether sales of extruded rubber thread from Indonesia to the United States were made at less than normal value (NV), we compared the export price (EP) to (EP) to the NV for Swasthi, as specified in the *Export Price* and *Normal Value* sections of this notice, below.

When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the *Scope of Review* section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 771(16) of the Act, the Department first attempted to match contemporaneous sales of products sold in the U.S. and the home market that were identical with respect to the following characteristics: (1) Size; (2) finish; (3) color; (4) special qualities (5) uniformity; (6) elongation; (7) tensile strength; and (8) modulus. Where there were no sales of identical merchandise

in the home market made in the ordinary course of trade (*i.e.*, sales within the contemporaneous window which passed the cost test), we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, or constructed value (CV), as appropriate.

Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act because the merchandise was sold by the producer or exporter outside the United States to the first unaffiliated purchaser in the United States prior to importation and constructed export price was not otherwise warranted based on the facts on the record. We based EP on the packed delivered prices to the first unaffiliated customer in the United States. Where appropriate, we reduced these prices to reflect discounts and rebates. We also added interest revenue.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, insurance, foreign brokerage handling and fumigation charges, and international freight.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act, because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for the producer.

B. Cost of Production Analysis

1. Calculation of Cost of Production

Before making any comparisons to NV, we conducted a COP analysis, pursuant to section 733(b) of the Act, to determine whether the respondent's home market sales were made below the COP. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A), and packing, in accordance with section 773(b)(3) of the Act. We relied on the respondent's information as submitted. *See* Swasthi's Preliminary Calculation Memorandum (January 31, 2002) on file in the Central Records Unit (CRU), for a description of any changes that we made.

2. Test of Comparison Market Prices

As required under section 773(b) of the Act, for Swasthi, we compared the weighted-average COP to the weighted-average per unit price of the home market sales of the foreign like product, to determine whether their respective sales had been made at prices below the COP within an extended period of time in substantial quantities. For Swasthi, we determined the net home market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of Swasthi's sales of a given product during the twelve-month period were at prices less than the COP, in accordance with section 773(b)(2)(B) and (C) of the Act, we determined such sales to have been made in ''substantial quantities'' within an extended period of time. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, for Swasthi we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1)(B) of the Act.

C. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to home market customers. We made deductions from the starting price for inland freight and inland insurance. In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted home market packaging costs and added U.S. packing costs.

When comparing U.S. sales with home market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Pursuant to section 351.411 of the Department's regulations, we based this adjustment on the difference in the variable cost of manufacturing (VCOM) for the foreign like product and subject merchandise, using twelve-month average costs for each month of the twelve-month period, as described in the *Cost of Production Analysis* section above.

D. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the home market at the same level of trade (LOT) as the U.S. EP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to home market sales at a different LOT.

Pursuant to section 351.412 of the Department's regulations, to determine whether home market sales were at a different LOT, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the affiliated (or arm's length) customers. If the home market sales were at a different LOT and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home market sales at the LOT of the export transaction, we made a LOT adjustment under section 773(a)(7)(A) of the Act.

For Swasthi, there was only one home market LOT and one U.S. EP level of trade. The U.S. LOT differed from the home market LOT; however because there was only one LOT in the home market, we could not determine that there was a pattern of price differences between sales at different LOTs in the home market. *See* section 773(a)(7)(A)(ii) of the Act. Consequently, we have granted no LOT adjustment.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, *see* Swasthi's January 31, 2002, Preliminary Calculation Memorandum on file in the CRU.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773(A) of the Act.

Preliminary Results of Review

As a result of our review, we preliminary determine that the following percentage weighted-average

margin exists for the period May 1, 2000 through April 30, 2001:

Manufacturer/exporter	Margin (percent)
Swasthi	0.00

The Department will disclose the calculations performed within five days of the date of publication of this notice to the parties to this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief of summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessments Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent) the Department will issue appraisement instructions directly to the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise reported by Swasthi. 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

To calculate the cash deposit rate for Swasthi, we divided the total dumping margins for Swasthi by the total net value of Swasthi's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of ERT from Indonesia entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company listed above will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 24.00 percent, the ''All Others'' rate established in the LTFV investigation. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Extruded Rubber Thread From Indonesia,* 64 FR 27755 (May 21, 1999).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary 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 double antidumping duties.

The administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–2990 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–855]

Certain Non–Frozen Apple Juice Concentrate From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the First Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the first administrative review of the antidumping duty order on certain non–frozen apple juice concentrate from the People's Republic of China. The period of review is from November 23, 1999 through May 31, 2001. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Rounds Agreement Act.

DATES: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Andrew Covington, Office of AD/CVD Enforcement I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone numbers: (202) 482–3464 or (202) 482–3534, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statutes and Regulations

Unless otherwise indicated, all citations to the statute are references to 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, and all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (2001).

Statutory Time Limits

Section 751(a)(3)(A) of the Act requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final

determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On July 23, 2001, the Department published the notice of initiation of the antidumping administrative review on certain non–frozen apple juice concentrate from the People's Republic of China (PRC) covering the period from November 23, 1999 through May 31, 2001. (See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 38252 (July 23, 2001)). The preliminary results are currently due no later than March 2, 2002.

Extension of Time Limits for Preliminary Results

Due to the number of companies and complexity of the issues, including the gathering of the surrogate value information, it is not practicable to issue the preliminary results within the originally anticipated time limit (i.e., March 2, 2002). Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the completion of preliminary results in this case 60 days, (i.e., no later than May 1, 2002).

This notice is published pursuant to sections 751(a)(1) and 777(i)(1) of the Act.

February 1, 2002.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 02–2992 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–830]

Stainless Steel Plate in Coils From Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: February 7, 2002.

ACTION: Notice of the Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review.

SUMMARY: On June 19, 2001, the Department of Commerce (''Department'') published a notice of initiation of an antidumping duty administrative review on stainless steel plate in coils from Taiwan. This review covers two manufacturers/exporters of the subject merchandise, Yieh United Steel Corporation (''YUSCO''), a Taiwan producer and exporter of subject merchandise, and Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen''), a Taiwan exporter of subject merchandise. The period of review (''POR'') is May 1, 2000 through April 30, 2001.

For the reasons provided in the ''Facts Available'' section of this notice, we have preliminarily determined that YUSCO's antidumping rate be based on total adverse facts available due to YUSCO's failure to participate in this proceeding. Therefore, for YUSCO, we applied the highest margin rate determined in prior segments of this proceeding. We are preliminarily rescinding this review with respect to Ta Chen based on record evidence supporting the conclusion that there were no entries into the United States of subject merchandise during the POR. (For a discussion of the preliminary rescission as to Ta Chen, see ''Preliminary Rescission of Review in Part'' section of this notice.)

FOR FURTHER INFORMATION CONTACT: Doreen Chen or James C. Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–0193 (Chen) or 202–482–0159 (Doyle), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On May 21, 1999, the Department of Commerce (''Department'') published the antidumping duty order on stainless steel plate in coils from Taiwan. See Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan, 64 FR 27756 (May 21, 1999). On August 1, 2001, the Department published a notice of opportunity to request an administrative review of this order for the period May 1, 2000 through April 30, 2001. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 66 FR 39729 (August 1, 2001). Petitioners Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., North American Stainless, United Steelworkers of America, AFL–CIO/CLC, and Zanesville Armco Independent Organization (collectively ''petitioners'') timely requested that the Department conduct an administrative review of sales by YUSCO, a Taiwan producer and exporter of subject merchandise, and Ta Chen, a Taiwan exporter of subject merchandise. On June 19, 2001, in accordance with section 751(a) of the Act, the Department published in the Federal Register a notice of initiation of this antidumping duty administrative review of sales by YUSCO and Ta Chen for the period May 1, 2000 through April 30, 2001. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part, 66 FR 32934 (July 19, 2001). On July 10, 2001, the Department issued its antidumping duty questionnaire to YUSCO and Ta Chen. On August 2, 2001, Ta Chen stated that it did not have any U.S. sales, shipments or entries of subject merchandise during the POR, and requested that it not be required to answer the Department's questionnaire. YUSCO did not respond to the Department's antidumping questionnaire.

Scope of the Review

For purposes of this review, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat–rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold–rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this review are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition,

certain cold–rolled stainless steel plate in coils is also excluded from the scope of these orders. The excluded cold–rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold–reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process. The merchandise subject to this review is currently classifiable in the HTS at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.0070, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Review

The POR is May 1, 2000 through April 30, 2001.

Preliminary Rescission of Review in Part

The Department preliminarily finds that Ta Chen had no entries during the POR. Thus, the Department is preliminarily rescinding this review.

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. The Department explained this practice in the preamble to the Department's regulations. See Antidumping Duties; Countervailing Duties; 62 FR 27314, 27314 (May 19, 1997); (''Preamble''):

Because of the respondent's inability to tie entries to sales, the Department normally must base its review on sales made during the period of review. Where a respondent can tie its entries to its sales, we potentially can trace each entry of subject merchandise to unaffiliated customers, and we conduct the review on that basis. However, the determination of whether to review sales of merchandise entered during the period of review hinges on such case–specific factors ....[including] whether a respondent has been able to link sales and entries previously for prior review periods and whether it appears likely that the respondent will continue to be able to link sales and entries in future reviews.

This is the second administrative review of Ta Chen under this order. In the first administrative review, Ta Chen certified that of the POR resales, none of the merchandise entered the U.S. after the commencement of the POR – in other words, after the initial suspension of liquidation during the investigation. The Department has previously determined that ''(s)ales of merchandise that can be demonstrably linked with entries prior to the suspension of liquidation are not subject merchandise and therefore are not subject to review by the Department.'' See Certain Stainless Wire Rod From France: Final Results of Antidumping Duty Administrative Review, 61 FR 47874, 47875 (September 11, 1996); Preamble at 271314. The Department conducted a Customs inquiry and determined in the first administrative review to its satisfaction on the record that there were no entries of subject merchandise during the POR. See Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review, 66 FR 18610, 18612 (April 10, 2001). The Department, therefore, rescinded the review.

In this review, Ta Chen has certified that of POR resales from its U.S. affiliate Ta Chen International's (TCI) U.S. warehouse inventory, all merchandise entered before the POR. The Department therefore conducted a Customs inquiry and confirmed, to its satisfaction, that there were no entries of subject merchandise during the POR. Because there were no entries during this POR, nor the last POR, we are satisfied that Ta Chen has successfully linked its POR resales to entries that not only precede the POR, but also precede the suspension of liquidation.

Therefore, pursuant to 19 CFR 351.213(d)(3), the Department is preliminarily rescinding this review because we find that there were no entries of subject merchandise during the POR.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form requested, significantly impedes a proceeding under the antidumping statute, or provides information that cannot be verified, the Department shall use facts available in reaching the applicable determination. In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. See The Statement of Administrative Action to the URAA, H. Doc. 103–316 (1994) at 870 (''SAA'').

We preliminarily find, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for YUSCO. We confirmed that YUSCO received, but failed to respond to, the Department's questionnaire. Since YUSCO has failed to provide any information for our review on the record, the use of facts available is appropriate. Therefore, in accordance with section 776(a)(2) of the Act, we preliminarily determine that the use of total facts available is appropriate.

As noted above, in selecting facts otherwise available, pursuant to section 776(b) of the Act, the Department may use an adverse inference if the Department finds that an interested party, such as YUSCO in this case, failed to cooperate by not acting to the best of its ability to comply with requests for information. Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b)(3) of the Act, as adverse facts available we have applied a margin based on the highest margin from this or any prior segment of the proceeding. See Certain Cased Pencils From the People's Republic of China; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 67 FR 2402, 2407 (January 17, 2002). In this case, the highest margin from any segment of the proceeding is 8.02 percent, the petition rate in the less–than–fair–value (LTFV) investigation.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is described in the SAA as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' SAA at 870. The SAA further provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. Thus, to corroborate secondary information, to the extent practicable, the Department

will examine the reliability and relevance of the information used. In the investigation, the Department determined that the petition margin was fully corroborated by examining the key elements of the U.S. price and normal value calculations on which the petition margin was based and then comparing the sources used in the petition to YUSCO's reported sales databases. Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Taiwan, 64 FR 15493, 15497 (March 31, 1999). This petition rate was applied to YUSCO in the investigation. For purposes of this administrative review, we have reviewed the petition, information and the administrative record, and found no reason to believe that the reliability of this information should be called into question. Further, the Department finds the administrative record of this review does not contain information which indicates that the application of the petition rate would be inappropriate in the instant review. Therefore, we find that the petition rate is sufficiently reliable and relevant to YUSCO for the present review.

Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin for use as adverse facts available because the margin was based on another company's uncharacteristic business expense, resulting in an unusually high margin). In this review, we are not aware of any circumstances that would render the use of the margin selected for YUSCO as inappropriate.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margin exists for the period May 1, 2000 through April 30, 2001:

Manufacturer/Exporter	Margin(percent)
YUSCO	8.02

Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

Assessment Rate

In the event these preliminary results are made final, we intend to assess antidumping duties on YUSCO's entries at the same rate as the dumping margin (i.e., 8.02 percent) since the margin is not a current calculated rate for the respondent, but a rate based upon total facts available pursuant to section 776(a) of the Act.

Cash Deposit

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly tot he Customs Service. Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for YUSCO will be the rate established in the final results of this administrative review (no deposit will be required for a zero or de minimis margin, i.e., a margin lower than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company–specific rate published for the most recent segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be the ''all other'' rate established in the LTFV investigation, which was 7.39 percent. See Notice of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Taiwan, 64 FR 15493 (March 31, 1999). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 double antidumping duties.

This administrative review and notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

January 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–2989 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Notice of Extension of Time Limit for 2000–2001 Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the fourteenth review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China. The period of review is June 1, 2000 through May 31, 2001. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

DATES: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Melani Miller or Andrew Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–0116 or (202) 482–1276, respectively.

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, and all citations to the regulations are to 19 CFR Part 351 (2001).

Statutory Time Limits

Section 751(a)(3)(A) of the Act requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On July 23, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished (''TRBs'') from the People's Republic of China, covering the period June 1, 2000, through May 31, 2001 (65 FR 38252). The preliminary results for the antidumping duty administrative review of TRBs from the People's Republic of China are currently due no later than March 4, 2002.

Extension of Time Limits for Preliminary Results

Due to the number of companies and complexity of the issues, it is not practicable to complete this review within the originally anticipated time limit (i.e., March 4, 2002). See Memorandum from Team to Richard W. Moreland, ''Extension of Time Limit for Preliminary Results,'' dated, February 1, 2001. Therefore, the Department of Commerce is extending the time limit for completion of the preliminary results to not later than June 30, 2002, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

February 1, 2002.

Richard W. Moreland,

Deputy Assistant Secretaryfor AD/CVD Enforcement.

[FR Doc. 02–2991 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010302E]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Hazard Investigations in Washington State

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S. Geological Survey (USGS) for an authorization to take small numbers of marine mammals by harassment incidental to collecting marine seismic reflection data to investigate the earthquake hazard in the Straits of Georgia region of Washington State. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the USGS to incidentally take, by harassment, small numbers of marine mammals in the above mentioned area during April and late May, 2002.

DATES: Comments and information must be received no later than March 11, 2002.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, which includes a list of references used in this document, and an Environmental Assessment (EA) may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, or Brent Norberg, Northwest Regional Office, NMFS, (206) 526–6733.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines ''harassment'' as:

> * * * any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

In April and May, 2002, the USGS, in cooperation with the Geological Survey of Canada and the University of Victoria, will collect marine seismic reflection data to investigate the earthquake hazards in the Straits of Georgia. For approximately 2 to 4 days this research will be in U.S. waters and about 17 to 19 days will be in Canadian waters. Geological features around the Straits of Georgia that might produce earthquakes lie obscured beneath water, urban areas, forest, and thick glacial deposits. As a result, investigators must use sound waves that are produced by either single airguns or more usually an array of airguns to indirectly view these features. Because seismic noise from the proposed survey's airguns could potentially affect marine mammals due to disturbance by sound (i.e., acoustic

harassment), an incidental harassment authorization (IHA) under the MMPA is warranted.

Throughout western Washington state and southwest British Columbia (BC), geological faults that might produce earthquakes lie hidden beneath the dense forest and the waters of Puget Sound and the Strait of Georgia. Although some faults are known from limited exposures on land and from marine seismic surveys, such as the Lummi Island and Outer Islands faults (see Figure 1 in the USGS application), more may have eluded detection in this little-studied area. Furthermore, the amount of recent (<50,000 years) motion on these faults, if any, is unknown. Estimating the frequency and sizes of earthquakes on both the known and unknown faults is crucial to understanding the earthquake risk to the cities of Bellingham and Anacortes, WA to Vancouver and Victoria, BC and to the more rural parts of the region. For more detailed information on the geological faults in this area, please refer to the USGS application.

Seismic reflection data will be collected during the period of April and May by the Canadian research vessel *J. P. Tully*. Seismic profiling will be done by towing a 600-m (1,968.5-ft) long hydrophone streamer for sensing and recording pressure changes from the airgun echos. The streamer will be towed at a depth of 5 m (16.4 ft). Near the forward end of the streamer, an airgun will be towed about 10 m (32.8 ft) behind the ship at a depth of about 5 m (16.4 ft). The hydrophone streamer, which is connected to a computer recording system, will record echos coming from the strata beneath the sea bottom. These recordings will be computer-processed to create an image of the subsurface strata, including any faults that are crossed during the profiling. The seismic operation will operate 24 hours/day while in U.S. waters and will be traveling at a speed of 6 to 8 knots (6.9 to 9.2 miles/hr; 11.1 to 14.8 km/hr).

The sound source will be either a single, 120 inch^3 airgun or, more likely, a small array of airguns consisting of two 40-in^3 and two 20-in^3 guns being fired within several milliseconds ($^1/_{1000}$ second) of each other. The source will be chosen after tests at the beginning of the cruise. Either way, this sound source, as measured by the volume of the chamber, is only 2 percent of the size of the airgun array used in the USGS survey conducted in 1998 in Puget Sound (see 63 FR 2213, January 14, 1998). Both of the USGS' potential sources will produce similar levels of sound pressure, which is estimated to be about 225 dB. An array of small airguns increases the frequency of the sound over that from a single gun, and an array better directs the sound downward. This array has been used previously in the inland waters of Canada (Reidel *et al.,* 1999), and the characteristics of this sound source have been measured (see Figure 3 in the USGS application).

The airgun does not emit a prolonged sound source; rather, it emits an impulsive noise burst (<10 milliseconds) with a peak-to-peak (P-P) sound pressure level (SPL) estimated to be 220 to 230 dB. The USGS' best estimate is that the source will have an SPL of about 225 dB. This compares to an estimated 240 dB SPL for the 6730 inch^3 airgun array used in the 1998 Puget Sound seismic survey project (Fisher, 1997). This also compares with the continuous noise from freighters and other ship traffic in the area, which is estimated to be 150 to 205 dB (Natural Resources Defense Council, 1998). The airgun will be fired almost continuously 3 to 6 times per minute.

The frequency spectrum of the sound emission was measured when the array was used in a previous study (Reidel *et al.,* 1999). The airgun's energy is concentrated below 200 Hz, with a rapid decrease in amplitude with increasing frequency between 200 and 400 Hz. Frequencies above 400 Hz have amplitudes that are less than 10 percent of the lower frequencies. For purposes of later discussion, frequencies below 1,000 Hz (1 kHz) are considered low frequency (LF).

Description of Habitat and Marine Mammals Affected by the Activity

A description of the affected habitat and its associated marine mammals can be found in the USGS application and in several documents issued previously for acoustic research in Washington State waters (NMFS, 1996, 1997).

Marine Mammals

The species of marine mammals that are likely to be present in the region of the Straits of Georgia include the harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor seal (*Phoca vitulina*) California sea lion (*Zalophus californianus*) and elephant seal (*Mirounga angustirostris*) (Calambokidis and Baird, 1995). Additional species that are rare or only occasionally seen in the area at the time of the survey include: Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), northern sea lion (*Eumetopias jubatus*), minke whale (*Balaenoptera acutorostrata*) humpback whale (*Megaptera novaengliae*) and gray whale (*Eschrichtius robustus*). However, because of the short duration of this project in waters under the jurisdiction of the United States, it is very unlikely that these latter species would be harassed, or injured as a result of conducting seismic surveys. These species include: Pacific white-sided dolphin, northern sea lion, minke whale, humpback whale, and gray whale.

General information on the marine mammal species can be found in the USGS application and the previously mentioned documents prepared under the National Environmental Policy Act (NEPA). Information on marine mammal species in this area can also be found in Forney *et al.* (2000). The NEPA documents are available upon request (see **ADDRESSES**); Forney *et al.* (2000) is available at the following URL: *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html.* Please refer to these documents for specific information on marine mammal species.

Potential Effects of Seismic Surveys on Marine Mammals

Discussion

Disturbance by seismic noise is the principal means of taking incidental to this activity. Vessel noise may provide a secondary source. Also, the physical presence of vessel(s) could also lead to some non-acoustic effects involving visual or other cues.

The effects of underwater noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.,* 1995): (1) The noise may be too weak to be heard at the location of the animal (i.e. lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) the noise may be audible but not strong enough to elicit any overt behavioral response; (3) the noise may elicit behavioral reactions of variable conspicuousness and variable relevance to the well being of the animal; these can range from subtle effects on respiration or other behaviors (detectable only by statistical analysis) to active avoidance reactions; (4) upon repeated exposure, animals may exhibit diminishing responsiveness (habituation), or disturbance effects may persist (the latter is most likely with sounds that are highly variable in characteristics, unpredictable in occurrence, and associated with situations that the animal perceives as a threat); (5) any noise that is strong enough to be heard has the potential to

reduce (mask) the ability of marine mammals to hear natural sounds at similar frequencies, including calls from conspecifics and/or echolocation sounds, and environmental sounds such as storms and surf noise; and (6) very strong sounds have the potential to cause either a temporary or a permanent reduction in hearing sensitivity (i.e., temporary threshold shift (TTS) or permanent threshold shift (PTS), respectively). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Few data on the effects of non-explosive sounds on hearing thresholds of marine mammals have been obtained. However, in terrestrial mammals (and presumably in marine mammals), received sound levels must far exceed the animal's hearing threshold for there to be any TTS and must be even higher for there to be risk of PTS (Richardson *et al.,* 1995).

Depending upon ambient conditions and the sensitivity of the receptor, underwater sounds produced by open-water seismic operations may be detectable some substantial distance away from the activity. Any sound that is detectable is (at least in theory) capable of eliciting a disturbance reaction by a marine mammal or masking a signal of comparable frequency. An incidental harassment take is presumed to occur when marine mammals in the vicinity of the seismic source (or vessel) show a significant behavioral response to the generated sounds or visual cues.

High-intensity LF seismic pulses are known to cause some species of whales, including gray and bowhead whales, to behaviorally respond within a distance of several kilometers (Richardson *et al.* 1995). Although some limited masking of low-frequency sounds is a possibility for those species of whales using low frequencies for communication, the intermittent nature of seismic source pulses will limit the extent of masking. Bowhead whales, for example, are known to continue calling in the presence of seismic survey sounds, and their calls can be heard between seismic pulses (Richardson *et al.* 1986).

When the received levels of noise exceed some behavioral reaction threshold, cetaceans will show disturbance reactions. The levels, frequencies, and types of noise that will elicit a response vary between and within species, individuals, locations and season. Behavioral changes may be subtle alterations in surface-dive-respiration cycles. More conspicuous responses include changes in activity or aerial displays, movement away from the sound source, or complete avoidance of the area. The reaction threshold and degree of response are related to the activity of the animal at the time of the disturbance. Whales engaged in active behaviors such as feeding, socializing or mating are less likely than resting animals to show overt behavioral reactions, unless the disturbance is directly threatening.

Hearing damage is not expected to occur during the project. While it is not known whether a marine mammal very close to an airgun array would be at risk of temporary or permanent hearing impairment, TTS is a theoretical possibility for animals within a few hundred meters (Richardson *et al.* 1995), if the SPL of an acoustic source is of sufficient intensity. However, planned monitoring and mitigation measures (described later in this document) are designed to detect marine mammals occurring near the seismic array and to avoid, to the greatest extent practicable, exposing them to sound pulses that have any possibility of causing hearing damage.

Two factors determine the effect of the airgun array on marine mammals: (1) The intensity of the sound, and (2) the frequency range of the sound. There is about a 16-dB difference between measuring the P–P sound pressure and the more commonly used root-mean-square (RMS) measurement of sound pressure on marine mammals (6 dB converts P–P to peak-to-zero values, and an additional 10 dB converts peak-to-zero to RMS values). These conversions mean that the USGS airgun array will be approximately equivalent to a source with a RMS sound pressure of about 204 to 214 dB (relative to 1 micron Pa-m), with a best estimate being about 209 dB (RMS).

The airgun sound spreads laterally in the water as the radius of the sound wave increases, resulting in a decrease in amplitude with distance of 20Log(R) or greater (R=distance in meters). Given this estimate of decay, a 230 dB (P–P) sound pressure decays to 180 dB (P–P) at a distance of about 300 m (984.3 ft) (see Figure 4 in the USGS application) and to 180 dB (RMS) at about 50 m (164 ft) from the source. Thus, the maximum range at which the USGS sound source could theoretically result in TTS is 50 m (164 ft).

However, the frequency range of the airguns lies primarily outside the hearing range of most marine mammals. Data on hearing thresholds for odontocetes and pinnipeds show that the most sensitive hearing is in the 1,000- to 100,000-Hz frequency range (see Figure 5 of the USGS application; Richardson *et al.,* 1995; Kastack and Schusterman, 1995). The USGS airgun source rapidly decreases in strength above 200 Hz, resulting in the source strength above 400 Hz being less than 10 percent of the amplitude at lower frequencies. The USGS has estimated the SPL of its airgun source as a function of frequency. The P–P sound pressure is created by the sum of waves of all the frequencies emitted by the airguns, with each frequency contributing only a portion of the total sound. If the maximum P–P SPL is divided by the frequency spectrum of the airgun array, the amplitude of the individual frequency components can be estimated at several distances, as shown in Figure 5 of the USGS application. The results indicate that the noise from any specific frequency emitted from the airgun array lies below the TTS of marine mammals at all distances (see Figure 5 of the USGS application).

The latter estimate of the strength of the individual frequency components is an underestimate, however, because it assumes that all the frequencies are exactly in phase to produce the sound pulse. In reality, the system is not perfectly efficient as implied in this calculation, and the individual frequency components are somewhat larger than shown in Figure 4 of the USGS application. If it is assumed that the USGS source is about 70 percent efficient, the individual frequency components would be about 1.43 times what the USGS estimates assuming perfect efficiency. By this calculation, the sound levels from the airgun lie below the temporary hearing shift of most marine mammals at any distance greater than 50 m (164 ft)(USGS, 2001).

The USGS proposes that the best estimate of the strength of the airgun source is the 209 dB (RMS) measure of sound pressure. Using this RMS measure, the ''annoyance'' or behavioral-response threshold is reached at a distance of 300 m (984.3 ft) from the airguns. This implies that animals 300 m (984.3 ft) from the USGS airguns will become annoyed and presumably will move away, but TTS would potentially not occur unless the USGS airguns were within 50 m (164 ft) of a marine mammal.

Mitigation

Several mitigation measures to reduce the potential for marine mammal harassment will be implemented by USGS as part of their proposed activity. These include:

(1) Scheduling the survey for the period of April and May, when marine mammal abundance in the Straits of Georgia is low;

(2) Having the vessel's speed between 6 and 8 knots to permit marine mammals that hear the ship and airgun noise to be able to move out of the area of the ship's track if they find the approaching vessel and accompanying noise annoying.

(3) A safety zone of 100 m (328 ft) around the seismic aigruns will be established and the USGS will shut down the airgun operation if any marine mammal except seals enters the safety zone. The 100-m (328-ft) distance is double the 50-m (164-ft) estimate of the distance for TTS. This safety zone radius compares with a 100-m or 200-m (328- or 656-ft) safety radius for marine mammals that was used successfully in the 1998 Puget Sound seismic experiment using much larger airguns (Fisher, 1997; Calambokidis and Osmek, 1998; Bain, 1998). The 1998 experiment had a 500-m (1,640-ft) safety radius for gray, humpback and minke whales, which are not expected to be in the area during the short period of time (2–4 days) for surveys in U.S. waters. Given that the current USGS airgun source is only 2 percent of the size of the 1998 source as measured in chamber volume (120 inch^3 versus 6730 inch^3, the USGS believes that a 100-m (328-ft) safety radius is ample to ensure that no injury is caused to a marine mammal.

(4) For pinnipeds (seals and sea lions), if the seismic vessel approaches a pinniped, a safety radius of 100 m (328 ft) will be maintained from the animal(s). However, if a pinniped approaches the towed airgun array during airgun transmissions, the USGS will not be required to shutdown the airguns. Experience indicates that pinnipeds will come from great distances to scrutinize seismic operations. Seals have been observed swimming within airgun bubbles, 10 m (33 ft) away from active arrays and, more recently, Canadian scientists, who were using a high-frequency seismic system that produced sound closer to pinniped hearing than will the USGS airgun array, describe how seals frequently approached close to the seismic source, presumably out of curiosity. Therefore, the above-mentioned mitigation plan has been proposed. In addition, the USGS will gather information on how often pinnipeds approach the airgun array on their own volition, and what effect the airguns appear to have on them.

(5) To ensure no marine mammals are inadvertently harmed when data collection first begins or resumes after operations have ceased, the airguns will be turned on sequentially, so that peak power is achieved gradually to give marine mammals a chance to move away from the source.

(6) Upon notification by a local stranding network that a marine mammal has been found dead within the waters of the Straits of Georgia or nearby U.S. waters when the array is operating within that body of water, NMFS will investigate the stranding to determine whether a reasonable chance exists that the USGS seismic survey project caused the animal's death. If NMFS determines, based upon a necropsy of the animal(s), that the death was likely due to the seismic source, the survey must cease U.S. operations until procedures are altered to eliminate the potential for future deaths.

Monitoring

To monitor the 100 m (328 ft) safety zone when in U.S. waters, the USGS proposes to have two observers, one on each side of the ship, specifically watching for marine mammals at all times that the airguns are operating. Members of the crew, specifically the ship's pilot, will also be instructed to immediately notify the observers if any marine mammals are sited. Observations will begin at least 10 minutes before airguns are turned on. The observers will be equipped with binoculars during the day and night-vision equipment during the night, both of which are believed adequate to monitor the 100-m (328-ft) safety zone while standing on the ship. The observers will order the airgun operations to cease if the vessel approaches within 100 m (328 ft) of a marine mammal.

The objectives of the proposed monitoring program will be: To mitigate potential harassment of marine mammals, to document the number of animals of each species present in the vicinity of the sound transmissions, and to evaluate the reactions of marine mammals to these transmissions.

It should be recognized that, at this time, the monitoring program may not be adequately funded to meet the requirements of the MMPA and therefore may need to be modified. In order for an IHA to be issued, monitoring will need to be conducted at a level which ensures that the activity will have no more than a negligible impact on marine mammal species or stocks.

Reporting

The USGS will provide an initial report to NMFS within 120 days of the completion of the Straits of Georgia marine seismic survey project. This report will provide dates and locations of seismic operations, details of marine mammal sightings, and estimates of the amount and nature of all takes by harassment. A final technical report will be provided by USGS within 1 year of completion of the project. The final technical report will contain a description of the methods, results, and interpretation of all monitoring tasks.

NEPA

In conjunction with a seismic survey project in Puget Sound in 1998, NMFS completed an EA that addressed the impacts on the human environment from issuance of an authorization and the alternatives to that action. NMFS' analysis resulted in a Finding of No Significant Impact. This proposed seismic survey will operate in the same geographic area as the 1998 survey and as the seismic airgun sources used in this proposed action are significantly less intense. Accordingly, this proposed action qualifies for a categorical exclusion under NEPA. Therefore, a new EA will not be prepared. A copy of the 1997 EA is available upon request (see **ADDRESSES**).

Preliminary Conclusions

NMFS has preliminarily determined that the short-term impact of conducting a marine seismic survey in the Straits of Georgia will result, at worst, in a temporary modification in behavior by certain species of pinnipeds, and possibly some individual cetaceans. While behavioral modifications may occur in certain species of marine mammals to avoid the resultant noise from airgun arrays, this behavioral change is expected to result in the harassment of only small numbers of each of several species of marine mammals and would have no more than a negligible impact on the affected species or stocks of marine mammals.

In addition, no take by injury and/or death is anticipated and takes by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously. No known rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

As a result, NMFS proposes to issue an IHA to the USGS for the possible harassment of small numbers of several species of marine mammals incidental to collecting marine seismic data in Straits of Georgia region of Washington State, provided the above-mentioned mitigation, monitoring, and reporting requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: January 31, 2002.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–2998 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020402C]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Northwest Crab Advisory Committee, will meet in Seattle (Ballard), WA.

DATES: The meeting will be held on Thursday, February 21, 2002.

ADDRESSES: The meeting will be held at the Leif Erickson Hall, 2245 N.W. 57th Street, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Arni Thomsom, Alaska Crab Coalition; 206–547–7560.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9:00 a.m. in the Conference Room at Leif Erickson Hall and continue until business is concluded. The North Pacific Northwest Crab Advisory Committee was formed by the Council to provide a means of access to the Bering Sea/Aleutian Islands king and Tanner crab regulatory process for nonresidents of Alaska. At this meeting, the committee will receive a presentation from the Alaska Department of Fish and Game on the opilio harvest strategy and will review proposals concerning the Bering Sea/Aleutian Island crab fisheries which will be considered by the Alaska Board of Fisheries in March 2002. If time permits, the Committee will discuss recent actions of the North Pacific Fishery Management Council concerning crab rationalization and other topics of interest concerning the Alaska crab fisheries.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: February 4, 2002.

Richard W. Surdi,

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

[FR Doc. 02–3003 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012402F]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Trawl Permit Stacking Work Group (Work Group) will hold a meeting which is open to the public.

DATES: The meeting will convene at 8:30 a.m. on Tuesday, February 26, 2002, and adjourn when business for the day is completed.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 7900 NE 82nd Avenue, Portland, OR 97220.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384; 503–326–6352.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, Fishery Economics Staff Officer; 503–326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to begin development of trawl capacity reduction options to be incorporated into a regulatory amendment or plan amendment to the groundfish fishery management plan. The Work Group will develop a number of options for Council consideration. One of the primary options to be developed will be the stacking of multiple permits on a single vessel. The Council has directed the Work Group to include individual quotas among the options it considers.

Although nonemergency issues not contained in the meeting agenda may come before the Work Group for discussion, those issues may not be the subject of formal Work Group action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice requiring emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Work Group's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–326–6352 at least 5 days prior to the meeting date.

Dated: February 1, 2002.

Richard W. Surdi,

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

[FR Doc. 02–3002 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012802B]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of Law Enforcement Committee Meeting

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a joint meeting of its Law Enforcement Committee and Law Enforcement Advisory Panel (AP).

DATES: The meeting will take place on Tuesday, February 26, 2002, from 1:30 p.m until 5 p.m. and Wednesday, February 27, 2002, from 8:30 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407; 843/571–1000; fax: 843/766–9444.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; phone: 843/571–4366; fax: 843/769–4520.

SUPPLEMENTARY INFORMATION: The Committee and AP will address the following issues: review and comment on the Council's proposed marine protected area sites; Vessel Monitoring System use in the Southeast; the status of cooperative law enforcement agreements in the South Atlantic; an on-line computer reporting system; a report on NOAA General Counsel enforcement activities; a review of 50 CFR Part 622 regulations; and discuss the use of commercial vessels under contract for law enforcement activities.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by February 22, 2002.

Dated: February 1, 2002.

Richard W. Surdi,

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

[FR Doc. 02–2999 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012202E]

Marine Mammals; File No. 1022–1659

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Doyle Hanan, Ph.D., P.O. Box 8914, Rancho Santa Fe, CA 92067 has been issued a permit to take California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On November 30, 2001, notice was published in the **Federal Register** (66 FR 59781) that a request for a scientific research permit to take California sea lions and harbor seals had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: February 4, 2002.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–3004 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Sequestration Preview Report for Fiscal Year 2003 to the Congress and the Office of Management and Budget

Pursuant to Section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its *Sequestration Preview Report for Fiscal Year 2003* to the House of Representatives, the Senate, and the Office of Management and Budget.

William J. Gainer,

Associate Director, Management, Congressional Budget Office.

[FR Doc. 02–2947 Filed 2–6–02; 8:45 am]

BILLING CODE 1450–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Meeting

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Intelligence in Support of War on Terrorism will meet in closed session on February 25–26, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. The Task Force will identify capabilities, technologies and approaches for strengthening intelligence in support of the war against terrorism.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will address capabilities and approaches for achieving early indications and warning of terrorist capabilities and intentions, providing effective operational and tactical intelligence in support of crisis operations against terrorists, and the capability for attribution of attackers, should a terrorist event occur. The Task Force will also consider promising new capabilities facilitated by recent changes in statutes (e.g., Combating Terrorism Act of 2001).

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meeting will be closed to the public.

Dated: February 1, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–2894 Filed 2–6–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the

Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 11, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 8, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren—Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: January 31, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Application for New Grants—State Program Improvement Grants for Children with Disabilities.

Abstract: This information collection is necessary to make awards authorized by the Individuals with Disabilties Education Act, Part D, Subpart 1—State Program Improvement Grants. Eligible grantees are State Departments of Education in the 50 states, the District of Columbia, or Puerto Rico or an outlying area (Virgin Islands, Guam, American Somoa, and the Northern Mariana Islands). This program was newly authorized by the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105–17). The purpose of this program is to assist State educational agencies, and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. Appropriations for the first awards under this program become available for obligation on June 15, 2002.

Additional Information: The State Improvement program funds have significant potential in making a positive difference in the education of children with disabilities. Since the inception of this program in FY 1998, grant applications have been invited through a ''Zippy Application Package'' (ZAP), a mechanism developed by the Department to provide applicants, through a **Federal Register** notice, both the closing date notice and the application package.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 30. Burden Hours: 2,700.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, *vivian.reese@ed.gov,* or should be electronically mailed to the internet address *OCIO—RIMG@ed.gov,* or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@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. 02–2893 Filed 2–6–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 8, 2002.

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: February 1, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension of a currently approved collection.

Title: Annual Performance Report for the Talent Search and Educational Opportunity Centers (EOC) Programs (JS).

Frequency: Annually.

*Affected Public:*Not-for-profit institutions (primary);State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 3000.

Abstract: Talent Search and EOC grantees must submit the report annually. The reports are used to evaluate the performance of grantees and to award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the programs and to analyze the impact of the program on the academic progress of participating students.

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 or to the e-mail address *vivian.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to SCHUBART at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–2930 Filed 2–6–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the AtomicEnergy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Between the United States and Japan Concerning Peaceful Uses of Nuclear Energy and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of eight unirradiated mixed-oxide (MOX) fuel assemblies, containing 3,439,377 g of U.S.-origin uranium (9,879 g U–235) and 255,086 g plutonium, from the Kansai Electric Power Co., Inc. to the Euratom Supply Agency. The material, which is currently located at the Takahama Nuclear Power Station Unit 4, Japan, is being returned to British Nuclear Fuels PLC, United Kingdom, because it cannot be utilized as originally intended. Upon its return to British Nuclear Fuels, the material will be stored in an approved facility pending recovery of the plutonium contained in the unirradiated fuel assemblies. The recovered plutonium will be returned to Japan in the form of fresh MOX fuel assemblies.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice, and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required under section 131 of the Atomic Energy Act, as amended, are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above may run concurrently.

Dated: February 4, 2002.

For the Department of Energy.

Trisha Dedik,

Director, Office of Nonproliferation Policy.

[FR Doc. 02–2954 Filed 2–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Alternative Technologies to Incineration Committee (ATIC) of the Environmental Management Advisory Board (EMAB). The EMAB is a Federal Advisory Committee Act (FACA) entity.

DATES: Wednesday, February 20, 2002 and Thursday, February 21, 2002.

ADDRESSES: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., (Room 6E–069), Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Director of the Environmental Management Advisory Board, (EM–10), 1000 Independence Avenue SW., (Room 5B–171), Washington, DC 20585. The telephone number is 202–586–4400. The Internet address is *james.melillo@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

The Purpose of the Board: To provide the Assistant Secretary for Environmental Management (EM) with information and advice on corporate issues. It recommends options to resolve difficult issues faced in the Environmental Management Program including: Public and worker health and safety, integration and disposition of waste, regulatory agreements, roles and authorities, risk assessment and cost-benefit analyses, program performance and functionality, and science requirements and applications. The ATIC will examine emerging candidate technologies identified by the Department for treatment for disposal of mixed transuranic (TRU) and low-level wastes previously scheduled for incineration at the Idaho National Engineering and Environmental Laboratory (INEEL). The Department is identifying these technologies through implementation of its technology Research Development Deployment & Demonstration (RDD&D) plan. The ATIC will facilitate stakeholder comment and communications on issues related to emerging alternative technologies to incineration for the treatment of mixed TRU and low-level wastes.

Tentative Agenda:

Wednesday, February 20, 2002.

8:30 a.m.—Welcome and Introductions

—Introductory Comments

—Approval of Minutes from 6/13/01 Meeting

—Remarks

—The EM–50 Science and Technology Work Plan Initiatives

—Status of Development Efforts for Technologies Identified by the Blue Ribbon Panel

—Regulatory Initiatives for Waste Isolation Pilot Plant (WIPP)

—Public Comment Period

5:00 p.m.

—Summary and Closing Comments

Thursday, February 21, 2002.

8:30 a.m.

—Introductory Comments

—The Stakeholder Forum

—Q&A Session and Summary Comments

—Committee Work Session

—Public Comment Period

4 p.m.–Adjournment

Public Participation: This meeting is open to the public. If you would like to file a written statement with the Committee you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, please contact Mr. Melillo at the address and telephone number listed above, or call the Environmental Management Advisory Board office at 202–586–4400, and we will reserve time for you on the agenda. You may also register to speak at the meeting on February 20–21, 2002, or ask to speak during the public comment period. Those who call in and or register in advance will be given the opportunity to speak first. Others will be accommodated as time permits. The Committee Co-Chairs will conduct the meeting in an orderly manner. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: We will make the minutes of the meeting available for public review and copying by April 20, 2002. The minutes and transcript of the meeting will be available for viewing at the Freedom of Information Public Reading Room (1E–190) in the Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. The room is open Monday through Friday from 9 a.m.–4 p.m. except on Federal holidays.

Issued in Washington, DC on February 4, 2002.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–2970 Filed 2–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration, Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments on the proposed extension for three years of the information collection, EIA–882T, ''Generic Clearance for Questionnaire Testing, Evaluation, and Research.''

DATES: Written comments must be filed within 60 days of the publication of this notice. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Comments should be directed to Herbert Miller. To ensure receipt of the comments by the due date, submission by FAX (202–287–1705) or e-mail (*Herbert.Miller@eia.doe.gov*) is recommended. The mailing address is Statistics and Methods Group, EI–70, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Alternatively, Mr. Miller may be contacted by telephone at 202–287–1711.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the Department of Energy Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the Energy Information Administration (EIA) to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek a three-year extension of this approval under Section 3507(a) of the Paperwork Reduction Act of 1995 from the Office of Management and Budget (OMB).

The EIA–882T was last extended for three years on July 26, 1999, and expires July 31, 2002. The information collections that would be conducted as part of this approval will facilitate EIA's use of techniques to improve our current information collections and to develop new collections. The goal is to improve the collections thereby reducing respondent burden and improving the quality of the information collected.

The information collections will include:

1. Pretests

Pretest methods will include face-to-face interviews, telephone interviews, mail questionnaires, and electronic questionnaires. Pretests conducted will generally be methodological studies of limited size, normally involving either purposive or statistically representative samples. They will include a variety of surveys, the exact nature and sample designs will be determined at the time of development of the pretests. The samples will be designed to clarify particular issues rather than to be representative of the universe. Collection may be on the basis of convenience, e.g., limited to specific geographic locations. The needs of a particular sample will vary based on the content of the information collection being tested, but the selection of sample cases will not be completely arbitrary in any instance.

2. Pilot surveys

Pilot surveys will generally be methodological studies of limited size, but will always employ statistically representative samples. The pilot

surveys will replicate components of the methodological design, sampling procedures (where possible), and questionnaires of a full-scale survey. Pilot surveys may be utilized when EIA is undertaking a complete revamping of a survey methodology (e.g., moving to computer-assisted information collections) or when EIA is undertaking a new information collection.

3. Focus groups

Focus groups involve group sessions guided by a monitor who follows a topical outline containing questions or topics focused on a particular issue, rather than adhering to a standardized questionnaire. Focus groups are useful for surfacing and exploring issues. Focus groups are typically used with specific groups of stakeholders.

4. Cognitive interviews

Cognitive interviews are one-on-one interviews in which a respondent is typically asked to ''think aloud'' as he or she answers survey questions, reads survey materials, or completes other activities as part of a survey process. A number of different techniques may be involved, including asking respondents to paraphrase questions, probing questions to determine how respondents come up with their answers, and similar inquiries. The objective is to identify problems of ambiguity, misunderstanding, or other difficulties respondents have answering questions. This may be used as the first stage of questionnaire development.

A wide variety of uses are made of the data obtained through this generic clearance. These projects represent significant strides in our efforts to improve the pretesting of EIA surveys. As EIA gains more experience, we hope to broaden involvement in testing, evaluation, and research.

II. Current Actions

EIA plans to request a three-year extension of the OMB approval for this collection. For each information collection that EIA proposes to undertake under this generic clearance, OMB will be notified at least two weeks in advance, and provided with an information copy of the collection instrument and all other materials describing the testing activity. EIA will only undertake a collection if OMB does not object to EIA's proposal.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Are the Types of Proposed Collections of Information Necessary for the Proper Performance of the Functions of the Agency and Does the Information Have Practical Utility?

Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What Enhancements Can Be Made to the Quality, Utility, and Clarity of the Information To Be Collected?

As a Potential Respondent

A. Public reporting burden for collections under the generic clearance are estimated to average 25 minutes per response. The range for burden varies significantly depending on the particular type of testing activity undertaken. The estimated burden for each response includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose and provide the information.

Please comment on the (1) the accuracy of the agency's estimate and (2) how the agency could minimize the burden of collecting this information, including the use of information technology.

B. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

C. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential Data User

A. Are there alternate sources for the information and are they useful? If so, what are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC February 1, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–2955 Filed 2–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–2–001 FERC Form No. 2]

Information Collection Submitted for Review and Request for Comments

February 1, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received one comment from an entity who supported the continued use of this information collection. The comments were in response to an earlier **Federal Register** notice of September 28, 2001 (66 FR 49653). The Commission has acknowledged these comments in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW., Washington, DC 20503. The Desk Officer may also be reached at (202) 395–7318. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Mr. Miller may be reached by telephone at

(202) 208–1415, by fax at (202) 208–2425, and by e-mail at mike.miller@ferc.gov.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. Collection of Information: FERC Form 2 ''Annual Report of Major Natural Gas Companies''

2. Sponsor: Federal Energy Regulatory Commission

3. Control No.: OMB No. 1902–0028. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no proposed changes to the existing collection. There is an adjustment to the reporting burden due to an additional respondent since the Commission's last submission in 1998. In addition, the availability of Form 2 submission software for all filers for the 2001 filing year, will the Commission believes, reduce the burden as respondents will benefit from user support at the Commission and from filing the FERC Form 2 electronically through the Commission's gateway on its website. This is a mandatory information collection requirement.

4. Necessity of Collection of Information: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the provisions of the Natural Gas Act (NGA). Under the NGA the Commission may prescribe a system of accounts for jurisdictional companies, and after notice and hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited. The FERC Form 2 is designed to collect financial information from ''Major Natural Gas Companies''. A company is defined as a ''Major Natural Gas Company'' if its combined gas transported or stored exceeded 50 million dekatherms (dth) in each of the three previous calendar years. The form collects general corporate information: summary financial information, balance sheet and income statement supporting information, gas plant, operating expenses and statistical data. The information collected is used by the Commission, state regulatory agencies and others in the review of the financial condition of the regulated companies, in various rate proceedings and audit programs and in the assessment of annual charges which are necessary to recover the Commission's costs.

5. Respondent Description: The respondent universe currently comprises on average, 57 companies subject to the Commission's jurisdiction.

6. Estimated Burden: 84,360 total burden hours, 57 respondents, 1 response annually, 1,480 hours per response (average).

7. Estimated Cost Burden to Respondents: 84,360 hours ÷ 2,080 hours per year × $117,041 per year = $ 4,746,913 average cost per respondent = $83,279.

Statutory Authority: Sections 8 and 10 of the Natural Gas Act (NGA), 15 U.S.C. 717g–717i.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–2973 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–199–000, ER02–218–000, ER02–219–000, ER02–220–000, ER02–221–000, ER02–222–000, ER02–223–000, ER02–224–000, ER02–225–000, ER02–226–000, ER02–227–000, ER02–228–000, ER02–229–000, ER02–230–000, ER02–498–000, ER02–788–000, EL02–50–000]

Mississippi Power Company, Southern Company Services, Inc., Georgia Power Company, Alabama Power Company, Gulf Power Company, Southern Company Services, Inc.; Notice Specifying Time for Submission of State Commission Comments

February 1, 2002.

Take notice that on January 30, 2002, the Commission issued an order in this proceeding that set these dockets for a trial-type, evidentiary hearing, but held the hearing in abeyance. Because the triennial review process of the underlying settlements did not explicitly invite state commission comments, the Commission explained in its January 30 order that it wished to solicit comments and views as to the reasonableness of the formula rates at issue in these dockets from the state commissions for the states where the retail customers of the entities which are purchasers under the rate schedules at issue in these dockets are located. *Mississippi Power Co., et al.,* 98 FERC ¶ 61,065 (2002).

Accordingly, the Commission invites comments and views as to the reasonableness of the formula rates at issue in these dockets from the state commissions for the states where the retail customers of the entities which are purchasers under the rate schedules at issue in these dockets are located.

Such comments and views shall be filed on or before February 28, 2002, and should reference the above dockets.

The Commission does not intend to permit answers to the state commissions' comments and views.

Magalie R. Salas,

Secretary.

[FR Doc. 02–2972 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–40–029]

Panhandle Eastern Pipe Line Company; Notice of Refund Report

February 1, 2002.

Take notice that on January 25, 2002, Panhandle Eastern Pipe Line Company (Panhandle) filed a Refund Report in the above-referenced docket pursuant to a settlement approved by the Commission on September 13, 2001. On December 28, 2001, Panhandle refunded to its jurisdictional customers their allocated share of the refunds of Kansas ad valorem taxes Panhandle received from its producer suppliers in accordance with the settlement.

Panhandle states that Schedules 1 and 2 show the refunds Settling Working Interest Owners made, the Jurisdictional/Non-Jurisdictional allocation, and the derivations of the Jurisdictional Sales Customer refund amounts. These schedules reflect the Missouri Public Service Commission's (MoPSC) election to opt-out off discrete portions of the settlement. Panhandle adjusted the jurisdictional customer distribution allocation to reflect MoPSC's election. Schedule 3 includes refund statements for large and small first sellers, that show the refund amounts due, including additional interest for the period February 1, 2001 to October 15, 2001. Schedule 4 lists the Non-Settling First Sellers that have not provided refunds under the settlement. Panhandle provided copies of its filing to all parties and respective State Regulatory Commissions.

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 February 22, 2002. 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.,

Deputy Secretary.

[FR Doc. 02–2976 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93–541–010]

Young Gas Storage Company, Ltd.; Notice of Application

February 1, 2002.

Take notice that on January 28, 2002, Young Gas Storage Company, Ltd. (Young), Post Office Box 1087, Colorado Springs, Colorado, 80944, filed an application pursuant to Section 7 of the Natural Gas Act and Rules 207 and 2001, *et seq.*, for the Commission's Rules of Practice and Procedure to amend the orders issues on June 22, 1994 at Docket Nos. CP93–541–000 and 001, October 5, 1995 at Docket Nos. CP93–541–004 and 006, August 30, 1996 at Docket No. CP93–541–007, September 16, 1997 at Docket No. CP93–541–008, and May 8, 1998 at Docket No. CP93–541–009. Young seeks amended authorization to modify the current maximum volumes of working gas and base gas that it may store. 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).

The Young gas storage field was initially developed for 5,271 MMcf of working gas and 4,674 MMcf of base gas. Young seeks to amend its certificate to remove 519 MMcf of base gas and add 519 MMcf to its working gas inventory, to maintain its certificated total capacity of 9,945 MMcf. Young, also, seeks to amend its approved Tariff by modifying the following: (i) ADWQ; (ii) reservoir integrity limit curve; (iii) average daily injection quantity; and (iv) maximum daily injection and withdrawal quantities. Young states the change in working and base gas will allow it to maximize the effectiveness of the storage field, the proposed changes will not affect existing shipper rates, and there will be no landowner or environmental impacts because the proposed changes are operational in nature.

Any questions regarding the application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, Colorado Interstate Gas Company, as Operator for Young Gas Storage Company, Ltd., Post Office Box 1087, Colorado Springs, Colorado, 80944; telephone 719–520–3788.

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 February 11, 2002, 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–2971 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

February 1, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents 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).

Exempt

Docket No.	Date filed	Presenter
1. Project No. 2145–000	01–18–02	Kate Terrell.
2. CP01–433–000	01–25–02	Jim D. Bloemker.
3. Project No. 1927–008	01–25–02	John Smith/Charles Hall.
4. CP01–260–000	01–28–01	John J. Wisniewski.
5. CP01–176–000	01–28–02	Laura Turner.
6. Project Nos. 1975–000, 2061–000 and 2777–000	01–30–02	Susan Giannettinno.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–2974 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–7]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260–2740, or e-mail at *Farmer.sandy@epa.gov.* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1463.05; National Oil and Hazardous Substances Pollution Contingency Plan (NCP); in 40 CFR parts 300.430–300.435 was approved 10/04/2001; OMB No. 2050–0096; expires 10/31/2004.

EPA ICR No. 1564.05; NSPS for Small Industrial-Commercial-Institutional Steam Generating Units; in 40 CFR part 60, subpart Dc; was approved 10/12/2001; OMB No. 2060–0202; expires 10/31/2004.

EPA ICR No. 1086.06; NSPS Standards of Performance for Onshore Natural Gas Processing Plants; in 40 CFR part 60, subpart KKK and LLL; was approved 10/12/2001; OMB No. 2060–0210; expires 10/31/2004.

EPA ICR No. 1587.05; Operating Permits Regulations; in 40 CFR part 70; was approved 10/12/2001; OMB No. 2060–0243; expires 10/31/2004.

EPA ICR No. 1897.02; Information Requirements for Marine Diesel Engines; in 40 CFR 40 part 96; was approved 10/12/2001; OMB No. 2060–0460; expires 10/31/2004.

EPA ICR No. 1726.03; Marine Engine Manufacturer In-House Emission Testing Program Reporting and Recordkeeping, in 40 CFR part 91, subpart N; was approved 10/12/2001; OMB No. 2060–0322; expires 10/31/2004.

EPA ICR No. 1596.05; Information Collection Activities; Significant New Alternatives Policy (SNAP) Program Final Rulemaking under Title VI of the Clean Air Act Amendments of 1990; in 40 CFR part 82, subpart G; was approved 10/12/2001; OMB No. 2060–0226; expires 10/31/2004.

EPA ICR No. 1058.07; NSPS for Incinerators; in 40 CFR part 60, subpart E; was approved 10/12/2001; OMB No. 2060–0040; expires 10/31/2004.

EPA ICR No. 1658.03; Control Technology Determinations for Constructed or Reconstructed Major Sources of Hazardous Air Pollutants; in 40 CFR part 63, subpart B; was approved 10/12/2001; OMB No. 2060–0373; expires 10/31/2004.

EPA ICR No. 0586.09; TSCA Section 8(A) Preliminary Assessment Information Rule (PAIR); was approved 10/15/2001; in 40 CFR part 712; OMB No. 2070–0054; expires 10/31/2004.

EPA ICR No. 1655.04; Detergent Gasoline: Certification Requirements for Manufacturers of Detergent Additives; Requirements for Transferors and Transferees of Detergent Additives; Requirements for; in 40 CFR part 80 subpart G; was approved 10/12/2001; OMB No. 2060–0275; expires 10/31/2004.

EPA ICR No. 1078.06; NSPS for Phosphate Rock Plants; in 40 CFR part 60 subpart NN; was approved 10/15/2001; OMB No. 2060–0111; expires 10/31/2004.

EPA ICR No. 1676.03; Clean Air Act Tribal Authority; was approved 10/15/2001; in 40 CFR parts 35, 49, 50 and 81; OMB No. 2060–0306; expires 10/31/2004.

EPA ICR No. 1414.04; National Emissions Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Hazardous Organic NESHAP (HON); in 40 CFR part 63, subpart F, G, H, I; was approved 10/15/2001; OMB No. 2060–0282; expires 10/31/2004.

EPA ICR No. 1050.16; NSPS for Storage Vessels for Petroleum Liquids; in 40 CFR part 60, subpart Ka; was approved 10/12/2001; OMB No. 2060–0212; expires 10/31/2004.

EPA ICR No. 1808.03; Environmental Impact Assessment of Nongovernmental Activities in Antarctica; in 40 CFR part 8; was approved 10/15/2001; OMB No. 2020–0007; expires 10/31/2004.

EPA ICR No. 1807.02; National Emissions Standards for Hazardous Air Pollutants—Pesticide Ingredient Production; in 40 CFR part 63, subpart MMM; was approved 10/16/2001; OMB No. 2060–3070; expires 10/31/2004.

EPA ICR No. 2018.01; Pollution Prevention Compliance Alternative; Transportation Equipment Cleaning (TEC) Point Source Category; in 40 CFR part 442; was approved 10/15/2001 OMB No. 2040–0235; expires 10/31/2004.

EPA ICR No. 0143.07; Recordkeeping Requirements for Producers of Pesticides under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); in 40 CFR part 169; was approved 10/15/2001; OMB No. 2070–0028; expires 10/31/2004.

EPA ICR No. 0234.07; Performance Evaluation Studies on Water and Wastewater Laboratories; in 40 CFR part 136, 141, and 142; was approved 10/15/2001; OMB No. 2080–0021; expires 10/31/2002.

EPA ICR No. 1791.03; Establishing No-Discharge Zones (NDZs) Under Clean Water Act Section 312; in 40 CFR part 139; was approved 10/15/2001; OMB No. 2040–0187; expires 10/31/2004.

EPA ICR No. 1139.06; TSCA Section 4 Test Rules, Consent Orders, Test Rule Exemptions, and Voluntary Data Submission; was approved 10/15/2001; OMB No. 1139.06; expires 10/31/2004.

EPA ICR No. 0328.09; Spill Prevention, Control and Countermeasure (SPCC) Plans; was approved 10/15/2001; in 40 CFR 112.1–112.7; OMB No. 2050–0021; expires 10/13/2004.

EPA ICR No. 1680.03; Combined Sewer Overflow Policy; was approved 10/15/2001; OMB No. 2040–0170; expires 10/31/2004.

EPA ICR No. 1914/01; Valuing Inland Water Quality Improvements; was approved 10/15/2001; OMB No. 2010–0031; expires 10/31/2004.

EPA ICR No. 1652.04; NESHAP for Halogenated Solvent Cleaners/Halogenated Hazardous Air Pollutants; in 40 CFR part 63, subpart T; was approved 10/16/2001; OMB No. 2060–0273; expires 10/31/2003.

EPA ICR No. 1352.08; Community Right-to-Know Reporting Requirements under Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA); in 40 CFR part 370.21, .25, and .30; was approved 10/31/2001; OMB No. 2050–0072; expires 10/31/2004.

EPA ICR No. 1773.03; NESHAP for Hazardous Waste Combusters (Direct Final Rule); in 40 CFR part 63, subpart EEE; was approved 10/16/2001; OMB No. 2050–0171; expires 10/31/2004.

EPA ICR No. 1816.02; State Source Water Assessment and Protection Programs; was approved 10/18/2001; OMB No. 2040–0197; expires 10/31/2004.

EPA ICR No. 1132.06; NSPS for Volatile Organic Liquid Storage Vessels; in 40 CFR part 60, subpart Kb; was approved 10/25/2001; OMB No. 2060–0074; expires 10/31/2004.

EPA ICR No. 1713.04; Federal Operating Permit Program of the Clean Air Act; in 40 CFR part 71; was approved 10/25/2001; OMB No. 2060–0336; expires 10/31/2004.

EPA ICR No. 0916.11; Annual Updates of Emission Data to the Aerometric Information Retrieval System (AIRS); was approved 10/29/2001; OMB No. 2069–0088; expires 10/31/2004.

EPA ICR No. 1360.06; in 40 CFR part 280 and 281; Underground Storage Tanks: Technical & Financial Requirements & State Program Approval Procedures; was approved 10/29/2001; OMB No. 2050–0068; expires 10/31/2004.

EPA ICR No. 0820.08; Hazardous Waste Generator Standards; 40 CFR part 262; was approved 10/29/2001; OMB No. 2050–0035; expires 10/31/2004.

EPA ICR No. 1158.07; Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing; in 40 CFR part 60, subpart BBB; OMB No. 2060–0156; expires 10/31/2004.

EPA ICR No. 0657.07; New Source Performance Standards for Graphic Arts Industry; in 40 CFR part 60, subpart QQ; was approved 10/29/2001; OMB 2060–0105; expires 10/31/2004.

EPA ICR No. 1748.03; State Small Business Stationary Source Technical and Environmental Compliance Assistance Program Annual Reporting Form; was approved 10/29/2001; OMB 2060–0337; expires 10/31/2004.

Short Term Extensions

EPA ICR No. 1832.02; Consumer Confidence Reports for Community Water Systems; OMB No. 2040–0201; on 09/26/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1860.01; Agency Generic Information Collection Request, regional compliance Assistance Program Evaluation; OMB No. 2020–0015; on 09/25/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1741.02; Correction of Misreported Chemical Substances on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory; OMB No. 2070–0145; on 09/25/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1637.04; General Conformity of Federal Actions to State Implementation Plans; in 40 CFR part 51, subpart W and part 93, subpart B; OMB No. 2060–0279; on 09/28/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1800.01; Information Requirements for Locomotives and Locomotive Engines; in 40 CFR part 92 subpart D; OMB 2060–0392; on 09/28/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1831.01; NESHAP for Ferroalloys Production; in 40 CFR part 63, Subpart XXX; OMB No. 2060–0391; on 09/28/2001 OMB extended the expiration date through 10/31/2001.

EPA ICR No. 1836.01; Public Water System Supervision Primary Regulation in 40 CFR part 142; OMB No. 2040–0195; on 09/26/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1955.01; Operator Certification Guidelines and Operator Certificate Expense Reimbursement Grants Program; OMB No. 2040–0236; on 10/29/2001 OMB extended the expiration date through 02/2002.

OMB Withdrawals

EPA ICR No. 1923.02; Radon in Drinking Water; on 10/18/2001 was withdrawn from OMB review.

EPA ICR No. 1931.01; Information Collection Request for Proposed NPDES Requirements for Municipal Sanitary Sewers, Municipal Satellite Collection Systems and Sanitary Sewer Outflows on 10/18/2001 was withdrawn from OMB review.

EPA ICR No. 1937.01; Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations on 10/18/2001 was withdrawn from OMB review.

EPA ICR No. 0226.16; Application for NPDES Ocean Discharge Permit (CWA Section 403) Proposed Rule was withdrawn from OMB review.

EPA ICR No. 1362.04; National Emissions Standards for Coke Oven Batteries, 40 CFR part 63, subpart L, on 10/17/2001 was withdrawn from OMB review.

Comment Filed

EPA ICR No. 1715.04; TSCA Sections 402 and 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities (Proposed Rule); OMB No. 2070–0155; on 10/12/2001 OMB filed comment.

EPA ICR No. 0783.01; Vehicle Emission Certification and Fuel Economy Compliance (Proposed Rule—Vehicle and Engine Service Information); OMB No. 2060–0104; on 10/12/2001 OMB filed comment.

EPA ICR No. 1805.02; NESHAP subpart S, Pulp and Paper Industry; OMB No. 2060–0377; on 10/12/2001 OMB filed comment.

Disapproved

EPA ICR No. 1956.01; Investigations into Possible Noncompliance of Stationary Sources with the Accidental Release Prevention Program Established in 40 CFR part 68; was disapproved by OMB on 10/17/2001.

EPA ICR No. 2019.01; Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey; was disapproved by OMB 10/26/2001.

Dated: January 29, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–2979 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Recordkeeping and Periodic Reporting of the Production Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-Depleting Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Recordkeeping and Periodic Reporting of the Production Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-Depleting Substances; OMB Control Number 2060–0170, expiration date January 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 11, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1432.21 and OMB Control No. 2060–0170, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.susan@epamail.epa.gov,* or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1432.21. For technical questions about the ICR contact Suzanne Bratis at EPA by phone at (202) 564–3515.

SUPPLEMENTARY INFORMATION:

Title: Recordkeeping and Periodic Reporting of the Production Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-Depleting Substances (OMB Control No. 2060–0170; EPA ICR No.1432.21) expiring, January 31, 2002. This is a request for extension of a currently approved collection.

Abstract: The information required satisfies statutory mandates for reporting and monitoring under section 603 of Title VI of CAA and will be used to generate reports to Congress as mandated under section 603(d) of title VI. The previously approved revisions to the reporting requirements changed the regulations so companies may produce and import for special exempted uses of methyl bromide for quarantine and pre-shipment applications during the interim period when production and consumption is capped at 50% of the 1991 baseline level. In order to monitor each company's production, import, export, destruction, and transformation, the reporting system continues to require information which can be used to check industry compliance with the stratospheric ozone protection regulations. Compliance during the reduction steps for methyl bromide mean that companies can produce and import 50% of 1991 baseline levels, except for the specific exemption created by this action for quarantine and pre-shipment applications.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on November 2, 2001 (66 FR 55658); no public comments were received.

Burden Statement: The burden hours shown below represent the hours for the information collection request (ICR). The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for collection of additional information associated with the reporting is estimated to average 865 hours. This estimate accounts for all responses provided by all effected entities per year. The following is a summary of the estimates taken from the ICR:

Respondents/Affected Entities: Import and export of Ozone-depleting substances.

Estimated Total Number of Potential respondents: 1617.

Frequency of Response: Quarterly.

Estimated Total Annual Hour Burden: 7,357.

Estimated Total Annualized Capital, O&M Costs Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1432.21 and OMB Control No. 2060–0170 in any correspondence.

Dated: January 31, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–2980 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Architectural Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Architectural Coatings; EPA ICR# 1750.03; OMB Control Number 2060–0393, expiration date January 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 11, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1750.03 and OMB Control No. 2060–0040, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1750.03. For technical questions about the ICR contact Linda Herring by phone at (919) 541–5358, by E-mail at *herring.linda@epa.gov*, or by mail at Coatings and Consumer Products Group, Mail Code C539–03, Emission Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTARY INFORMATION:

Title: Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Architectural Coatings; EPA ICR# 1750.03; OMB Control Number 2060–0393, expiration date January 31, 2002. This is a request for extension of a currently approved collection.

Abstract: Entities potentially affected by this action are those which manufacture or import architectural coatings for sale or distribution in the United States, including the District of Columbia and all United States territories. The information collection includes initial reports, annual reporting, and recordkeeping necessary for EPA to ensure compliance with Federal standards for volatile organic compounds in architectural coatings. Respondents are manufacturers and importers of architectural coatings. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on August 17, 2001 (66 FR 43253); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 47 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previous applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers and importers of architectural coatings.

Estimated Number of Respondents: 500.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 23,411 hours.

Estimated Total Annualized Capital, O&M Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1750.03 and OMB Control No. 2060–0393 in any correspondence.

Dated: January 29, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–2981 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI-100013; FRL-6723-6]

Workshop Schedules for EPCRA/TRI Training: Spring 2002

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will conduct EPCRA/TRI Training workshops across the country during the spring of 2002. These workshops are intended to assist persons preparing their annual reports on release and other waste management activities as required under sections 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). These reports must be submitted to EPA and designated state officials on or before July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Priscilla Evans, Workshop Coordinator

(202) 260-9124, evans.priscilla@epa.gov for specific information on this notice. Information concerning the EPCRA/TRI Training workshops is also available on EPA's web site at http://www.epa.gov/tri.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

You may find this notice applicable if you manufacture, process, or otherwise use any EPCRA section 313 listed toxic chemical. Potentially applicable categories and entities may include, but are not limited to:

Category	Examples of regulated entities
Industry	Metal mining, Coal mining, Manufacturing, Electricity generating facilities, Hazardous waste treatment/TSDF, Chemicals and allied products-wholesale, Petroleum bulk plants and terminals, and Solvent recovery services.
Federal Government	Federal facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to find this notice of training course offerings applicable. Other types of entities not listed in the table may also find this notice applicable. To determine whether your facility could find this notice applicable, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding ''FOR FURTHER INFORMATION CONTACT'' section. You may be able to take advantage of the training courses if:

your facility is a facility covered under section 313 of the Emergency Planning and Community Right-To-Know Act (EPCRA);

your facility is a federal facility that manufactures, processes, or otherwise uses section 313 listed toxic chemicals;

you prepare annual release and other waste management activity reports (i.e., Form R);

you are a consultant who assists in the preparation of these reports; or

you would like information on recent changes to EPCRA/TRI regulations

The EPA conducts annual training courses to assist you with your reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA) or Executive Order 13148 (for federal facilities). You must submit your annual release and other waste management activity reports (i.e., Form R) if your facility meets the descriptions for the following Standard Industrial Classification (SIC) codes and qualifiers, and meets other criteria specified in part 372 of Title 40 of the Code of Federal Regulations:

Metal Mining (SIC Code 10, except 1011, 1081, and 1094);

Coal Mining (SIC Code 12, except 1241);

Manufacturing (SIC Codes 20-39)

Electricity Generating Facilities (SIC Codes 4911, 4931, and 4939—limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce);

Hazardous Waste Treatment/TSDF (SIC Code 4953—limited to facilities regulated under RCRA subtitle C, 42 U.S.C. section 6921 *et seq.*);

Chemicals and Allied Products (SIC Code 5169);

Petroleum Bulk Plants and Terminals (SIC Code 5171);

Solvent Recovery (SIC Code 7389—limited to facilities primarily engaged in solvents recovery services on a contract or fee basis); and

Federal Facilities (by Executive Order 13148).

B. What is Presented at these Training Courses?

The training courses present reporting requirements of EPCRA section 313 and PPA section 6607. A variety of hands-on exercises using the reporting forms (i.e., Form R) along with supporting materials will be used to help you understand any reporting obligations you might have under EPCRA section 313. The training courses are scheduled in the spring so that you can prepare and submit your report(s) for the Reporting Year 2001, forms due on or before July 1, 2002.

C. How Much Time is Required for the Training?

The full training course runs two days and a schedule for the 2-day workshops is provided below (see Table 1). The course is divided into three modules. The first module encompasses the first day and is devoted to a general discussion of EPCRA section 313 and PPA section 6607 reporting requirements with exercises used to reinforce key concepts. The second module is given in the morning of the second day, and is designed to provide detailed information about the persistent, bioaccumulative, and toxic (PBT) chemicals reporting requirements and lead and lead compound reporting requirements within the TRI program. The third and final module is given in the afternoon of the second day, and this module is designed to provide an update to the TRI program and information about difficult policy topics. Interested persons may register for both days (persons with little or no background in EPCRA section 313 and PPA section 6607 reporting requirements) or just the second day (persons experienced in preparing either Form R or Form A). In addition, EPA is conducting abbreviated training courses. These courses are one day in duration and, in some cases, are focused for a particular industry sector(s) (see Table 2).

D. When are these Training Courses Offered and How Do I Register?

The schedules for training courses are provided in the tables below. You should note, however, that changes to the schedules may occur without further notice so it is important to check your registration materials and confirmation notice (see below). Also, you may access current training course schedule information via the TRI Home Page (http://www.epa.gov/tri) or via the TRI training course Home Page (http://www.epa.gov/tri/report/training/registration.htm).

You should direct your requests for training course registration materials, including schedules of dates and locations, to the designated contacts in Table 3 (if registration contact is other than Abt Associates, Inc.).

To register for any of the EPA training courses supported by Abt Associates, Inc., you can direct your requests to Abt Associates, Inc. (www.epa.gov/tri/report/training/registration.htm). If you do not have access to the internet, you may fax your request to: (301) 652-7530.

To register, you must provide all of the following information to the registration contact indicated: your

name, your company's name and SIC code, your postal address, your telephone number, your fax number, your email address, and your preferred training location(s). Requests should be directed to the indicated registration contact.

You will receive an acknowledgment of application receipt via fax or email. If your application is accepted, a confirmation notice will be sent to you that will contain important information regarding date, location, directions, etc. If the training course you applied for is filled or canceled, alternate training courses will be suggested. Since space is limited, you are encouraged to submit your registration application as early as possible but not less than one week before your preferred training course.

TABLE 1. EPCRA/TRI TRAINING: SPRING 2002 2-DAY WORKSHOP SCHEDULE[1].

Date	Location	Registration Contact
March 5-6	Dallas, TX	Abt Associates, Inc.
March 6-7[1]	Denver, CO	Jack Salter, US EPA Region 8
March 19-20	Roanoke, VA	Abt Associates, Inc.
March 20-21[1]	Denver, CO	Jack Salter, US EPA Region 8
March 20-21	Rockford, IL	Fran Guido, US EPA Region 5
April 2-3	Atlanta, GA	Abt Associates, Inc.
April 3-4	San Francisco, CA	Abt Associates, Inc.
April 3-4[2]	Denver, CO	Jack Salter, US EPA Region 8
April 9-10[1]	Salt Lake City, UT	Jack Salter, US EPA Region 8
April 15-16	Sayreville, NJ	Abt Associates, Inc.
April 17-18	Louisville, KY	Abt Associates, Inc.
April 18-19	Columbia, SC	Abt Associates, Inc.
May 1-2[3]	Denver, CO	Jack Salter, US EPA Region 8
May 1-2	Jackson, MS	Abt Associates, Inc.
May 6-7	Seattle, WA	Dave Somers, US EPA Region 10
May 8-9	Orlando, FL	Abt Associates, Inc.
May 9-10	Portland, OR	Dave Somers, US EPA Region 10
May 13-14	Sioux Falls, SD	Abt Associates, Inc.
May 14-15	Kansas City, MO	McKinzie Environmental
May 15-16[2]	Salt Lake City, UT	Jack Salter, US EPA Region 8

This schedule may change without further notice. A schedule reflecting any changes to this notice will be posted at http://www.epa.gov/tri.

[1] For manufacturing facilities, petroleum bulk storage facilities, chemical distributors, solvent recovery facilities, and Subtitle C TSD facilities.

[2] For metal mines, coal mines, and electricity generating Facilities only.

[3] For Federal Facilites.

TABLE 2. SCHEDULE FOR OTHER EPCRA/TRI WORKSHOPS[1]

Date	Location	Registration Contact
February 28[1]	Denver, CO	Jack Salter, US EPA Region 8
March 18	Beaumont/Port Arthur, TX	Abt Associates, Inc.
March 19	Lake Charles, LA	Abt Associates, Inc.
March 20	Lafayette, LA	Abt Associates, Inc.
March 22	Baton Rouge, LA	Abt Associates, Inc.
April 2	San Jose, CA	Abt Associates, Inc.

TABLE 2. SCHEDULE FOR OTHER EPCRA/TRI WORKSHOPS[1]—Continued

Date	Location	Registration Contact
April 3	Charleston, WV	National Institute for Chemical Studies
April 8	Sante Fe, NM	Abt Associates, Inc.
April 9	Richmond, VA	Mega-tech, Inc.
April 10	El Paso, TX	Abt Associates, Inc.
April 11[1]	Salt Lake City, UT	Jack Salter, US EPA Region 8
April 12	Corpus Christi, TX	Abt Associates, Inc.
April 16	Atlanta, GA	Abt Associates, Inc.
April 17	Cherry Hill, NJ	Abt Associates, Inc.
April 17	Salina, KS	McKinzie Environmental
April 18	Omaha, NE	McKinzie Environmental
April 22	Little Rock, AR	Abt Associates, Inc.
April 23	Towson, MD	Mega-tech, Inc.
April 24	Oklahoma City, OK	Abt Associates, Inc.
April 25	Troy, MI	Fran Guido, US EPA Region 5
April 26	Tulsa, OK	Abt Associates, Inc.
April 30	Atlanta, GA	Abt Associates, Inc.
April 30	St. Louis, MO	McKinzie Environmental
May 1	Anchorage, AK	Dave Somers, US EPA Region 10
May 1	Cedar Rapids, IA	McKinzie Environmental
May 1	San Juan, Puerto Rico	Abt Associates, Inc.
May 2	North Chelmsford, MA	Dwight Peavey, US EPA Region 1
May 2	Toledo, OH	Fran Guido, US EPA Region 5
May 3	Twin Falls, ID	Dave Somers, US EPA, Region 10
May 7	Buffalo, NY	Abt Associates, Inc.
May 7	Pittsburgh, PA	Mega-tech, Inc.
May 8	Garden City, NJ	Abt Associates, Inc.
May 9	Peoria, IL	Fran Guido, US EPA Region 5
May 10	Albany, NY	Abt Associates, Inc.
May 13	Los Angeles, CA	Abt Associates, Inc.
May 14	San Diego, CA	Abt Associates, Inc.
May 16	Green Bay, WI	Fran Guido, US EPA Region 5
May 16	Phoenix, AZ	Abt Associates, Inc.
May 17	Reno, NV	Abt Associates, Inc.
May 21	Philadelphia, PA	Mega-tech, Inc.
May 23	Columbus, OH	Fran Guido, US EPA, Region 5
May 29	Evansville, In	Fran Guido, US EPA, Region 5
May 30	Philadelphia, PA	Mega-tech, Inc.

TABLE 2. SCHEDULE FOR OTHER EPCRA/TRI WORKSHOPS[1]—Continued

Date	Location	Registration Contact
June 6	Minnetonka, MN	Fran Guido, US EPA, Region 5

This schedule may change without further notice. A schedule reflecting any changes from this notice will be posted at http://www.epa.gov/tri;

[1]Half day workshops on lead and lead compounds reporting requirements.

Contact	Telephone	Fax	Email/Web Site
Sherri Deck Abt Associates, Inc.	(301) 347-5311	(301) 652-7530	Sherri_ Deck@abtassoc.com
Dwight Peavey US EPA, Region 1	(617) 918-1829	(617) 918-1810	Peavy.Dwight@epa.gov
Fran Guido US EPA, Region 5	(312) 886-4348		Guido.Fran@epa.gov
Jack Salter US EPA Region 8	(303) 312-6026		Salter.Jack@epa.gov
Dave Somers US EPA Region 10	(206) 553-2571		Somers.David@epa.gov
Maggie Rodriguez Mega-tech, Inc.	1-888 534-1629		www.epaconference.com
McKinzie Environmental	(886) 844-4460	(913) 390-8884	www.mckinzie construction.com
National Institute of Chemical Studies	(304) 346-6264		

E. How Much Will the Training Course Cost?

There is no registration fee for the 2-Day EPCRA/TRI Training courses; however, there may be a registration fee for some of the 1-day EPCRA/TRI workshops (check with the registration contact for fees and further information). You may access information regarding registration fees via the TRI Home Page (http://www.epa.gov/tri) or by contacting the respective Registration Contact listed above (see Table 3). If there is insufficient interest at any of the training course locations, those courses may be canceled. The Agency bears no responsibility for your decision to purchase non-refundable transportation tickets or accommodation reservations.

List of Subjects

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxics Release Inventory.

Dated: February 1, 2002.

Elaine G. Stanley,

Director, Office of Information Analysis and Access.

[FR Doc. 02–2988 Filed 2–6–01; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–6]

Mr. T. Cozart Well Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with Inter-City Products Corporation, pursuant to 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, regarding the Mr. T. Cozart Superfund Site located in Lewisburg, Marshall County, Tennessee. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA Region 4 (WMD–CPSB), Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within thirty (30) calendar days of the date of this publication.

Dated: January 23, 2002.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–2982 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51982; FRL–6823–1]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and

5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 24, 2001 to January 9, 2002, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPTS–51982 and the specific PMN number, must be received on or before March 11, 2002.

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 OPPTS–51982 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the 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 Additional Information, Including Copies of This Document and Other Related Documents?

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

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51982. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, 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, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B– 607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51982 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51982 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

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 listed 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. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. 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. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 24, 2001 to January 9, 2002, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 12/24/01 TO 01/09/02

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0058	10/16/01	01/14/02	CBI	(S) Flocculant monomer	(G) N-substituted-2-methyl-2-propenamide
P–02–0058	10/16/01	01/14/02	CBI	(S) Flocculant monomer	(G) N-substituted-2-methyl-2-propenamide
P–02–0179	12/27/01	03/27/02	CBI	(G) Binder resin	(G) Acrylic polyol
P–02–0182	12/26/01	03/26/02	CBI	(G) Emulsifier	(G) Polyolefin carboxylate alcohol
P–02–0183	12/27/01	03/27/02	PRC-Desoto International, a PPG Industries Company	(G) Isocyanate base activator to cure polyester paint base	(G) Fluorinated aliphatic isocyanate polymer
P–02–0184	12/26/01	03/26/02	Image Polymers Company	(S) Toner binder	(S) 1,4-benzenedicarboxylic acid, polymer with 1,3-diisocyanatomethylbenzene, 1,2-ethanediol, 2,2′-[1,2-ethanediylbis (oxy)] bis [ethanol], 2-ethyl-2-(hydroxymethyl)-1,3-propanediol and alpha,alpha′-[(1-methylethylidene)di-4,1-phenylene] bis (omega-hydroxypoly [oxy(methyl-1,2-ethanediyl)]], benzoate (ester)
P–02–0187	12/27/01	03/27/02	Arch Chemicals, Inc.	(S) Used as an ingredient in 2-component polyurethane coatings.	(G) Aromatic polyisocyanate adduct
P–02–0188	12/27/01	03/27/02	Arch Chemicals, Inc.	(S) Used as an ingredient in 2-component polyurethane coatings	(G) Aliphatic polyisocyanate adduct
P–02–0189	12/27/01	03/27/02	Arch Chemicals, Inc.	(S) Use as an ingredient in waterborne urethane	(G) Carboxyl polyol triethylamine salt
P–02–0191	12/27/01	03/27/02	CBI	(G) Polymer for contained commercial/industrial use (incorporated into an article)	(G) 2-propenoic acid, polymer with butyl 2-propenoate, n-(1,1-dimethyl-3-oxobutyl)-2-propenamide, 2-methoxy-2-substituted-ethyl 2-propenoate, n-[(2-methylpropoxy)methyl]-2-propenamide and methyl 2-methyl-2-propenoate
P–02–0192	12/28/01	03/28/02	Hanse Chemie USA, Inc.	(S) Flexibilisation of epoxy resins	(S) Siloxanes and silicones, di-me, hydrogen-terminated, reaction products with bisphenol a diglycidyl ether and 10-undecenoic acid
P–02–0193	12/28/01	03/28/02	Lonza Inc.	(S) EPA pesticide active ingredient for: laundry detergents; toilet bowl sanitizer; water treatment; household industrial and institutional ingredient for: drain cleaner and similar oxidizer applications; laundry detergent additive without sanitizer claim	(S) 1-chloro-5,5-dimethyl hydantoin
P–02–0194	12/31/01	03/31/02	3M Company	(G) Protective treatment	(G) Aliphatic urethane
P–02–0195	12/31/01	03/31/02	3M Company	(G) Protective treatment	(G) Fluorochemical urethane

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 12/24/01 TO 01/09/02—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0196	12/28/01	03/28/02	CBI	(G) Open, non-dispersive use	(G) Aromatic alkanoate
P–02–0197	12/28/01	03/28/02	BASF Corporation	(G) Crosslinker	(G) Carboxylated amine
P–02–0198	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0199	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0200	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0201	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0202	12/31/01	03/31/02	AOC L.L.C.	(S) Polyester component for laminating of reinforced plastic parts	(S) 2,5-furandione, polymer with 1,2-ethanediol and 2,2′-oxybis[ethanol], mixed 2-ethylhexyl and 3a,4,5,6,7,7a-hexahydro-4,7-methano-1h-inden-5 (or 6)-yl esters
P–02–0203	12/31/01	03/31/02	Dow Corning Corporation	(G) Coating	(G) Polyamic acid alkyl ester derivatives
P–02–0204	01/02/02	04/02/02	CBI	(G) Open, non-dispersive (pu dispersion)	(G) Polyurethane resin dispersion
P–02–0205	12/31/01	03/31/02	Dow Corning Corporation	(G) Coating initiator	(G) Naphthoquinone diazide sulfonate ester
P–02–0206	01/03/02	04/03/02	CBI	(G) Open, non-dispersive (pu dispersion)	(G) Polyurethane resin despersion
P–02–0207	12/31/01	03/31/02	CBI	(G) Manufacturing intermediate, ag product	(G) Quaternary salt
P–02–0208	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0209	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0210	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0211	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0212	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0213	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0214	01/04/02	04/04/02	Itochu Specialty Chemicals, Inc.	(G) Physical characteristics modifier for industrial use in certain solid composite articles.	(S) Lithium potassium titanium oxide
P–02–0215	01/02/02	04/02/02	Nippon Kayaku America, Inc.	(S) Thermosetting resin modifier	(S) 1,3-benzenedicarboxylic acid, 5-hydroxy-, polymers with 3-(4-aminophenoxy) benzenamine, 3-carboxy-1-cyano-1-methylpropyl-terminated acrylonitrile-butadiene polymer and isophthalic acid
P–02–0216	01/04/02	04/04/02	CBI	(S) Polyester polyols for polyurethane resin diacrylate	(G) Diol
P–02–0217	01/04/02	04/04/02	CBI	(G) Pigment dispersant	(G) Fatty acid modified polyester
P–02–0218	01/04/02	04/04/02	Kowa American Corporation	(G) Adhesive intermediate	(G) Hydroxyalkyl ether
P–02–0219	01/04/02	04/04/02	CBI	(G) Raw material in solid phase chemistry	(G) Chloro trityl polystyrene
P–02–0220	01/07/02	04/07/02	CBI	(G) Chemical intermediate	(G) Chemical intermediate
P–02–0221	01/04/02	04/04/02	CBI	(G) Open, non-dispersive use	(G) Polyester/styrene-acrylic grafted resin
P–02–0222	01/04/02	04/04/02	CBI	(G) Ingredient in floor finisher	(G) Polyurethane prepolymer
P–02–0223	01/07/02	04/07/02	CBI	(G) Chemical intermediate	(G) Chemical intermediate
P–02–0224	01/07/02	04/07/02	CBI	(G) Plastics additive	(G) Poly(oxyalkylene) aromatic amine colorant
P–02–0225	01/07/02	04/07/02	CBI	(G) Plastics additive	(G) Poly(oxyalkylene) aromatic amine colorant
P–02–0226	01/09/02	04/09/02	CBI	(G) Chemical intermediate	(G) Substituted phenol derivative
P–02–0227	01/07/02	04/07/02	Solutia Inc.	(S) Grinding vehicle for electrodeposition primer	(G) Polyether
P–02–0228	01/09/02	04/09/02	Quest International Fragrances Co.	(S) Fragrance ingredient	(S) 3,3-dimethyl-4-isopropyl-1,5-dioxaspriro(4,5)-decane

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 12/24/01 TO 01/09/02—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0229	01/08/02	04/08/02	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrances for soaps, detergents, cleaners and other household products	(S) 2h-indeno[4,5-b]furan, decahydro-2,6,6,7,8,8-hexamethyl-
P–02–0230	01/09/02	04/09/02	Reichhold, Inc.	(G) Acrylic resin for coatings	(G) Acrylic resin
P–02–0231	01/07/02	04/07/02	Clariant LSM (America) Inc.	(G)Photographic Color Coupler	(G) Hydantoinyl m-anilide ester
P–02–0232	01/08/02	04/08/02	Na Industries, Inc.	(S) A binder resin for metal coating	(G) Dehydrated castor oil modified expoxyester
P–02–0233	01/08/02	04/08/02	Solutia Inc.	(S) Anti-settling agent for industrial coatings	(G) Modified alkyl ammonium salts
P–02–0234	01/08/02	04/08/02	CBI	(G) Colourant	(G) Sulphonated azo/hydrazo dye
P–02–0235	01/08/02	04/08/02	CBI	(G) Colourant	(G) Sulphonated azo/hydrazo dye
P–02–0236	01/08/02	04/08/02	Solutia Inc.	(S) Dispersant for industrial coatings	(G) Acrylic copolymer
P–02–0237	01/08/02	04/08/02	CBI	(G) Cleaner additive	(G) Acrylic polymer
P–02–0238	01/09/02	04/09/02	Shell Chemical Company	(S) Drilling fluid component; fuel	(S) Pentadecane, branched
P–02–0239	01/09/02	04/09/02	Shell Chemical Company	(S) Drilling fluid component; fuel	(S) Hexadecane, branched
P–02–0240	01/09/02	04/09/02	Amfine Chemical Corporation	(G) Thickening agent	(G) Polyalkylene glycol, alkyl ether, reaction products with diisocyanatoalkane and polyalkylene glycol
P–02–0241	01/08/02	04/08/02	The Dow Chemical Company	(G) The material performs as a flexibilizer for epoxy vinyl ester resins.	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-hydro-omega-hydroxy-, polymer with 1,1′-methylenebis[isocyanatobenzene], 2-hydroxyethyl acrylate-blocked
P–02–0243	12/31/01	03/31/02	The Dow Chemical Company	(S) Polymer used in sealant manufacturing	(G) Isocyanate terminated urethane polymer
P–02–0244	01/08/02	04/08/02	Solutia Inc.	(S) Defoamer for water based paints	(G) Urea resin
P–02–0247	01/09/02	04/09/02	Solutia Inc.	(S) Binder for industrial coatings	(G) Modified polyurethane resin

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 16 NOTICES OF COMMENCEMENT FROM: 12/24/01 TO 01/09/02

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0105	01/03/02	06/08/01	(G) Silane terminated polymer
P–00–0346	01/09/02	10/24/01	(G) Alkylated phenol
P–00–0515	12/27/01	12/15/01	(G) Organoiodonium salt
P–01–0433	01/07/02	12/11/01	(G) Halogenated alkane
P–01–0528	01/09/02	11/09/01	(S) Benzenesulfonic acid, 2-amino-4,5-dichloro*
P–01–0577	12/28/01	12/05/01	(G) Alkyl methacrylate copolymer
P–01–0609	01/03/02	11/14/01	(G) Carboxylic acid, polymer with phenol and turpentine-oil alpha-pinene fraction terpenes
P–01–0643	01/03/02	11/06/01	(S) 1,4-cyclohexadiene-1,4-dicarboxylic acid, 2,5-bis[(4-chlorophenyl)amino]-, dimethyl ester
P–01–0687	01/04/02	11/20/01	(G) Alkyl aryl sulfonic acid
P–01–0721	01/03/02	11/26/01	(G) Toluene diisocyanate terminated polyether polyol
P–01–0753	12/31/01	11/27/01	(G) Methyl aluminoxanes
P–01–0796	01/03/02	12/08/01	(G) Substituted pyridinedicarboxylate
P–01–0798	01/03/02	12/08/01	(G) Substituted pyridinedicarboxylate
P–01–0799	01/03/02	12/08/01	(G) Substituted pyridinedicarboxylate
P–01–0809	12/27/01	12/07/01	(S) Propanoyl, fluoride, 2,3,3,3-tetrafluoro-2-[1,1,2,3,3,3-hexafluoro-2-(heptafluoropropoxy)propoxy]-, polymer with trifluoro(trifluoromethyl)oxirane, reaction products with 3-(ethenyldimethylsilyl)-n-methylbenzenamine
P–01–0905	01/09/02	12/20/01	(S) 1,3-naphthalenedisulfonic acid, 7-[[4-[[4,6-bis[(3-sulfopropyl)thio]-1,3,5-triazin-2-yl]amino]-3-methoxyphenyl]azo]-, tetrasodium salt

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: January 30, 2002.

Carolyn Thorton,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 02–2985 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, February 12, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, February 14, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Final Audit Report on the South Carolina Republican Party.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–3141 Filed 2–5–02; 2:52 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011441–005.

Title: NYK/WWL Joint Service Contract Agreement.

Parties: Wallenius Wilhelmsen Lines AS, Nippon Yusen Kaisha.

Synopsis: The proposed amendment transforms the agreement from a joint service arrangement to a cooperative working arrangement under which the parties may jointly negotiate, enter, and administer service contracts.

Agreement No.: 011689–003.

Title: Zim/CSCL Slot Charter Agreement.

Parties: Zim Israel Navigation Company Ltd., China Shipping Container Lines Co. Ltd.

Synopsis: The proposed agreement modification expands the geographic scope of the agreement to include U.S. Atlantic ports and Canadian ports, on the one hand, and generally ports in Southeast Asia, the Indian Subcontinent, and the Mediterranean, on the other hand; extends the termination date of the agreement; and revises the parties' slot allocations.

Agreement No.: 201127.

Title: Philadelphia/Pasha Pier 96–98 Agreement.

Parties: Philadelphia Regional Port Authority, The Pasha Group, t/a Pasha Auto Warehousing.

Synopsis: The agreement is a re-stated and amended lease of property at the Packer Avenue Marine Terminal.

By Order of the Federal Maritime Commission.

Dated: February 1, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–2889 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date reissued
4656NF	Barsan International, Inc., 136 Central Avenue, Clark, NJ 07066	October 24, 2001.
3326F	Modern Cargo Services Inc., 11265 NW 131st Street, Medley, FL 33178	November 1, 2001.
4592F	Natasha International Freight, Inc., 12912 SW 133 Court, Suite A, Miami, FL 33186.	December 8, 2001.
16400N	North American (U.K.) Limited, 7–8 Borrowdale Road, Workingham/Berk, England RG415UX.	November 4, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–2887 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 4106NF.

Name: AFS, Inc. dba Denali International.

Address: 80 Yesler Way, Seattle, WA 98104–2562.

Date Revoked: December 29, 2001.

Reason: Failed to maintain valid bonds.

License Number: 16964NF.
Name: General Express Group, Corp.
Address: 11455 NW 34th Street, Miami, FL 33178.
Date Revoked: December 7, 2001.
Reason: Failed to maintain valid bonds.
License Number: 15283N.
Name: Global Express Lines USA, Inc.
Address: 44 Old Higgins Road, Des Plaines, IL 60018.
Date Revoked: January 6, 2002.
Reason: Failed to maintain a valid bond.
License Number: 8319N.
Name: Hanmi Shipping, Inc.
Address: 80 Atlantic Street, Hackensack, NJ 07601.
Date Revoked: January 2, 2002.
Reason: Failed to maintain a valid bond.
License Number: 17007N.
Name: JHJ International Transportation Co., Ltd.
Address: Shartex Plaza No. 88, Ste. 2502, Zun Yi Nan, Shanghai, 200336, China.
Date Revoked: January 10, 2002.
Reason: Failed to maintain a valid bond.
License Number: 17601N.
Name: LN Navigation (USA) Inc.
Address: 1120 Walnut Street, San Gabriel, CA 91776.
Date Revoked: January 28, 2002.
Reason: Surrendered license voluntarily.
License Number: 4352F.
Name: Roldan Products Corporation.
Address: 13545 Barrett Parkway Drive, Ballwin, MO 63021.
Date Revoked: January 6, 2002.
Reason: Failed to maintain a valid bond.
License Number: 12895F.
Name: United Trans-Trade, Inc.
Address: 8 Hartland Commons Road, North Brunswick, NJ 08902.
Date Revoked: October 27, 2001.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–2888 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

International Logistics Inc.9902 S. 148th StreetOmaha, NE 68138
Officers:Michael T. Contreras, Vice President(Qualifying Individual)Thomas Hastings, President/CEO
Worldtrans Co. d/b/a Worldtrans Container Line 3300 North Barrington Rd., Ste. 400Hoffman Estates, IL 60195
Officer: Charles B. Ozburn, President(Qualifying Individual)
Trans-Nexus Logistics Ltd., Co.30 Montgomery Street, Ste. 240Jersey City, NJ 07302
Officers:Jeffrey Phu, President(Qualifying Individual)Michael D. Iorio, Vice President
Star Airfreight Co., Ltd.8901 S. La Cienega Blvd., Ste. 209Inglewood, CA 90301
Officers:Anthony Chan, President(Qualifying Individual)Eddie T.C. Yau, Chairman
Star Airfreight Co., Ltd.149–35 177th Street, 2/Fl.Jamaica, NY 11434
Officers:Anthony Chan, President(Qualifying Individual)Eddie T.C. Yau, Chairman
New Hope Logistics Inc.1080 N. ArgoniaWalnut, CA 91789
Officers:Joseph Chu, CEO(Qualifying Individual)Belinta Chu, CFO
LMD Logistics, Inc.1 Evertrust Plaza, 4th FloorJersey City, NJ 07302
Officer:Mitchel R. Scher, President(Qualifying Individual)

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Atallah Business Group 6911 NW 87th AvenueMiami, FL 33166
Officers:Betsy Delosangeles Perez-Diaz, Secretary(Qualifying Individual)Ramese Atallah, President
International Frontier Forwarders, Inc.471 West 38th StreetHouston, TX 77018
Officer:Jose Gregorio Diaz, President(Qualifying Individual)
Moog International, Inc.1223 Grove RoadPittsburgh, PA 15234–2397
Officers:James A. Frye, Vice President(Qualifying Individual)Ronald P. Moog, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Hayek Services, Inc.5513 NW 72nd AvenueMiami, FL 33166
Officer:Fransua, A. Hayek, Director(Qualifying Individual)
E S I Freight (USA) Inc.Ste. 250, Bldg. 9, JFK International AirportJamaica, NY 11430
Officer:Ying Wai Man, President(Qualifying Individual)

Dated: February 1, 2002.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 02–2890 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 4, 2002.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Regions Financial Corporation, Birmingham, Alabama; to merge with Brookhollow Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire 100 percent of the voting shares of Brookhollow National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, February 1, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2911 Filed 2–6–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Presidential Advisory Council on HIV/AIDS

January 29, 2002.

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Presidential Advisory Council on HIV/AIDS (Council) scheduled for March 14–15, 2002, at the White House Conference Center at 726 Jackson Place NW. The Council will meet both days from 9 am until 5 pm. The meetings will be open to the public, however space may be limited. Possible attendees are strongly encouraged to pre-register by calling Shellie Abramson at (202) 860–8863.

Patricia Ware, Executive Director, Presidential Advisory Council on HIV and AIDS, 200 Independence Avenue, SW., Room 733–E, Washington, DC., (Voice-mail: (202) 205–2982, Fax: (202) 690–7560) will furnish the meeting agenda and roster of committee members upon request. Once a draft agenda has been finalized, it may also be accessed through the Council's website: *www.pacha.gov.* Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mike Starkweather at (301) 628–3141 no later than March 1, 2001.

Patricia Ware,

Executive Director, Presidential Advisory Council on HIV and AIDS.

[FR Doc. 02–2910 Filed 2–6–02; 8:45 am]

BILLING CODE 3195–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Solicitation of Interested Persons To Serve as Special Consultants to the Community and Tribal Subcommittee (CTS) of the ATSDR Board of Scientific Counselors (BSC)

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces ATSDR's intent to fill 4 Special Consultant vacancies on the Community and Tribal Subcommittee of ATSDR's Board of Scientific Counselors.

BACKGROUND: The Community and Tribal Subcommittee is composed of four members of ATSDR's Board of Scientific Counselors (BSC). CTS provides BSC with a formal vehicle for citizens input.

In 1994, three community and tribal representatives were selected to serve as Special Consultants to CTS. At the end of their tenure, it was decided to increase the number of Special Consultants from three to eleven in order to bring a wider spectrum of representation from community and tribal members who live near hazardous waste sites, or are otherwise affected by hazardous substances in the community environment.

FOR FURTHER INFORMATION: To express interest in serving as a Special Consultant to CTS and obtain additional information, contact: Ruby Palmer, Designated Federal Official, CTS, ATSDR (E–54), 1600 Clifton Road, NE, Atlanta, GA 30033, Toll-free 1–888–422–8737.

SUPPLEMENTARY INFORMATION: ATSDR conducts public health-related activities at hazardous waste sites and releases, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*). ATSDR established a BSC which is chartered under the Federal Advisory Committee Act (5 U.S.C. app.).

In order to obtain input from communities and tribes located near superfund sites or hazardous waste sites, the Community and Tribal Subcommittee is recruiting three community and tribal representatives as consultants to the CTS.

The Community and Tribal Subcommittee's objective is to provide the BSC, ATSDR, with the views and recommendations of community and tribal representatives on ATSDR's community involvement programs, practices, policies, and other relevant issues impacting communities and tribes who live near Superfund and hazardous waste sites. The Subcommittee reviews ATSDR's community involvement programs and policies; provides advice, findings, and recommendations to the Board on these issues; and brings broad-based community and tribal involvement issues to the attention of the Board.

The Community and Tribal Subcommittee will present its findings, advice, and recommendations to the full Board. The BSC will discuss and review reports of the Subcommittee and may forward recommendations to the Agency for action. The Community and Tribal Subcommittee will periodically meet and/or hold conference calls.

A group consisting of Special Consultants, the CTS Chair and the Designated Federal Official will review the applications and develop a short list to be recommended to the Agency for consideration. The Agency, in consultation with the BSC chair will then select the three community representatives to fill the vacancies, with special consideration given to the recommended slate.

Accordingly, any person who lives in a community affected by a National Priority List or other hazardous waste site; who is a representative of a group that works at local, regional, or national locations within these communities; or who wishes to be considered for serving as a special consultant on this Subcommittee should write or call the ATSDR contact person listed above to obtain additional information.

Application: Please complete the following application and return it to the address listed by Sunday, March 31, 2002.

Application

Community and Tribal Subcommittee

Agency for Toxic Substances and Disease Registry (ATSDR)

January 25, 2002.

Please answer the following questions (as legibly as possible to ensure that photocopies of it are readable) by

Sunday, March 31, 2002. Please send to: Ruby Palmer, Designated Federal Official, CTS, ATSDR (E–54), 1600 Clifton Road, NE., Atlanta, GA 30033.

Phone: Toll-free 1–888–422–8737.

Fax: (404) 498–1744.

Name: _____

Street Address: _____

City, State, Zip: _____

Telephone: _____

Fax: _____

E-mail: _____

Employment and employer(s) for last five years: _____

Please check the corresponding box for your response to the following questions; please keep any written responses brief.

(1) Do you live in a community or on a reservation that contains a site contaminated with toxic substances or are you a member of an organization that works on environmental health/toxic substance issues with such affected communities/tribes? Check all that apply.

__ yes, live in such a community/ reservation

__ yes, member of such an organization

__ no

If you checked no, please skip to question #9.

(2) What type of site is it?

__ National Priorities List (Superfund NPL)

__ Department of Energy

__ Department of Defense

__ State

__ Not sure/don't know

__ Other

(3) What is the status of site cleanup?

__ Cleanup underway

__ Cleanup completed

__ No work done

__ Not sure/don't know

(4) How would you characterize your community/tribe?

__ Rural

__ Suburban

__ Urban

__ Tribal Lands

__ Not sure/ don't know

(5) How would you characterize the racial/ethnic makeup of your community/tribe?

__ White

__ African-American

__ Hispanic

__ Asian

__ Native American

__ Mixed/ no group predominate

__ Not sure/don't know

(6) How would you characterize the economic status of your community/tribe?

__ Lower income

__ Middle income

__ Upper income

__ Not sure/don't know

(7) Do you believe your personal/family health has been harmed due to exposure to toxic substances in the environment?

__ Yes __ Possibly __ No

(7a) *If you are a tribal member*, is contamination of traditional food supply thought to be a problem?

__ Yes __ Possibly __ No

(8) Are you a member of a community/ tribal organization focused on the site?

__ Yes __ No

(8a) If yes, please describe

_____

(9) Are you familiar with the Agency for Toxic Substances and Disease Registry (ATSDR)?

__ Yes __ No

(10) Have you either sought assistance from, or previously been involved with ATSDR?

__ Yes __ No

(11) Has ATSDR sponsored a health assessment or health study in your community?

__ Yes __ No __ Not sure/ don't know

(12) Have you attended other national or regional ATSDR meetings in the last 5 years?

__ Yes __ No

(13) Are you a member of an organization—other than the one you may have noted in question 8—focused on toxic substances/ environmental health?

__ Yes __ No

(13a) If yes, what is the scope of the organization?

__ Local __ Regional __ National

(13b) Please describe the organization

_____

(14) How many years have you been involved in toxic substance/ environmental health issues?

__ Years

(15) How many hours per month on average can you make available for telephone calls, periodic meetings, an review of materials?

__ Hour per month

(16) Have you in the past or are you now participating in an advisory group similar in structure to the Community and Tribal Subcommittee?

__ Yes __ No

(16a) If yes, please describe the group and your role

_____

(17) QUALIFICATIONS/ BACKGROUND: Please briefly note your knowledge of/ experience with toxic substance/environmental health issues. List relevant self-education/ research, workshops attended, and/or formal training.

_____

(18) CURRENT ISSUES: What are your views on ATSDR's current approach to working with communities/tribes?

_____

(19) EXPECTATIONS: What type of input, recommendations, and advice do you envision the Subcommittee providing, and what type of outreach would you do in order to formulate your recommendations to the Board of Scientific Counselors?

_____

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 31, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2938 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Community and Tribal Subcommittee of the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following subcommittee and committee meetings.

Name: Community and Tribal Subcommittee (CTS).

Time and Date: 8:30 a.m.–4:30 p.m., February 27, 2002.

Place: Sheraton Buckhead Hotel, 3405 Lenox Road NE, Atlanta, Georgia 30326.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 50 people.

Purpose: This subcommittee brings to the Board advice, citizen input, and recommendations on community and tribal programs, practices, and policies of the Agency.

Matters to be Discussed: Agenda items include a presentation on ATSDR's Disease Registry activities; a presentation on ATSDR's Strategic Plan; an overview on the Public Health Assessment Guidance Manual; a report on the meeting at the Pentagon addressing health issues at federal facility sites; and a report on the progress with the external review of the CTS.

Written comments are welcomed and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Ruby L. Palmer, Designated Federal Official, CTS/ATSDR contact, ATSDR, M/S E–54, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/498–1749.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 31, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2939 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02029]

Cooperative Agreement for the Support of a National Folic Acid Promotion Program Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of Fiscal Year (FY) 2002 funds for a cooperative agreement program for the support of a National Folic Acid Promotion Program. This program addresses the ''Healthy People 2010'' focus area of Maternal, Infant, and Child Health.

The purpose of this program is to support the development and implementation of a national program to promote the use of vitamin folic acid for the prevention of spina bifida and other neural tube defects. This program will improve the knowledge and awareness of health care providers, public and private health organizations, and women of reproductive age about reducing birth defects by promoting the use of folic acid.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

To be eligible, applicants must demonstrate involvement in a national organization which is actively participating in the promotion of folic acid to prevent birth defects. This should be demonstrated in the form of a letter from the identified National Organization's/Council's Executive Officer and should be placed immediately following the face page of the application.

Applications that do not include the above information will be determined as non-responsive and returned without review.

C. Availability of Funds

Approximately $200,000 will be available to fund one award. It is expected that this award will begin on or about June 1, 2002, and will be made for a 12-month budget period within a project period of up to five years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

To achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities) and CDC will be responsible for activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Provide at least one full-time manager and other staff support needed to carry out a national agenda.

b. Develop a national program to reach women of reproductive age and healthcare providers who serve them.

c. Provide a mechanism which allows the public to access the latest developments in research and practice related to the use of folic acid to prevent birth defects.

d. Provide a customized service whereby state and local programs, agencies, and professionals may receive packets, newsletters, bibliographies, policy papers, and fact sheets.

e. Convene meetings of council partners to share information about materials, strategies, and model programs to promote the use of folic acid to prevent birth defects.

f. Participate in national, state, or local meetings and conferences on behalf of the council.

g. Establish and implement methods for evaluating the impact of the programs and activities to increase consumption of folic acid.

2. CDC Activities

a. Provide scientific collaboration for appropriate aspects of the activities, including new scientific data on benefits of folic acid, information on rates of neural tube birth defects, and prevention strategies.

b. Assist in development and review of relevant information made available to federal, state, and local health agencies, health care providers, and volunteer organizations.

c. In conjunction with the recipient, evaluate the impact of the programs and activities to increase consumption of folic acid.

d. Participate in all meetings convened by the recipient.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The application should be no more than 20 double-spaced pages, printed on one side, with one-inch margins, and 12 point font, not including attachments.

1. Organization Profile

a. Provide a narrative, including background information and information on the applicant organization, evidence of relevant experience in coordinating activities among constituents, and a clear understanding of the purpose of the project.

b. Include details of past experiences working with the target populations.

Provide information on organizational capability to conduct proposed project activities.

c. Describe qualified and experienced personnel who are available to work on the project and provide evidence of the organizational structure that is proposed to meet the requirements of the project. Include an organizational chart of the applicant organization specifying the location and staffing plan for the proposed project.

2. Program Plan

a. Include goals and measurable impact and process objectives that are specific, realistic, measurable, and time-phased. Include an explanation of how the objectives contribute to the purposes of the request for assistance and evidence that demonstrates the potential effectiveness of the proposed objectives.

b. Detail an action plan, including a timeline of activities and personnel responsible for implementing each segment of the plan.

c. Prepare a plan to include impact and process evaluation utilizing both quantitative and qualitative measures for the achievement of program objectives to determine the impact of the program promoted by the awardee, and monitor the implementation of proposed activities. Indicate how the quality of services provided will be ensured.

d. Provide a plan for obtaining additional resources from non-Federal sources to supplement program activities and ensure continuation of the activities after the end of the project period.

3. Collaboration Activities

Provide evidence of collaborative efforts with organizations involved with promoting the health of children and/or preventing birth defects.

4. Budget Information

a. Provide a detailed budget with justification. The budget proposal should be consistent with the purpose and program plan of the proposed project.

b. Provide, if known at the time of application, the name of any contractor, method of selection, budget etc.

F. Submission and Deadline

Letter of Intent (LOI)

On or before February 28, 2002, submit the LOI to the official noted for program technical assistance identified in the ''Where to Obtain Additional Information'' of this announcement.

Application

Submit the original and two copies of the application PHS 5161–1, (OMB Number 0937–0189). Forms are in the application kit or at Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before March 29, 2002, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1. or 2. above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Background and Need (15 points)

The extent to which the applicant understands the importance of promoting the use of the vitamin folic acid for the prevention of neural tube birth defects and proposes a plan to address the issues of an educational campaign.

2. Capability (25 points)

The extent to which the applicant appears likely to succeed in implementing proposed activities as measured by relevant past experience, a sound management structure, and staff qualifications, including the appropriateness of their proposed roles and responsibilities and job descriptions.

3. Program Plan (30 points)

The feasibility and appropriateness of the applicant's action plan to provide staffing, convene meetings, facilitate communication, and evaluate impact of program.

4. Coordination and Collaboration (20 points)

The extent to which the applicant proposes to coordinate the activities of the National Council on Folic Acid with state and local folic acid programs, state and local coalitions, provider organizations, and other appropriate agencies.

5. Evaluation Plan (10 points)

The extent to which the applicant proposes to evaluate the impact of the proposed plan, including impact and process evaluation, as well as quantitative and qualitative measures for achievement of program objectives, determining the health effect on the population, and monitoring the implementation of proposed activities.

6. Budget and Justification (Not Scored)

The extent to which the proposed budget is adequately justified, reasonable, and consistent with proposed project activities and this program announcement.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semi-annual reports should include:

a. A brief project description.

b. A comparison of the actual accomplishments to the goals and objectives established for the period.

c. In the case that established goals and objectives may not be accomplished or are delayed, documentation of both the reason for the deviation and the anticipated corrective action or a request for deletion of the activity from the project.

d. Other pertinent information, including preliminary findings from the analysis of available data.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Appendix I in the application kit.

AR–9 Paperwork Reduction Act
AR–10 Smoke-Free Workplace
AR–11 Healthy People 2010
AR–12 Lobbying Restriction

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 317(c) and 317(J) of the

Public Health Service Act, [42 U.S.C. 241] as amended. The Catalog of Federal Domestic Assistance number is 93.184.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov* Click on ''Funding'' then ''Grants and Cooperative Agreement''.

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the program announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sheryl Heard, Grants Management Specialist, Acquisition and Assistance Branch B, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Announcement 02029, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone (770) 488–2723, Email: *slh3@cdc.gov.*

For program technical assistance, contact: Charlotte Dickinson, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop F–34, Atlanta, Georgia 30341, Telephone: (770) 488–7155, Email: *cmd1@cdc.gov.*

Dated: February 1, 2002.

Robert L. Williams,

Chief, Acquisition and Assistance Branch, Procurement and Grants Office, Centers for Disease Control and Prevention—(CDC).

[FR Doc. 02–2937 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02026]

Cooperative Agreement for a National Professional Organization for Persons with Developmental Disabilities; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program entitled ''National Professional Organization for Persons with Developmental Disabilities.'' This program addresses the ''Healthy People 2010'' focus areas of Maternal, Infant and Child Health, and Disability and Secondary Conditions.

The purpose of the program is to strengthen the nation's capacity to carry out public health activities in the areas of birth defects and developmental disabilities. The objectives are to: (1) Facilitate state-based surveillance and research of birth defects and developmental disabilities, to assure time-sensitive services are provided and effective clinical and environmental interventions are made available; (2) increase access to social participation of children and adults with disabilities through advocacy and public policy development; and (3) train public health professionals to strengthen the nation's expertise in the fields of birth defects, developmental disabilities, and children and adults with disabilities.

B. Eligible Applicants

Assistance will only be provided to applicants that are national professional organizations, with a large and broad-based membership representing professionals working with state public health agencies and academic communities in the areas of birth defects and developmental disabilities as well as consumers of these services.

To be eligible, applicants must demonstrate that the mission of the organization is explicitly committed to improving and developing state and national health policy in birth defects and developmental disabilities throughout the United States, by focusing their efforts on helping to strengthen and build capacity and infrastructure of state agencies responsible for surveillance, applied research, and training. This may be demonstrated by submission of your Charter, or at least two letters of support from the membership representing professionals working with state public health agencies and academic communities in the areas of birth defects and developmental disabilities which documents your active commitment to the above mission and public health policies, or both.

This information should be placed directly behind the face page of the application. Applications that fail to submit the evidence requested above will be considered non-responsive and returned without review.

Note: Title 2 of the United States Code, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

C. Availability of Funds

Approximately $200,000 is available in FY 2002 to fund approximately one award. It is expected that the awards will begin on or about June 1, 2002, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Establish in the first year, the methods, guidance, and infrastructure for projects that may be conducted by the recipient, or by a sub-recipient; i.e. professional membership (Special Projects). The recipient will prepare and provide guidance documentation for soliciting applications, evaluation of applications and making funding decisions. Subsequent continuation applications will include any Special Projects which the organization determines should receive funding. All projects should be responsive to the public health mission of CDC by focusing on one or more of the activities ''b.'' through ''h.'' below; and all projects must meet the requirements of activity ''i.'' below.

b. Develop and implement projects in public health and disability services research regarding best practices for persons with birth defects, developmental disabilities, and special health care needs.

c. Collaborate with local and state agencies to develop and provide access to critical databases for health and disability services assessment; develop methods to analyze and interpret relevant data.

d. Collaborate with local and state agencies in a recruitment and training program to produce professionals to serve in public health at state and national levels.

e. Develop and participate in educational workshops, conferences, and other forums focusing on persons with birth defects, developmental disabilities, and special health care needs.

f. Design and implement training activities that will promote professional

development to support data-related activities in birth defects and developmental disabilities.

g. Convene an advisory panel of experts to assist in identifying the knowledge and practices in the areas related to birth defects and developmental disabilities and to provide expert opinions and advice on required research services and education.

h. Disseminate information on prevention of birth defects, developmental disabilities, and health promotion for persons with disabilities.

i. For each of the activities ''a. through h.'' above, develop and implement an evaluation plan.

2. CDC Activities

a. Provide assistance in the establishment and implementation of Special Project program operations, which include development of a process for solicitation of applications, establishment of application review procedures, participation on review committees, and development of evaluation guidance and processes for making funding decisions.

b. Provide assistance in the development of public health projects in the fields of birth defects, developmental disabilities, and health and disability services.

c. Assist in the evaluation of professional training and leadership in the fields of birth defects, developmental disabilities, and health and disability services.

d. Assist in the evaluation of state, local and national level forums on critical public health issues related to the fields of birth defects, developmental disabilities, and health and disability services.

e. Assist in monitoring of progress for the Special Projects.

f. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in any proposed research projects.

E. Application Content

Letter of Intent (LOI)

A non-binding LOI is requested for this program. The narrative should be no more than one, double-spaced page, printed on one side, with one inch margins, and unreduced font. It should identify the announcement number, name of the proposed project director and name of the organization.

Your letter of intent will be used to allow CDC to determine the level of interest in the announcement, to plan the review more efficiently, and to ensure that each applicant receives timely and relevant information prior to the application submission date.

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan.

F. Submission and Deadline

Letter of Intent (LOI)

On or before February 28, 2002, submit the LOI to the official noted for program technical assistance identified in the ''Where to Obtain Additional Information'' of this announcement.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before March 28, 2002, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

The applications will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Proposed Program (30 points)

The extent to which the proposal clearly demonstrates the applicants understanding of the issues. The proposal should describe project objectives that fit the activities in the application. The proposal demonstrates that applicant has a broad range of knowledge and expertise in the fields of birth defects, developmental disabilities, and adults and children living with disabilities. The proposal demonstrates that the applicant's membership is comprised of professionals practicing in a variety of specialties that contribute to the research, policy development, and training in the areas of birth defects, and developmental disabilities, and adults and children living with disabilities.

2. Technical Merit (30 points)

The extent to which the proposal demonstrates technical merit in the approaches to be used in accomplishing the activities.

3. Proposal Adequacy (30 points)

The extent to which the application demonstrates adequacy of the plan to address the activities and an appropriate time line to accomplish them. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of the study is adequate to measure differences when warranted; and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

4. Program Personnel (10 points)

The extent to which the proposal describes qualifications of professional and support staff that are commensurate with necessary levels of expertise to successfully accomplish program activities.

5. Budget (not scored)

The extent to which the proposal demonstrates appropriateness and justification of the requested budget relative to the activities proposed.

6. Human Subjects (not scored)

Procedures adequate for the protection of human subjects must be documented. The application must adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects. Although this is not scored, an application can be disapproved if the research risks are sufficiently serious and protection against risks are so inadequate as to make the entire application unacceptable.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Semi-annual progress reports should include:

a. A brief project description

b. A comparison of the actual accomplishments to the goals and objectives established for the period

c. In the case that established goals and objectives may not be accomplished or are delayed, documentation of both the reason for the deviation and the anticipated corrective action or a request for deletion of the activity from the project

d. Other pertinent information, including preliminary findings from the analysis of available data

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 311, and 317 of the Public Health Service Act, [42 U.S.C. sections 241, 243, and 247b4], as amended. The Catalog of Federal Domestic Assistance number is 93.184.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Program Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sheryl Heard, Grants Management Specialist, Assistance and Acquisition Branch B, Procurement and Grants Office, Centers for Disease Control and Prevention.

[Announcement 02026]

2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146. *Telephone number:* 770–488–2723. *E-mail: slh3@cdc.gov.*

For program technical assistance, contact: Tom Horne, National Center on Birth Defects and Developmental Disabilities. 4770 Buford Highway, Mail Stop F–15 Atlanta, Georgia 30341. *Telephone number:* 770–488–7364. *E-mail:* tjh1@cdc.gov.

Robert L. Williams,

Chief, Assistance and Acquisition Branch B., Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2941 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Hearing Sensitivity and Exposure to Noise and/or Chemicals, RFA OH–02–003.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Hearing Sensitivity and Exposure to Noise and/or Chemicals, RFA OH–02–003.

Times and Dates: 8 a.m.–8:30 a.m., March 14, 2002 (Open) 8:30 a.m.–5 p.m., March 14, 2002 (Closed)

Place: Hilton Old Town, 1767 King Street, Alexandria, Virginia 22314.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Pub. L. 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to RFA OH–02–003.

Contact Person for More Information: Price Connor, Ph.D., Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE, M/S E20, telephone (404) 498–2511.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 30, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–2942 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC): Meeting

ACTION: Location Change.

SUMMARY: Department of Health and Human Services, Centers for Disease Control and Prevention, Healthcare Infection Control Practices Advisory Committee published a document in the **Federal Register**.

Federal Register: January 22, 2002 (Volume 67, Number 14) (Page 2889–2890).

Name: Healthcare Infection Control Practices Advisory Committee.

Times and Dates: 8:30 a.m.–5 p.m., February 25, 2002, 8:30 a.m.–4 p.m., February 26, 2002.

Correction

Old Location: Radisson Buckhead/Emory Area Inn, 2061 North Druid Hills Road, Atlanta, Georgia 30329.

New Location: Atlanta Century Center Marriott, Meeting Room: Century West, 2000 Century Boulevard NE, Atlanta, Georgia 30345 Phone: 404–348–1110.

Status: Open to the public, limited only by the space available.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Michele L. Pearson, M.D., Executive Secretary, HICPAC, Division of Healthcare Quality Promotion, NCID, CDC, 1600 Clifton Road, NE., M/S A07, Atlanta, Georgia 30333, telephone 404/498–1182.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of

meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 31, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2940 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0007]

Agency Information Collection Activities; Proposed Collection; Comment Request; CGMP Regulations for Finished Pharmaceuticals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's current good manufacturing practice (CGMP) regulations for finished pharmaceuticals.

DATES: Submit written or electronic comments on the collection of information by April 8, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

CGMP Regulations for Finished Pharmaceuticals—21 CFR Parts 210 and 211 (OMB Control No. 0910–0139)—Extension

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(a)(2)(B)), a drug is adulterated if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with the CGMP to ensure that such drug meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

FDA has the authority under section 701(a) of the act (21 U.S.C. 371(a)) to issue regulations for the efficient enforcement of the act regarding CGMP procedures for manufacturing, processing, and holding drugs and drug products. The CGMP regulations help ensure that drug products meet the statutory requirements for safety and have their purported or represented identity, strength, quality, and purity characteristics. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to protect public health and safety. CGMP requirements establish accountability in the manufacturing and processing of drug products, provide for meaningful FDA inspections, and enable manufacturers to improve the quality of drug products over time. The CGMP recordkeeping requirements also serve preventive and remedial purposes and provide crucial information if it is necessary to recall a drug product.

The general requirements for recordkeeping under part 211 (21 CFR part 211) are set forth in § 211.180. Any production, control, or distribution record associated with a batch and required to be maintained in compliance with part 211 must be retained for at least 1 year after the expiration date of the batch and, for certain over-the-counter (OTC) drugs, 3 years after distribution of the batch (§ 211.180(a)). Records for all components, drug product containers, closures, and labeling are required to be maintained for at least 1 year after the expiration date and 3 years for certain OTC products (§ 211.180(b)).

All part 211 records must be readily available for authorized inspections during the retention period (§ 211.180(c)), and such records may be retained either as original records or as true copies (§ 211.180(d)). In addition, 21 CFR 11.2(a) provides that ''for records required to be maintained but not submitted to the agency, persons may use electronic records in lieu of paper records or electronic signatures in lieu of traditional signatures, in whole or in part, provided that the requirements of this part are met.'' To the extent this electronic option is used, the burden of maintaining paper records should be substantially reduced, as should any review of such records.

In order to facilitate improvements and corrective actions, records must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures (§ 211.180(e)). Written procedures for these evaluations are to be established and include provisions for a review of a representative number of batches and, where applicable, records associated

with the batch, and provisions for a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

The specific recordkeeping requirements provided in table 1 of this document are as follows:

Section 211.34—Consultants advising on the manufacture, processing, packing, or holding of drug products must have sufficient education, training, and experience to advise on the subject for which they are retained. Records must be maintained stating the name, address, and qualifications of any consultants and the type of service they provide.

Section 211.67(c)—Records must be kept of maintenance, cleaning, sanitizing, and inspection as specified in §§ 211.180 and 211.182.

Section 211.68—Appropriate controls must be exercised over computer or related systems to assure that changes in master production and control records or other records are instituted only by authorized personnel.

Section 211.68(a)—Records must be maintained of calibration checks, inspections, and computer or related system programs for automatic, mechanical, and electronic equipment.

Section 211.68(b)—All appropriate controls must be exercised over all computers or related systems and control data systems to assure that changes in master production and controls records or other records are instituted only by authorized persons.

Section 211.72—Filters for liquid filtration used in the manufacture, processing, or packing of injectable drug products intended for human use must not release fibers into such products.

Section 211.80(d)—Each container or grouping of containers for components or drug product containers or closures must be identified with a distinctive code for each lot in each shipment received. This code must be used in recording the disposition of each lot. Each lot must be appropriately identified as to its status.

Section 211.100(b)—Written production and process control procedures must be followed in the execution of the various production and process control functions and must be documented at the time of performance. Any deviation from the written procedures must be recorded and justified.

Section 211.105(b)—Major equipment must be identified by a distinctive identification number or code that must be recorded in the batch production record to show the specific equipment used in the manufacture of each batch of a drug product. In cases where only one of a particular type of equipment exists in a manufacturing facility, the name of the equipment may be used in lieu of a distinctive identification number or code.

Section 211.122(c)—Records must be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination, or testing.

Section 211.130(e)—Inspection of packaging and labeling facilities must be made immediately before use to assure that all drug products have been removed from previous operations. Inspection must also be made to assure that packaging and labeling materials not suitable for subsequent operations have been removed. Results of inspection must be documented in the batch production records.

Section 211.132(c)—Certain retail packages of OTC drug products must bear a statement that is prominently placed so consumers are alerted to the specific tamper-evident feature of the package. The labeling statement is required to be so placed that it will be unaffected if the tamper-resistant feature of the package is breached or missing. If the tamper-evident feature chosen is one that uses an identifying characteristic, that characteristic is required to be referred to in the labeling statement.

Section 211.132(d)—A request for an exemption from packaging and labeling requirements by a manufacturer or packer is required to be submitted in the form of a citizen petition under 21 CFR 10.30.

Section 211.137—Requirements regarding product expiration dating and compliance with 21 CFR 201.17 are set forth.

Section 211.160(a)—The establishment of any specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms, including any change in such specifications, standards, sampling plans, test procedures, or other laboratory control mechanism, must be drafted by the appropriate organizational unit and reviewed and approved by the quality control unit. These requirements must be followed and documented at the time of performance. Any deviation from the written specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms must be recorded and justified.

Section 211.165(e)—The accuracy, sensitivity, specificity, and reproducibility of test methods employed by a firm must be established and documented. Such validation and documentation may be accomplished in accordance with § 211.194(a)(2).

Section 211.166(c)—Homeopathic drug product requirements are set forth.

Section 211.173—Animals used in testing components, in-process materials, or drug products for compliance with established specifications must be maintained and controlled in a manner that assures their suitability for their intended use. They must be identified, and adequate records must be maintained showing the history of their use.

Section 211.180(e)—Written records required by part 211 must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures. Written procedures must be established and followed for such evaluations and must include provisions for a representative number of batches, whether approved or unapproved or rejected, and a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

Section 211.180(f)—Procedures must be established to assure that the responsible officials of the firm, if they are not personally involved in or immediately aware of such actions, are notified in writing of any investigations, conducted under § 211.198, 211.204, or 211.208, any recalls, reports of inspectional observations issued, or any regulatory actions relating to good manufacturing practices brought by FDA.

Section 211.182—This section specificies requirements for equipment cleaning records and the use log.

Section 211.184—This section specifies requirements for component, drug product container, closure, and labeling records.

Section 211.186—This section specifies master production and control records requirements.

Section 211.188—This section specifies batch production and control records requirements.

Section 211.192—This section specifies the information that must be maintained on the investigation of discrepancies found in the review of all drug product production and control records by the quality control staff.

Section 211.194—This section explains and describes laboratory records that must be retained.

Section 211.196—This section specifies the information that must be included in records on the distribution of the drug.

Section 211.198—This section specifies and describes the handling of all complaint files received by the applicant.

Section 211.204—This section specifies that records be maintained of returned and salvaged drug products and describes the procedures involved.

Written procedures, referred to here as standard operating procedures (SOPs), are required for many part 211 records. The current SOP requirements were initially provided in a final rule published in the **Federal Register** of September 29, 1978 (43 FR 45014), and are now an integral and familiar part of the drug manufacturing process. The major information collection impact of SOPs results from their creation. Thereafter, SOPs need to be periodically updated. A combined estimate for routine maintenance of SOPs is provided in table 1 of this document. The 25 SOP provisions under part 211 in the combined maintenance estimate include:

1. Section 211.22(d)—Responsibilities and procedures of the quality control unit;
2. Section 211.56(b)—Sanitation procedures;
3. Section 211.56(c)—Use of suitable rodenticides, insecticides, fungicides, fumigating agents, and cleaning and sanitizing agents;
4. Section 211.67(b)—Cleaning and maintenance of equipment;
5. Section 211.68(a)—Proper performance of automatic, mechanical, and electronic equipment;
6. Section 211.80(a)—Receipt, identification, storage, handling, sampling, testing, and approval or rejection of components and drug product containers or closures;
7. Section 211.94(d)—Standards or specifications, methods of testing, and methods of cleaning, sterilizing, and processing to remove pyrogenic properties for drug product containers and closures;
8. Section 211.100(a)—Production and process control;
9. Section 211.110(a)—Sampling and testing of in-process materials and drug products;
10. Section 211.113(a)—Prevention of objectionable microorganisms in drug products not required to be sterile;
11. Section 211.113(b)—Prevention of microbiological contamination of drug products purporting to be sterile, including validation of any sterilization process;
12. Section 211.115(a)—System for reprocessing batches that do not conform to standards or specifications, to insure that reprocessed batches conform with all established standards, specifications, and characteristics;
13. Section 211.122(a)—Receipt, identification, storage, handling, sampling, examination and/or testing of labeling and packaging materials;
14. Section 211.125(f)—Control procedures for the issuance of labeling;
15. Section 211.130—Packaging and label operations, prevention of mixup and cross contamination, identification and handling of filed drug product containers that are set aside and held in unlabeled condition, identification of the drug product with a lot or control number that permits determination of the history of the manufacture and control of the batch;
16. Section 211.142—Warehousing;
17. Section 211.150—Distribution of drug products;
18. Section 211.160—Laboratory controls;
19. Section 211.165(c)—Testing and release for distribution;
20. Section 211.166(a)—Stability testing;
21. Section 211.167—Special testing requirements;
22. Section 211.180(f)—Notification of responsible officials of investigations, recalls, reports of inspectional observations, and any regulatory actions relating to good manufacturing practice;
23. Section 211.198(a)—Written and oral complaint procedures, including quality control unit review of any complaint involving specifications failures, and serious and unexpected adverse drug experiences;
24. Section 211.204—Holding, testing, and reprocessing of returned drug products; and
25. Section 211.208—Drug product salvaging.

Although most of the CGMP provisions covered in this document were created many years ago, there will be some existing firms expanding into new manufacturing areas and startup firms that will need to create SOPs. As provided in table 1 of this document, FDA is assuming that approximately 100 firms will have to create up to 25 SOPs for a total of 2,500 records, and the agency estimates that it will take 20 hours per recordkeeper to create 25 new SOPs for a total of 50,000 hours.

The burden estimates for the recordkeeping requirements in table 1 of this document are based on: (1) FDA's institutional experience regarding creation and review of such procedures and similar recordkeeping requirements and (2) data provided to FDA to prepare an economic analysis of the potential economic impact of the May 3, 1996, proposed rule entitled ''Current Good Manufacturing Practice: Proposed Amendment of Certain Requirements for Finished Pharmaceuticals'' (61 FR 20104). Annual SOP maintenance is estimated to involve 1 hour annually per SOP, totaling 25 hours annually per recordkeeper.

The May 3, 1996, proposed rule revising part 211 CGMP requirements would require additional SOPs. Cost estimates for those additional SOPs were included in the proposed rule, but are not included here. Any comments on those estimates will be evaluated in any final rule based on that proposal

FDA estimates the total burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
SOP Maintenance (See previous list of 25 SOPs)	4,184	1	4,184	25	104,600
New startup SOPs	100	25	2,500	20	50,000
211.34	4,184	.25	1,046	.5	523
211.67(c)	4,184	50	209,200	.25	52,300
211.68	4,184	2	8,368	1	8,368
211.68(a)	4,184	10	41,840	.5	20,920
211.68(b)	4,184	5	20,920	.25	5,230
211.72	4,184	.25	1,046	1	1,046
211.80(d)	4,184	.25	1,046	.1	105
211.100(b)	4,184	3	12,552	2	25,104
211.105(b)	4,184	.25	1,046	.25	262

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record-keeper	Total Hours
211.122(c)	4,184	50	209,200	.25	52,300
211.130(e)	4,184	50	209,200	.25	52,300
211.132(c)	1,698	20	33,960	.5	16,980
211.132(d)	1,698	.2	340	.5	170
211.137	4,184	5	20,920	.5	10,460
211.160(a)	4,184	2	8,368	1	8,368
211.165(e)	4,184	1	4,184	1	4,184
211.166(c)	4,184	2	8,368	.5	4,184
211.173	1,077	1	1,077	.25	269
211.180(e)	4,184	.2	837	.25	209
211.180(f)	4,184	.2	837	1	837
211.182	4,184	2	8,368	.25	2,092
211.184	4,184	3	12,552	.5	6,276
211.186	4,184	10	41,840	2	83,680
211.188	4,184	25	104,600	2	209,200
211.192	4,184	2	8,368	1	8,368
211.194	4,184	25	104,600	.5	52,300
211.196	4,184	25	104,600	.25	26,150
211.198	4,184	5	20,920	1	20,920
211.204	4,184	10	41,840	.5	20,920
Total					848,625

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 31, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3023 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0459]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Food Labeling; Notification Procedures for Statements on Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by March 11, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Labeling; Notification Procedures for Statements on Dietary Supplements—21 CFR Part 101.93 (OMB Control No. 0910–0331)—Extension

Description: Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(6)) requires that the agency be notified by manufacturers, packers, and distributors of dietary supplements that they are marketing a dietary supplement product that bears on its label or in its labeling a statement provided for in section 403(r)(6) of the act. Section 403(r)(6) of the act requires that the agency be notified, with a submission about such statements, no later than 30 days after the first marketing of the dietary supplement. Information that is required in the submission includes: (1) The name and address of the manufacturer, packer, or distributor of the dietary supplement product; (2) the text of the statement that is being made; (3) the name of the dietary ingredient or supplement that is the subject of the statement; (4) the name of the dietary supplement (including the brand name); and (5) a signature of a responsible individual who can certify the accuracy of the information presented.

The agency established § 101.93 (21 CFR 101.93) as the procedural regulation for this program. Section 101.93 provides details of the procedures associated with the submission and identifies the information that must be included in order to meet the requirements of section 403 of the act.

Description of Respondents: Businesses or other for-profit organizations.

In the **Federal Register** of October 25, 2001 (66 FR 54017), the agency requested comments on the proposed collection of information. Several comments were received that were not the subject of this information collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
101.93	2,500	1	2,500	.75	1,875

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that there will be minimal burden on the industry to generate information to meet the requirements of section 403 of the act in submitting information regarding section 403(r)(6) of the act statements on labels or labeling of dietary supplements. The agency is requesting only information that is immediately available to the manufacturer, packer, or distributor of the dietary supplement that bears such a statement on its labeling or in its labeling. This estimate is based on the average number of notification submissions received by the agency in the preceding 18 months.

Dated: January 31, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3022 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0785]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Revised Draft Guidance for Industry on Developing Medical Imaging Drugs and Biologics

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by March 11, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Revised Draft Guidance for Industry on Developing Medical Imaging Drugs and Biologics

In the **Federal Register** of October 14, 1998 (63 FR 55067), FDA published a notice announcing the availability of a draft guidance for industry entitled ''Developing Medical Imaging Drugs and Biological Products.'' In response to comments and on its own initiative, FDA made several revisions to the draft guidance. The agency announced the availability of a revised draft guidance in the **Federal Register** of July 31, 2000 (65 FR 46674).

The draft guidance is intended to assist developers of drug and biological products used for medical imaging in planning and coordinating the clinical investigations of and submitting various types of applications for, such products.

The draft guidance also provides information on how the agency will interpret and apply provisions in the final rule, published in the **Federal Register** of May 17, 1999 (64 FR 26657), on the evaluation and approval of in vivo radiopharmaceuticals used in the diagnosis and monitoring of diseases. The final rule describes certain types of indications for which FDA will approve diagnostic radiopharmaceuticals and lists factors that the agency will consider in evaluating the safety and effectiveness of a diagnostic radiopharmaceutical drug or biological product under the Federal Food, Drug, and Cosmetic Act (the act) or the Public Health Service Act (the PHS Act), respectively.

The draft guidance applies to medical imaging agents that are used for diagnosis and monitoring and that are administered in vivo. Such agents include contrast agents used with medical imaging techniques such as radiography, computed tomography, ultrasonography, and magnetic resonance imaging, as well as radiopharmaceuticals used with imaging procedures such as single-photon emission computed tomography and positron emission tomography. The draft guidance is not intended to apply to possible therapeutic uses of these agents or to in vitro diagnostic products.

Description: The draft guidance is intended to assist developers of drug and biological products used for medical imaging in planning and coordinating the clinical investigations of, and submitting various types of applications for, such products. The draft guidance provides information on how the agency will interpret and apply provisions of the existing regulations regarding the content and format of an application for approval of a new drug (21 CFR 314.50) and the content of a biological product application (21 CFR 601.25). The draft guidance also provides information on how the agency will interpret and apply the final rule on the evaluation and approval of in vivo radiopharmaceuticals used for diagnosis and monitoring (64 FR 26657). The final rule, by adding part 315 (21 CFR part 315), clarifies requirements for the evaluation and approval of drug and biological radiopharmaceuticals under the authority of the act and the PHS Act.

Existing regulations, which appear primarily in parts 314 and 601 (21 CFR parts 314 and 601), specify the information that manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of new drugs and biological products. This information is usually submitted as part of a new drug application (NDA) or a biological license application, or as a supplement to an approved application. Part 315 contains regulations that clarify what information is relevant for diagnostic radiopharmaceuticals. This revised draft guidance supplements these regulations. Under part 315 and the revised draft guidance, information required under the act and the PHS Act to establish safety and effectiveness would still have to be reported.

Description of Respondents: Developers of medical imaging drugs and biological products, including contrast drug products and diagnostic radiopharmaceuticals.

Burden Estimate: The final rule on in vivo radiopharmaceuticals used for

diagnosis and monitoring set forth an estimated annual reporting burden on the industry that would result from that rulemaking (64 FR 26657). OMB has approved this collection of information until July 31, 2002, under OMB control number 0910–0409. This revised draft guidance on the development of medical imaging drugs and biological products is in part intended to explain how FDA will interpret and apply the final rule. Thus, the estimated annual reporting burden of the draft guidance is the same as that of the final rule, with one change. In addition to the diagnostic radiopharmaceuticals that are the subject of the final rule, the revised draft guidance also addresses the development of contrast drug products, which FDA evaluates and approves under part 314, but which are not affected by the final rule.

Table 1 in this document provides an estimate of the annual reporting burden for contrast drug products. FDA estimates that the potential number of respondents who would submit applications or supplements for contrast drug products would be one. Although FDA did not approve any NDA's for contrast drugs (there are no biological contrast drug products) in fiscal year 1999, for purposes of estimating the annual reporting burden, the agency assumes that it will approve one contrast drug each fiscal year. The annual frequency of responses for contrast drugs is estimated to be one response per application or supplement. The hours per response, which is the estimated number of hours that an applicant would spend preparing the information to be submitted for a contrast drug in accordance with this draft guidance, is estimated to be approximately 2,000 hours.

The revised draft guidance would not impose any additional reporting burden because safety and effectiveness information is already required by existing regulations. In fact, clarification by the guidance of FDA's standards for evaluation of medical imaging drugs and biological products is expected to reduce the overall burden of the information collection.FDA received no comments on the analysis of information collection burdens stated in the notice of availability of the draft guidance published on October 14, 1998. In the **Federal Register** of July 31, 2000 (65 FR 46674), FDA requested comments on the revised proposed collection of information. The agency received no comments.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Contrast Drugs	1	1	1	2,000	2,000
Total					2,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 31, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3024 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastrointestinal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastrointestinal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 19, 2002, from 8 a.m. to 5:30 p.m.

Location: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact Person: Thomas H. Perez, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6758, e-mail: PerezT@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12538. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss standards in study designs of clinical trials testing the efficacy and safety of chemopreventive agents that are being developed to gain FDA approval in reducing the risk of sporadic colorectal adenomatous polyps and sporadic colorectal cancer.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 11, 2002. Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 11, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Thomas H. Perez at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 31, 2002.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 02–2951 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on March 12, 2002, from 8 a.m. to 5 p.m.

Location: CDER Advisory Committee Conference Room, Rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Thomas H. Perez or Kimberly Littleton Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, by phone at 301–827–7001, or by e-mail at PerezT@cder.fda.gov or TopperK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss potential conflicts of interest in pediatric oncology clinical trials, off-protocol patient access to investigational drugs, and access to investigational drugs for nonclinical studies.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by March 4, 2002. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 12:45 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 4, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Thomas H. Perez or Kimberly Littleton Topper at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 31, 2002.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 02–2950 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

2002 FDA Science Forum

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting: 2002 FDA Science Forum. The topic to be discussed is ''FDA: Building a Multidisciplinary Foundation.''

Date and Time: The science forum will be held on February 20 and 21, 2002, from 8:30 a.m. to 4:30 p.m.

Location: The science forum will be held at the Washington Convention Center, 900 Ninth St. NW., Washington, DC 20001.

Contact: AOAC International, Fulfillment Department, 301–924–7077, e-mail: fulfillment@aoac.org, or Donna L. Mentch, Food and Drug Administration, Office of Science (HF–33), 5600 Fishers Lane, Rockville, MD 20857, 301–827–3038, e-mail: dmentch@oc.fda.gov.

Registration: Attendees may register onsite on February 20 and 21, 2002. Registration and program information are also available at http://www/aoac.org/science.htm. Attendance will be limited; therefore, interested parties are encouraged to register early.

SUPPLEMENTARY INFORMATION: The 2002 FDA Science Forum will focus on the importance of FDA's many scientific and regulatory disciplines to the agency's decisionmaking process. On the first day speakers and participants will address the role of research and review in the formulation of FDA's public health policies. The second day will feature the principles of public health surveillance and the relation of surveillance to current scientific issues, from both domestic and global perspectives.

If you need special accommodations due to a disability, please contact AOAC International at least 7 days in advance.

Dated: February 1, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3021 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0582]

Draft Guidance for Industry on Available Therapy; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Available Therapy.'' The document is intended to provide guidance to industry on the meaning of the term available therapy, as used by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER).

DATES: Submit written or electronic comments on the draft guidance by April 8, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: For information regarding human drug products: Janet Jones, Center for Drug Evaluation and Research (HFD–

040), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5445.

For information regarding biological products: Karen Weiss, Center for Biologics Evaluation and Research (HFM–570), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1148, 301–827–5093.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Available Therapy.'' Available therapy and related terms, such as existing treatments and existing therapy, appear in a number of regulations and policy statements issued by CDER and CBER, but these terms have never been formally defined by the agency. Some confusion has arisen regarding whether available therapy refers only to products approved by FDA for the use in question, or whether it could also refer to products used off-label or to treatments not regulated by FDA, such as surgery. The draft guidance document is intended to inform the public of the agency's interpretation of available therapy.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). It represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/ohrms/dockets/default.htm, http://www.fda.gov/cder/guidance/index.htm, or http://www.fda.gov/cber/guidelines.htm.

Dated: January 25, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–2948 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91D–0407]

Draft Guidance for Industry and FDA on Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device.'' This draft guidance is intended to support the classification of the resorbable calcium salt bone void filler device. Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed rule to classify the resorbable calcium salt bone void filler device into class II. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on the draft guidance by May 8, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device'' to the Division of Small Manufacturers, International and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Nadine Y. Sloan, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1296.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance was developed as a special control guidance to support the classification of the resorbable calcium salt bone void filler device into class II. FDA is proposing to classify this device elsewhere in this issue of the **Federal Register**. This guidance may not be implemented until the agency completes notice and comment rulemaking to classify the device. If a final rule to classify this device type is not issued, this guidance document will not be issued as a special control.

FDA believes that special controls, when combined with the general controls, will be sufficient to provide reasonable assurance of the safety and effectiveness of the resorbable calcium salt bone void filler device. If the device is classified into class II, a manufacturer who intends to market a device of this generic type must: (1) Conform with the general controls of the Federal Food, Drug, and Cosmetic Act, including the section 510(k) requirements (21 U.S.C. 360(k)) described in 21 CFR 807.81; (2) address the specific risks to health associated with use of the device; and (3) receive a substantial equivalence determination from FDA prior to marketing the device.

The draft guidance identifies the risks to health and serves as a special control that, when followed and combined with the general controls, will generally address the risks associated with this type of generic device.

II. Significance of Guidance

This draft guidance represents the agency's current thinking about the resorbable calcium salt bone void filler device. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115). This draft guidance is issued as a level 1 draft guidance consistent with the GGP regulations.

III. Electronic Access

In order to receive ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device'' via your fax machine, call

the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number 855 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information, including the text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidances document package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance by May 8, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 5, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3018 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0729]

Medical Devices; Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revision to the draft guidance entitled ''Guidance on the Content and Format of Premarket Notification (510(k)) Submission of Washers and Washer-Disinfectors.'' (63 FR 59794). The revised guidance renamed ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' will serve as a special control for medical washers and medical washer-disinfectors if they are classified into class II. Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed rule to classify medical washers as class II (special controls).

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' to the Division of Small Manufacturers, International and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Chiu Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

The intent of this guidance document for class II medical washers and medical washer-disinfectors is: (1) To provide applicants specific directions regarding information and data that should be submitted to FDA in a 510(k) submission for medical washer-disinfectors intended to clean and provide high level disinfection, and (2) to provide recommendations on information and data to be held as part of the design control record for a medical washer intended to clean medical devices or a medical washer-disinfector intended to clean and provide either a low or intermediate level of disinfection for medical devices. The General Hospital and Personal Use Devices Advisory Panel met on September 14, 1998, and unanimously recommended that the medical washer and washer-disinfector be classified into class II.

FDA made the draft guidance entitled ''Guidance on the Content and Format of Premarket Notification (510(k)) Submissions of Washers and Washer-Disinfectors'' available for comment on November 5, 1998 (63 FR 59794). The public comment period closed February 3, 1999. FDA reviewed the comments and revised the draft guidance as appropriate. The final guidance renamed ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' replaces the November 5, 1998, draft.

II. Significance of Guidance

This guidance document represents the agency's current thinking on medical washers and medical washer-disinfectors. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), and published the final rule, which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115). This guidance document is issued as level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter

the system. At the second voice prompt press 1 to order a document. Enter the document number 1252 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this guidance at any time. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 24, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3020 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial. *Type of Information Collection Request:* EXTENSION, OMB control number 0925–0407, expiration date October 31, 2002. *Need and Use of Information Collection:* This trial is designed to determine if screening for prostate, lung, colorectal and ovarian cancer can reduce mortality from these cancers which currently cause an estimated 251,000 deaths annually in the U.S. The design is a two-armed randomized trial of men and women aged 55 to 74 at entry. The total sample size after more than 8 years of recruitment is 154,956. The primary endpoint of the trial is cancer-specific mortality for each of the four cancer sites (prostate, lung, colorectal, and ovary). In addition, cancer incidence, stage shift, and case survival are to be monitored to help understand and explain results. Biologic prognostic characteristics of the cancers will be measured and correlated with mortality to determine the mortality predictive value of these intermediate endpoints. Basic demographic data, risk factor data for the four cancer sites and screening history data, as collected from all subjects at baseline, will be used to assure comparability between the screening and control groups and make appropriate adjustments in analysis. Further, demographic and risk factor information will be used to analyze the differential effectiveness of screening in high versus low risk individuals. *Frequency of Response:* On occasion. *Affected Public:* Individuals or households. *Type of Respondents:* Adult men and women. The annual reporting burden is as follows: *Estimated Number of Respondents:* 150,598; *Estimated Number of Responses Per Respondent:* 1.38; *Average Burden Hours Per Response:* 0.19; and *Estimated Total Annual Burden Hours Requested:* 39,597. The annualized cost to respondents is estimated at: $395,970. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. John Gohagan, Chief, Early Detection Branch, EDCOP, National Cancer institute, NIH, EPN Building, Room 3100, 6130 Executive Boulevard, Bethesda, MD 20892–7346, or call non-toll-free number (301) 496–3982 or e-mail your request, including your address to: *jg72p@mail.nih.gov*.

Comments Due Date: Comments regarding this information collections are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: January 28, 2002.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–2904 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent application listed below may be obtained by contacting Catherine Joyce, Ph.D., J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 258; fax:

301/402–0220; e-mail: *joycec@od.nih.gov.* A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

Thymidylate Synthase Peptides that Bind to Thymidylate Synthase Messenger RNA

Drs. Carmen Allegra and Donna Voeller (NCI).
DHHS Reference No. E–311–00/0 filed Mar 07 2001.

Thymidylate synthase (TS) is a folate-dependent enzyme that catalyzes the reductive methylation of 2'-deoxyuridine-5'monphosphate (dUMP) by the reduced folate-5,10-methylene tetrahydrofolate to deoxythymidine 5'-monophosphate (dTMP, thymidylate). Once synthesized, dTMP is phosphorylated to dTDP and then to dTTP, which is the direct precursor for DNA synthesis. Given the direct role of TS in the biosynthesis of dTMP and the finding that inhibition of dTMP synthesis results in prompt cessation of cellular proliferation and growth, TS represents an important target for cancer chemotherapy.

Specific TS peptides have been discovered which bind to TS mRNA. These peptides may be of use in screening assays to identify agents that bind TS mRNA or that inhibit the binding of TS protein to TS mRNA. These peptides are also of use in treating subjects in conjunction with other chemotherapeutic agents, and in identifying molecules and mimetics that bind TS mRNA or bind the bimolecular complex of TS protein and TS mRNA.

The above-mentioned invention is available for licensing on an exclusive or non-exclusive basis.

Dated: January 28, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–2908 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Four Chimpanzee Monoclonal Antibodies that Neutralize Hepatitis A Virus

Darren Schofield, Suzanne Emerson, Robert Purcell (NIAID).
DHHS Reference No. E–356–01/0 filed Nov 07 2001.
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

This invention claims antibodies and/or fragments thereof specific for hepatitis A virus (HAV) and the use of the antibodies in the diagnosis, prevention, and treatment of hepatitis A. Hepatitis A is the most common type of hepatitis reported in the United States, which reports an estimated 134,000 cases annually, and infects at least 1.4 million people worldwide each year. HAV is a positive sense RNA virus that is transmitted via the fecal-oral route, mainly through contaminated water supplies and food sources. HAV is thought to replicate in the oropharynx and epithelial lining of the intestines, where it initiates a transient viremia and subsequently infects the liver. Humoral immunity has been shown to provide an effective defense against Hepatitis A. Prior to the availability of the current inactivated virus vaccines, pooled human immune globulin preparations were routinely used to protect individuals traveling to areas of the world where HAV is endemic. Chimpanzees are susceptible to infection with HAV and can produce antibodies that neutralize the virus. Chimpanzee immunoglobulins are virtually identical to those of humans; thus, they have the same potential as human antibodies for clinical applications. The inventors have shown that the four chimpanzee monoclonal antibodies described in the patent application neutralized HAV strains HM–175, AGM–27, and the HM–175 VP3–070 mutant. Since only a single serotype of HAV has been identified, these antibodies are predicted to neutralize most, if not all, isolates of HAV.

N-Formyl Peptide Receptor Mediation of Platelet Chemotaxis Toward Injured Cells and Activation of Immune Response

Julie Lekstrom-Himes (NIAID), Allan Kirk (NIDDK), David Kleiner (NIAID), Meggan Czapiga (NIAID).
DHHS Reference No. E–282–01/0 filed Oct 05 2001.
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

Formyl peptides are short peptides generated by bacterial or mitochondrial endopepdidase cleavage of the first few amino acids including the N-formyl-modified methionine group of proteins. They bind to specific receptors on phagocytic cells and platelets, and induce directed migration or chemotaxis. Human phagocytes express two N-formyl peptide receptors, FPR (N-formyl peptide receptor) and FPRL–1 (FPR-like 1), both of which couple to pertussis toxin-sensitive G proteins. FPR binds N-formyl peptides at a 1000 fold higher affinity than FPRL 1 and is attributed with inducing chemotaxis. Based on their chemotactic actions, it has been hypothesized that N-formyl peptides attract phagocytes and platelets to sites of infection and injury and therefore play an important role in microbicidal and other host defense activities. In particular, platelets carry CD154 or CD40 ligand on their surface and can provide induction of dendritic cell maturation and co-stimulatory molecule expression, thus regulating immune versus tolerance responses.

Claimed in the invention are compositions of N-formyl peptides and derivatives of N-formal peptides, use of N-formyl peptides to stimulate an immune or inflammatory response, and methods of using N-formal peptide receptor inhibitors, such as blocking antibodies or other receptor antagonists, for inhibiting inflammation. Also claimed in the invention are methods of mobilizing platelets at an injury site and methods of wound healing at an injury site comprising administering N-formal peptides to the site.

Vaccination Strategies To Provide Protection Against the Ebola Virus

Gary Nabel et al. (VRC/NIAID).
DHHS Reference No. E–241–01/0 filed Oct 01 2001.

Licensing Contact: Carol Salata; 301/496–7735 ext. 232; *salatac@od.nih.gov.*

This invention describes a method for vaccination against Ebola virus. Outbreaks of hemorrhagic fever caused by the Ebola virus, particularly the Zaire subtype, are associated with high mortality rates. The virus is very contagious, and during an outbreak, presents a threat to anybody who comes into contact with an infected person. Because the virus progresses so rapidly and the mortality rate is so high, there is little opportunity to develop natural immunity, making vaccination a promising intervention. This invention relates to a vaccine strategy employing DNA and adenoviral vectors expressing proteins associated with the Ebola virus. This vaccine strategy, a DNA prime with an adenoviral boost, elicits a protective immune response in primates. A vaccine was designed to optimize expression by incorporating genes for two subtypes of the glycoprotein (Zaire and Sudan) and minimizes toxicity by eliminating the trans-membrane region. The specific genes identified may be used for gene-based or protein-based vaccines that will prevent Ebola infection.

Novel Method for Rapidly Generating Mature Dendritic Cells from Peripheral Blood Monocytes and Myeloid Precursors

Dennis Klinman, Mayda Gursel, Daniela Verthelyi (FDA).

DHHS Reference No. E–214–01/0 filed Aug 14 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

This application claims use of CpG oligodeoxynucleotides (ODN) to generate mature dendritic cells (DC). Also claimed in the application are synergistic use of CpG ODNs with cytokines, chemokines, or other factors to induce the maturation of monocytes to dendritic cells. Dendritic cells play a critical role in the generation of adaptive immune responses. Dendritic cells excel at presenting antigen to naive T lymphocytes. Large numbers of highly active DC are necessary for prevention and/or treatment of cancer and infectious diseases. Current processes for generating mature DC from peripheral blood mononuclear cells (PBMC) involve incubating PBMC with GM-CSF plus IL–4 for one week followed by monocyte-conditioned medium for two to seven days. These processes are inefficient, expensive and do not uniformly generate DC with full functional activity. The current invention is based on the observation that bacterial DNA and synthetic ODNs containing unmethylated ''CpG motifs'' promote the maturation of murine antigen presenting cells (APC) *in vitro*. The invention is further described in Ishii KJ et al., ''Genomic DNA released by dying cells induces the maturation of APCs,'' *J. Immunol.* 2001 Sep 1;167(5):2602–7.

Use of Sterically Stabilized Cationic Liposomes To Efficiently Deliver CpG Oligonucleotides *in vivo*

Dennis Klinman, Ihsan Gursel (FDA).

DHHS Reference No. E–215–01/0 filed Jul 27 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

Immunostimulatory CpG oligonucleotides (ODN) show promise as immune adjuvants, anti-allergens, and immunoprotective agents. Increasing the bioavailability and duration of action of CpG ODN should improve their therapeutic utility. This invention claims use of Sterically Stabilized Cationic Liposomes (SSCL) to deliver CpG ODNs. In addition to use of SSCL to deliver CpG ODNs, SSCL-CpG compositions are also claimed in the patent application. The claimed SSCL comprise three distinct phospholipid elements, DC–CHOL (which increases liposome membrane stability while improving the uptake and encapsulation of DNA), DOPE (a pH-sensitive neutral lipid that improves the cytosolic delivery of CpG ODNs following internalization), and PEG–PE (which stabilizes the liposome and also facilitates cellular uptake). The inventors have conducted both *in vivo* and *in vitro* studies using the SSCL-CpG compositions, showing that *in vitro*, liposome-encapsulated CpG ODNs stimulated significantly more interferon-gamma (IFN-γ) production than free CpG ODNs. The *in vivo* testing the inventors completed show that SSCL encapsulation of CpG ODNs increase the magnitude and duration of the activity of the CpG ODNs *in vivo*; when CpG-SSCLs were administered to mice infected with *L. monocytogenes* (listeria), one hundred percent of the infected mice survived four weeks post-treatment. The invention is further described in Gursel I et al., ''Sterically stabilized cationic liposomes improve the uptake and immunostimulatory activity of cpg oligonucleotides,'' *J. Immunol.* 2001 Sep 15; 167(6):3324–8.

Identification of DNA Sequence Motifs That Suppress the Immune Response to CpG DNA

Dennis Klinman, Mayda Gursel, Ihsan Gursel (FDA).

DHHS Reference No. E–218–01/0 filed Sep 24, 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

This invention claims compositions and methods for suppressing CpG oligonucleotide immunostimulatory action with suppressive motifs comprising mammalian DNA. The sequences of the suppressive motifs claimed in the application comprise multimeric repeats, which have a tendency to form ''G-tetrads,'' which suppress CpG induced immune activation. The inventors have found through *in vivo* and *in vitro* experimentation that these suppressive motifs inhibited CpG DNA induced proliferation and cytokine production. Further experimentation by the inventors has shown that ODNs containing the most said repeats were the most suppressive. There are multiple therapeutic uses for the suppressive oligodeoxynucleotides (ODNs) of the invention, such as use in the prevention or treatment of septic shock, adult respiratory distress syndrome (ARDS), or autoimmune disease. Furthermore, the inventors disclose that eliminating suppressive motifs from the plasmid backbone of DNA vaccines may improve vaccine immunogenicity by maximizing the effect of CpG motifs present in such vectors. The advantages associated with use of suppressive motifs is that therapeutics based on this technology would avoid many of the unwanted side effects associated with current immunosuppressive therapeutics.

Anti-Arthropod Vector Vaccines, Methods of Selecting, and Uses Thereof

Jesus Valenzuela, Yasmine Belkaid, Shaden Kamhawi, David Sacks, Jose Ribeiro (NIAID).

DHHS Reference No. E–122–01/0 filed Jun 19, 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

Leishmania parasites are transmitted to their vertebrate hosts by infected phlebotomine sand fly bites. Sand fly saliva is known to enhance *Leishmania* infection, while immunity to the saliva protects against infection. This invention claims nine major salivary proteins from the sand fly vector of *Leishmania major, Phlebotomus papatasi,* nucleic acids encoding the proteins, vaccines comprising the proteins and/or nucleic acids, and methods of producing an immune response to prevent *Leshmaniasis.* The inventors have shown that one of these salivary proteins, was able to protect vaccinated mice challenged with parasites plus salivary gland

homogenates (SGH). A DNA vaccine containing the cDNA for the same protein provided this same protection. Protection lasted at least 3 months after immunization. The vaccine produced both intense humoral and delayed-type hypersensitivity (DTH) reactions. B cell-deficient mice immunized with the plasmid vaccine successfully controlled *Leishmania* infection when injected with *Leishmania* plus SGH. The invention is further described in Valenzuela JG et al., ''Toward a defined anti-*Leishmania* vaccine targeting vector antigens: characterization of a protective salivary protein,'' *J. Exp. Med.* 2001 Aug 6; 194(3):331–42.

Dated: January 28, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–2909 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Program Project Review Committee, Program Project Review Committee.

Date: March 21, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Jeffrey H. Hurst, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0303, *hurstj@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2895 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amend. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Ancillary Studies in Heart, Lung, and Blood, Disease Trials.

Date: March 8, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Rockledge II, Bethesda, MD 20892.

Contact Person: Joyce A. Hunter, PhD, Review Branch, Room 7194, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20872.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2896 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Multicenter Study of Hydroxyurea (MSH), Patients Follow Up Extension 1.

Date: February 20, 2002.

Time: 1:00 PM to 3:30 PM.

Agenda: To review and evaluate contract proposals.

Place: Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert B. Moore, PHD, Scientific Review Administrator, Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892, 301–435–0287.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2897 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: February 13, 2002.

Time: 12:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priti Mehrotra, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Bethesda, MD 20892, 301–496–2550, *pm158b@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2898 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: February 26, 2002.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn on the Hill, 415 New Jersey Avenue, NW, Washington, DC 20001.

Contact Person: Michael J. Kozak, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9608, Bethesda, MD 20892–9608, 301–443–6471, kozakm@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: March 8, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2900 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: February 20–21, 2002.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Georgetown, 2101 Wisconsin Ave., Washington, DC 20007.

Contact Person: Martha Ann Carey, PHD, RN; Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, mcarey@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: February 22, 2002.

Time: 1 PM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, psherida@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2901 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: February 25, 2002.
Time: 2 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: February 27, 2002.
Time: 3:30 pm to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 12, 2002.
Time: 1:30 pm to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 18, 2002.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 19, 2002.
Time: 2 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2903 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential traded secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee.
Date: March 7–8, 2002.
Time: 8:30 AM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Ave., NW., Washington, DC 20007.
Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2209, 6700B Rockledge Drive, Bethesda, MD 20892–7616, 301–496–2550, rb169n@nih.gov.
(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield.

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3011 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C. as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Millennium Vaccine Initiative-Novel Vaccines for Tuberculosis.
Date: February 27–28, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate contract proposals.
Place: Holiday Inn-Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Paula S. Strickland, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID; NIH, Solar Building, Room 4C02, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–402–0643.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health HHS)

Dated: January 30, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3012 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 12, 2002.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Boulevard, 5th Floor Conference Room, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rita Anand, PHD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5E01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3013 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: February 25, 2002.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Boulevard, 5th Floor Conference Room, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rita Anand, PHD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, room 5E01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3014 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: February 4, 2002.

Time: 10:00 AM to 12:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Phillip F. Wethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS. Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3015 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute of clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, ZLM1 MMR P M3 (Publication Grants).
Date: February 25, 2002.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Merlyn M. Rodrigues, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2902 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 5, 2002.
Time: 12:00 PM to 1:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Carole L. Jelsema, PHD, Scientific Review Administrator, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Visual Sciences A Study Section.
Date: February 10–12, 2002.
Time: 7:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Mary Custer, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 11, 2002.
Time: 5:30 PM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sooja K. Kim, PHD, RD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7892, Bethesda, MD 20892, (301) 435–1780.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 13, 2002.
Time: 1:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Victor A. Fung, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *fungv@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 14, 2002.
Time: 1:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John L. Bowers, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Cardiovascular and Renal Study Section.
Date: February 18–19, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: The Latham Hotel, 3000 M Street, NW, Washington, DC 20007.
Contact Person: Russell T. Dowell, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Rm. 4128, MSC 7814, Bethesda, MD 20892, (301) 435–1850, *dowellr@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Study Section.
Date: February 18–20, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: The Watergate Hotel, 2650 Virginia Ave, NW, Washington, DC 20037.
Contact Person: Paul K. Strudler, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7816, Bethesda, MD 20892, (301) 435–1716, *strudlep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 18, 2002.
Time: 4:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Weijia Ni, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507, *niw@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 19–20, 2002.
Time: 8:00 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Michael H. Chaitin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 19–20, 2002.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael Micklin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 19–20, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.

Place: The George Washington University Inn, 824 New Hampshire Ave., NW, Washington, DC 20037.

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 5.

Date: February 19–20, 2002.

Time: 8:30 AM to 10:30 AM.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: John Bishop, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 4.

Date: February 20–21, 2002.

Time: 8:00 AM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street NW, Washington, DC 20005–2750.

Contact Person: Dan Kenshalo, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 8:00 AM to 10:00 AM.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave. NW, Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 5.

Date: February 20–21, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Jurys Washington Hotel, Westbury Conference Room, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Syed Husain, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892, (301) 435–1224.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Bacteriology and Mycology Subcommittee 2.

Date: February 20–21, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Lawrence N. Yager, PHD, Scientific Review Administrator, Center For Scientific Review, National Institutes for Health, 6701 Rockledge Drive MSC 7808, Room 4190, Bethesda, MD 20892, 301–435–0903, *yagerl@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 1.

Date: February 20–21, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street NW., Washington, DC 20005–2750.

Contact Person: Gamil C. Debbas, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Medicinal Chemistry Study Section.

Date: February 20–21, 2002.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ronald J. Dubois, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, kaleidoscope Room, 2101 Wisconsin Ave. NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa. DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel

Date: February 20, 2002.

Time: 11:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: John Bishop, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 2:00 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Zakir Bengali, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435–1742.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 7:00 PM to 10:00 PM.

Agenda: To review and evaluate grant applications.

Place: La Jolla Coves Suites, 1155 Coast Blvd., La Jolla, CA 92037.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, bradleye@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 7:00 PM to 10:00 PM.

Agenda: To review and evaluate grant applications.

Place: La Jolla Coves Suites, 1155 Coast Blvd., La Jolla, CA 92037.

Contact Person: Lee Rosen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2899 Filed 1–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP); Report on the Revised Up-and-Down Procedure: A Test Method for Determining the Acute Oral Toxicity of Chemicals; Notice of Availability and Request for Public Comments

SUMMARY: Notice is hereby given of the availability of the report entitled, ''The Revised Up-and-Down Procedure: A

Test Method for Determining the Acute Oral Toxicity of Chemicals,'' NIH Publication 02–4501. The report contains the final test recommendations on the '' Revised Up-and-Down Procedure'' (Revised UDP) by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), the results of an independent scientific peer review evaluation of the Revised UDP, and the final test guideline for the Revised UDP. The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) is seeking public comment on this report on behalf of the ICCVAM prior to transmittal to US Federal agencies in accordance with Pub. L. 106–545. The report and public comments will be transmitted to appropriate Federal agencies following this public comment period.

Availability of the Report

The report is available electronically (PDF and HTML) on the ICCVAM/NICEATM Web site, *http://iccvam.niehs.nih.gov.* A limited number of printed reports are available. To receive a printed copy, please contact NICEATM at PO Box 12233, MD EC–17, Research Triangle Park, NC 27709 (mail), 919–541–2384 (phone), 919–541–0947 (fax), or *niceatm@niehs.nih.gov* (e-mail).

Request for Public Comments

NICEATM invites written public comments on the report. Comments should be sent to NICEATM no later than March 25, 2002. Comments submitted via e-mail are preferred; the acceptable file formats are MS Word (Office 98 or older), plain text, or PDF. Comments should be sent to Dr. William S. Stokes, Director, NICEATM, at PO Box 12233, MD EC–17, Research Triangle Park, NC 27709 (mail), 919–541–0947 (fax), or *niceatmcomments@niehs.nih.gov* (e-mail). Persons submitting written comments should include their contact information (name, affiliation, address, telephone and fax numbers, and e-mail) and sponsoring organization, if any. Public comments received by the above deadline will be posted on the ICCVAM/NICEATM Web site, *http://iccvam.niehs.nih.gov*, and forwarded to the appropriate Federal agencies with the report.

Background

The Organisation for Economic Cooperation and Development (OECD) Test Guidelines Program (TG 425; OECD 1998) adopted the UDP in 1998. The U.S. Environmental Protection Agency (EPA) subsequently determined it was necessary to revise the UDP to: (1) Conform to a newly harmonized global hazard classification scheme for acute toxicity (OECD, 2001) and (2) ensure that regulatory and testing needs would be met with the Revised UDP prior to OECD's proposed deletion of the conventional acute oral toxicity test (OECD, 1987). In August 1999, the EPA asked ICCVAM to evaluate the validation status of the Revised UDP as a substitute for the existing conventional LD50 test (U.S. EPA 870.1100, 1998; OECD Test Guideline (TG) 401, 1987).

The Revised UDP test method submitted to ICCVAM for evaluation included three components:

- A Primary Test for estimating the median lethal dose using sequential testing.
- A Limit Test for evaluating substances anticipated to have minimal or no toxicity.
- A Supplemental Test to determine the slope and confidence interval (CI) for the dose-response curve.

An initial **Federal Register** notice (Vol. 65, No. 34, pp. 8385–8386, February 18, 2000) requested data and the nomination of expert scientists to participate in the independent scientific peer review evaluation of the Revised UDP. A second **Federal Register** notice (Vol. 65, No. 106, pp. 35109–35110, June 1, 2000) announced the peer review panel meeting, availability of a background review document on the Revised UDP, and requested public comments.

The first meeting of the Panel to evaluate the Revised UDP was held on July 25, 2000. The public meeting was organized by the ICCVAM and NICEATM and was sponsored by the NIEHS, NTP, and EPA. The Panel evaluated the extent to which the Revised UDP addresses established validation and acceptance criteria (ICCVAM, 1997) and developes conclusions regarding the usefulness and limitations of the Revised UDP.

The Panel agreed that the Primary and Limit tests would perform as good or better than the respective existing conventional LD50 and limit tests. They also agreed that the revised test methods would reduce animal use compared to the current test methods. The Panel provided other recommendations for revision of the Revised UDP test guideline and did not recommend the UDP Supplemental Test.

Based on the Panel's July 25, 2000 conclusions and recommendations, the EPA UDP Technical Task Force modified the UDP Primary and Limit Tests and removed the UDP Supplemental Test. A computational procedure was added to calculate the confidence interval (CI) for the estimated LD50. The EPA also developed a software program that would calculate subsequent test doses, determine when to stop the test, estimate the LD50, and calculate a CI for the LD50. The publicly available software was developed to mitigate complexity for the user and to facilitate correct performance of the Revised UDP.

A **Federal Register** notice (Vol. 66, No. 121, pp. 33550–33552, June 22, 2001) requested public comment and announced availability of the revised draft test guideline for the Revised UDP, the procedure for calculating the confidence interval for the estimated LD50, and the software program. A subsequent **Federal Register** notice (Vol. 66, No. 133, pp. 36294–36295, July 11, 2001) announced a second public meeting of the UDP Panel.

The second meeting of the UDP Panel was held by teleconference on August 21, 2001. The Panel reviewed and endorsed modifications to the Revised UDP, the CI procedure, and the software program. The Panel recommended additional clarifications to the Revised UDP. Written reports of the Panel meetings are included in the final report.

Following the August 21st meeting, the EPA UDP Technical Task Force revised the UDP Guideline in response to the Panel's recommendations. A discussion of software program limitations and information about using *in vitro* cytotoxicity data to estimate starting doses for *in vivo* studies were added. An ICCVAM Acute Toxicity Working Group and the ICCVAM reviewed and endorsed the final Revised UDP Test Guideline, and developed and adopted ICCVAM test method recommendations for the Revised UDP. In accordance with P.L. 106–545, the ICCVAM test recommendations will be forwarded to appropriate Federal agencies for acceptance consideration.

The final report comprises two volumes. The first volume (143 pages) includes the final ICCVAM test method recommendations on the Revised UDP procedure, the final Revised UDP Test Guideline, and the two peer review panel meeting reports. Volume 2 (291 pages) contains an updated background review document and other information considered by the Panel for the July 2000 meeting. Following receipt of public comments, the report will be forwarded to Federal agencies in accordance with Pub. L. 106–545.

Additional Information About ICCVAM and NICEATM

The NICEATM and ICCVAM were established to facilitate development, validation, and regulatory acceptance of improved toxicological methods that predict human health risks while reducing, refining, and/or replacing animal tests and to promote communication with stakeholders. The NICEATM coordinates activities for the ICCVAM and is located at the NIEHS, Research Triangle Park, NC. ICCVAM, with 15 participating Federal agencies, originally established in 1997, was formally authorized and designated as a permanent interagency coordinating committee by the ICCVAM Authorization Act of 2000 (Pub. L. 106–545). ICCVAM's duties include the technical evaluation of new and alternative testing methods, the development of test recommendations based on those technical evaluations, and the forwarding of its test recommendations to Federal agencies for their consideration. The ICCVAM also coordinates interagency issues on toxicological test method development, validation, regulatory acceptance, and national and international harmonization. Additional information about ICCVAM and NICEATM can be found on the ICCVAM/NICEATM Web site at *http://iccvam.niehs.nih.gov.*

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Dated: January 11, 2002.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 02–2905 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); The NTP Annual Plan for Fiscal Year 2001; Notice of Availability and Request for Public Comments

SUMMARY: The *NTP Annual Plan for Fiscal Year 2001* outlines the NTP research program for studying the toxicity of physical and chemical agents and for developing methods for toxicological evaluations. The Report also provides information about efforts to develop and validate alternative and improved methods and identifies NTP resource allocations.

Background

The NTP was established within the Public Health Service of the Department of Health and Human Services (DHHS) in November 1978. The NTP is an interagency program whose mission is to evaluate agents of public health concern by developing and applying the tools of modern toxicology and molecular biology. In carrying out its mission, the NTP has several goals to:

- Broaden the spectrum of toxicological information obtained on selected chemicals;
- Develop and validate more sensitive and specific test methods;
- Develop improved strategies for generating scientific data that strengthen the scientific foundation for risk assessments; and
- Communicate NTP plans and results to government agencies, the medical and scientific communities, and the public.

A balanced program was created that uses chronic exposure studies, short-term exposure studies, the collection and application of mechanistic information, model development, alternative methods, and human studies. Scientific activities are divided into several major program areas: Carcinogenesis, risk assessment research, alternative test systems, and toxicology. Toxicology covers activities in immunotoxicology, neurobehavioral toxicology, reproductive and developmental toxicology, respiratory toxicology and phototoxicology. Program and project leaders along with contact information are provided in the plan.

The NTP is an interagency program headquartered at the National Institute of Environmental Health Sciences (NIEHS) of the National Institutes of Health. The NIEHS along with the National Center for Toxicological Research of the Food and Drug Administration and the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention are NTP core agencies. The Director of the NIEHS is also the NTP Director.

The NTP receives advice from two primary external advisory groups. The NTP Executive Committee provides primary program oversight and links DHHS health research institutes and centers with Federal health regulatory agencies. This effort helps to ensure that the NTP's basic and applied toxicology research and development activities are responsive to regulatory and public health needs.

The NTP Board of Scientific Counselors provides scientific oversight

by advising the NTP Director on scientific content and evaluating the merit and overall quality of NTP science. The Board has two standing subcommittees, the Report on Carcinogens Subcommittee and the Technical Reports Review Subcommittee. The Secretary, DHHS, appoints the members.

Availability of the NTP Annual Plan

The *NTP Annual Plan for Fiscal Year 2001* is available electronically on the NTP Web site, *http://ntp-server.niehs.nih.gov.* The report is also in the process of being printed and hard copies will be available from NTP Central Data Management (NIEHS, PO Box 12233, MD E1–02, Research Triangle Park, NC 27709; telephone 919–431–3419; fax 919–541–3687; *cdm@niehs.nih.gov*).

Solicitation of Public Comments

The NTP welcomes comments on the *NTP Annual Plan for Fiscal Year 2001.* Written comments should be submitted to Dr. Mary S. Wolfe, NTP Executive Secretary (NIEHS, PO Box 12233, MD A3–07, Research Triangle Park, NC 27709; fax 919–541–0295; *liaison@starbase.niehs.nih.gov*). Persons submitting comments are asked to provide their name, contact information, and sponsoring organization, if any.

Dated: January 11, 2002.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 02–2906 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP); Annual Progress Report of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM): Notice of Availability

SUMMARY: Notice is hereby given of the availability of the report entitled, ''Annual Progress Report of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM).'' In accordance with requirements of the ICCVAM Authorization Act of 2000 (Pub. L. 106–545), this report provides a description of the activities that have been carried out during the past year by the ICCVAM and the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM).

Availability of the Report

To receive a copy of the report, please contact NICEATM at P.O. Box 12233, MD EC–17, Research Triangle Park, NC 27709; 919–541–2384 (phone); 919–541–0947 (fax); or *niceatm@niehs.nih.gov.* The report is also available on the ICCVAM/NICEATM Web site at: *http://iccvam.niehs.nih.gov.*

Background

The ICCVAM was formally authorized and designated as a permanent interagency coordinating committee by the ICCVAM Authorization Act of 2000, which was signed into law by the President on December 19, 2000. ICCVAM's duties include the technical evaluation of new and alternative testing methods, the development of test recommendations based on the technical evaluations, and subsequent recommendations to Federal agencies for their consideration. The ICCVAM also coordinates interagency issues on toxicological test method development, validation, regulatory acceptance, and national and international harmonization. The ICCVAM Authorization Act of 2000 directs ICCVAM to prepare reports on its progress and to make them available to the public. This annual report complies with the requirement for an initial progress report. Future reports will be prepared in accordance with the Act. Information about ICCVAM can be found on the Internet at: *http://iccvam.niehs.nih.gov.*

Dated: January 16, 2002.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences.

[FR Doc. 02–2907 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4732–C–02]

Statutory and Regulatory Waivers Granted to New York State for Recovery from the September 11, 2001 Terrorist Attacks: Technical Correction

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice; correction.

SUMMARY: On January 28, 2002, HUD published a notice that advised the public of waivers of regulations and statutory provisions granted to the State of New York for the purpose of assisting in the recovery from the September 11, 2001, terrorist attacks on New York City, in accordance with statutory authorization to grant such waivers. This notice advises that two of the items listed in the January 28, 2002 publication (items 10 and 11) were incorrectly described as waivers or only waivers. The items, as further discussed in the Supplementary Information section of this notice, should have been described as a ''waiver and alternative requirement,'' and ''alternative requirement,'' respectively. The effective date of the waivers is February 2, 2002.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Opper at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On January 28, 2002 (67 FR 4164), HUD published a notice that advised the public of waivers of regulations and statutory provisions granted to the State of New York for the purpose of assisting in the recovery from the September 11, 2001, terrorist attacks on New York City, in accordance with statutory authorization to grant such waivers. The January 28, 2002, notice discusses the statutory authority to grant such waivers and lists all of the waivers granted and specifies alternative requirements where appropriate. The January 28, 2002 notice also advised that the waivers are effective on February 2, 2002. Accordingly, FR Doc. 02–1936, is corrected to advise that items 10 and 11 listed in the January 28, 2002 notice on page 4165, middle column, were incorrectly described as waivers or waivers only and should have been described as ''waiver and alternative requirement'' and ''alternative requirement,'' respectively. The corrected description for items 10 and 11 are set out below.

10. Waiver and Alternative Requirement—Public Benefit Standards for Economic Development Activities. Currently, grantees are limited in the amount of CDBG assistance per job retained or created, or amount of CDBG assistance per low- and moderate-income person to which goods or services are provided by the activity, that will be considered to meet public benefit standards. Public benefit standards at 42 U.S.C. 5305(e)(3) and 24

CFR 570.482(f)(1), (2), (3), (4)(i), (5), (6) are waived, except that the grantee shall report and maintain documentation on the creation and retention of (a) total jobs, (b) number of jobs within certain salary ranges, and (c) types of jobs. Paragraph (g) of 24 CFR 570.482 is also waived to the extent its provisions are related to public benefit.

11. Alternative Requirement—Duplication of Benefits. The CDBG funds appropriated under the Emergency Response Fund may not be used to provide funds for the same specific uses as disaster loans made available by the Small Business Administration (SBA), in compliance with 15 U.S.C. 636(b)(1)(A). If the needs for assistance are more than the SBA disaster loan amount, CDBG disaster assistance may be used to fund such additional need. New York State should encourage the use of SBA physical damage and economic injury disaster loans; they offer low interest rates and favorable terms. Additionally, CDBG disaster assistance may not be used for the same specific uses as disaster assistance made available by the Federal Emergency Management Agency, e.g., for public works and facilities, in compliance with duplication of benefits prohibitions of 42 U.S.C. 5155 (section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended).

Dated: January 31, 2002.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 02–2886 Filed 2–6–02; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The U.S. Fish and Wildlife Service solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests.

Permit No. TE–050450

Applicant: Lisa D. Allen, Irvin, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with demographic studies throughout the range of the species for the purpose of enhancing its survival.

Permit No. TE–840619

Applicant: Jeff Priest, San Diego, California.

The permittee requests a permit amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax trailii extimus*) in conjunction with surveys in Riverside, San Diego, San Bernardino, and Orange Counties, California for the purpose of enhancing its survival.

Permit No. TE–051529

Applicant: Brenda L. McMillan, La Mesa, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (harass by survey, collect, and sacrifice) the San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus wootoni*) in conjunction with surveys in San Diego, Orange, Riverside, and Los Angeles Counties, California for the purpose of enhancing their survival.

Permit No. TE–796271

Applicant: Shana Dodd, San Diego, California.

The permittee requests a permit amendment to take (capture) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with surveys throughout the range of the species for the purpose of enhancing its survival.

Permit No. TE–052073

Applicant: Don Houston, Encinitas, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys in San Diego, Orange, Riverside, and Imperial Counties, California for the purpose of enhancing its survival.

Permit No. TE–051526

Applicant: Technology Associates International Corporation, San Diego, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*), to take (harass by survey and locate and monitor nests) the southwestern willow flycatcher (*Empidonax trailii extimus*), and to take (locate and monitor nests) least Bell's vireo (*Vireo bellii pusillus*) in conjunction with demographic studies in Riverside, San Diego, Imperial, San Bernardino, Orange, Los Angeles, Santa Barbara, and Ventura Counties, California for the purpose of enhancing their survival.

Permit No. TE–050241

Applicant: Carothers Environmental, LLC, Sedona, Arizona.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax trailii extimus*) in conjunction with surveys in Riverside, San Diego, Imperial, San Bernardino, Orange, Los Angeles, and Ventura Counties, California for the purpose of enhancing its survival.

Permit No. TE–836517

Applicant: Chet McGaugh, Riverside, California.

The permittee requests a permit amendment to take (harass by survey) the Yuma Clapper Rail (*Rallus longirostris yumanensis*) in conjunction with surveys in Riverside, Imperial, and San Bernardino Counties, California and Yuma, La Paz, Mohave Counties, Arizona for the purpose of enhancing its survival.

Permit No. TE–051722

Applicant: C. Barry Knisley, Mechanicsville, Virginia.

The applicant requests a permit to take (harass by survey, collect, and sacrifice) the Ohlone tiger beetle (*Cicindela ohlone*) in conjunction with surveys in Santa Cruz County, California for the purpose of enhancing its survival.

Permit No. TE–052070

Applicant: Nancy H. Sandburg, Santa Barbara, California.

The applicant requests a permit to take (harass by survey and attach transmitters) the Arroyo toad (*Bufo califonicus*) in conjunction with surveys in Monterey County, California for the purpose of enhancing its survival.

Permit No. TE–052197

Applicant: Anne Elizabeth Fetscher, Irvin, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–026092

Applicant: Paul Kephart, Monterey, California.

The applicant requests a permit to take (maintain and collect seed from nursery-grown plants) the Erysimum menziesii (*Menzie's wallflower*) in conjunction with propagation efforts in Monterey County, California for the purpose of enhancing its survival.

DATES: Written comments on these permit applications must be received within 30 days of the date of publication of this notice.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: January 25, 2002.

David J. Wesley,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 02–2932 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notification of emergency clearance and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Office of Management and Budget (OMB) approved an information collection request for emergency clearance under 5 CFR 1320.13. The information collection, Data Elements for Student Enrollment in Bureau-funded Schools, is cleared under OMB Control Number 1076–0122 through June 30, 2002. We are now seeking comments from interested parties to renew the clearance.

DATES: Written comments must be received by April 8, 2002.

ADDRESSES: Written comments should be sent to: William Mehojah, Director, Office of Indian Education Programs, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 3512–MIB, Washington, DC 20240. You may send requests by facsimile to 202–208–3312.

FOR FURTHER INFORMATION CONTACT: Glenn Allison, 202–208–3628 (This is not a toll-free number). Copies of this information collection document will be sent to you, free of charge, when you call and request them.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior, through the Bureau of Indian Affairs, is required to provide educational services to federally recognized Indians and Alaskan natives. Beginning with the Snyder Act and continuing with Public Laws 93–638, 95–561, 100–297, and 103–382, Congress has enacted legislation to ensure Indians receive educational opportunities. The data elements for enrollment information collected is for attendance in elementary and secondary schools operated and funded by the Bureau of Indian Affairs and to address the criteria for attendance that was changed by the passage of Public Law 99–228. This act allows for the tuition free attendance of any Indian student who is a member of a federally recognized tribe or is ¼ degree blood quantum descendant of a member of such tribes, as well as for dependents of Bureau, Indian Health Service or tribal government employees who live on or near the school site.

You are asked to comment on the necessity of the information collection to fulfill the functions of the bureau; whether the burden estimate is accurate and the methodology and assumptions are valid; the utility, quality, and clarity of information requested; and ways that the burden might be minimized for respondents.

Please note that an agency may not sponsor or request, and a person is not required to respond to, a collection of information, unless a valid OMB Control Number is displayed. Comments are available for public review 14 days after the **Federal Register** notice is published. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. We will honor your request to the extent allowed by law.

Title: Data Elements for Student Enrollment in Bureau-funded Schools.

Description: Information necessary to enroll students; information is provided to obtain or retain a benefit, specifically education.

OMB Control Number: 1076–0122.

Respondents: 48,000.

Burden: 15 minutes each to complete, total: 12,000 hours.

Dated: January 29, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–2952 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of a Programmatic Environmental Assessment for Applications To Inject Outer Continental Shelf (OCS) Generated, Resource Conservation and Recovery Act (RCRA) Exempt Exploration and Production (E&P) Waste Into Salt Caverns and Caprock on Sulphur and Salt Lease OCS–G 9372, Main Pass Block 299

AGENCY: Minerals Management Service, Interior.

ACTION: Preparation of an Environmental Assessment and Notice of Public Scoping Meeting.

SUMMARY: Minerals Management Service (MMS) is preparing a programmatic environmental assessment (EA) for applications from OCS oil and gas operators to inject OCS-generated, and RCRA-exempt, exploration and production (E&P) waste into salt caverns and caprock at Main Pass Block 299. Main Pass Block 299 is located 16 miles offshore, east of Plaquemines Parish, Louisiana. Water depth at the proposed waste injection site is 210 feet.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. Clay Pilie', telephone (504) 736–2443.

SUPPLEMENTAL INFORMATION: Freeport-McMoRan Sulphur LLC (Freeport) has presented the MMS Gulf of Mexico (GOM) Region with a detailed proposal to inject OCS-generated, RCRA-exempt E&P waste into the salt caverns and caprock (the rock formation overlying the salt dome, consisting of anhydrite, limestone, and sulphur ore) that underlies the existing Main Pass Block 299 sulphur and salt Lease OCS–G 9372.

RCRA-exempt E&P wastes are wastes from the exploration, development, and production of crude oil, natural gas, and geothermal energy that are exempted from regulation as hazardous wastes under RCRA Subtitle C (53 FR 25477) by a July 6, 1988, U.S. Environmental Protection Agency (EPA) regulatory determination. On March 22, 1993, EPA issued clarification of the 1988 determination (58 FR 15284). Only RCRA-exempt E&P wastes containing naturally occurring radioactive material in concentrations less than 30 picocuries per gram and exposure rates of less than 50 microroentgens per hour inclusive of background are proposed for injection at Main Pass Block 299.

Use of Main Pass Block 299 for E&P waste injection would combine the production of salt (in the form of brine) and the use of the caverns created by salt production (and in the course of sulphur production, which was conducted on the lease) as well as the caprock overlying the salt dome for disposal of waste.

Trinity Field Services, L.P. and Freeport have formed an alliance for the collection, transportation, handling, and disposal of OCS-generated, RCRA-exempt E&P waste. E&P waste will be received in bulk or in cuttings boxes/portable tanks by offshore supply vessel or self-propelled barge at Main Pass Block 299 from single and multiple offshore operating locations where the waste is generated. The waste will be either directly injected or injected after being temporarily stored and processed to extract recyclable materials or to enhance injection capability. In some cases, waste will be processed at existing onshore facilities (Fourchon, Venice, and Berwick/Morgan City, Louisiana) to remove hydrocarbons and/or other recyclable materials (primarily synthetic drilling fluids) and then taken to Main Pass Block 299 for injection.

The Main Pass Block 299 platform complex associated with the proposed waste disposal operations was constructed to support the development and production of sulphur and oil and gas reserves present in the formations above the Main Pass Block 299 salt dome structure. The facility is over a mile in length and is one of the largest structures in the GOM. Both drilling platforms PP1 and PP2 could be used to support the waste disposal activity. New equipment to be installed to accommodate waste injection will consist of a waste pump unit, air compressor, storage tanks, tank cleaning pumps, a tank cleaning vacuum system, waste pumps and dryers, and a waste air compressor, as well as additional piping on the platform. Sulphur production was discontinued in August 2000 due to unfavorable economics attributable to the combined effect of low sulphur prices and high natural gas prices (large volumes of natural gas are required to fire the boilers that heat the water injected into the formation in order to produce the sulphur and power the generators to produce electricity). Oil and gas resources are still being produced from Main Pass Block 299.

If Main Pass Block 299 is used, waste injection activities could span an anticipated 26 years starting in 2002. The anticipated volume of OCS-generated, RCRA-exempt E&P wastes that could be injected at Main Pass Block 299 is estimated to be 119 million barrels. The combined estimated disposal capacity of the caverns and barren/leached caprock is approximately 2.6 billion barrels. Freeport estimates the typical waste streams to be injected would consist of approximately 16 percent solids, 77 percent liquids, and 7 percent hydrocarbons. The EA will analyze information provided by Freeport with respect to disposal into the caprock and salt caverns underlying Main Pass Block 299. Alternatives will include the proposed action with additional mitigations and no action (*i.e.,* disapproval of the applications). The analyses in the EA will examine the potential environmental effects of the activities described by Freeport and alternatives including the potential environmental benefits over current offshore waste management practices. Current offshore waste management practices for E&P wastes that do not meet the standards for overboard discharge in accordance with a National Pollutant Discharge Elimination System (NPDES) permit include onshore disposal or disposal offshore in waste injection wells (in accordance with MMS Notice to Lessees 99–G22). E&P wastes that do meet the standards for overboard discharge in accordance with a NPDES permit are typically discharged into OCS waters.

Prior to considering applications for use of Main Pass Block 299 for waste injection activities, MMS must be assured that all activities will be conducted in an environmentally safe manner, that all injected waste will remain in the caverns and caprock, and that operational activities, monitoring activities, closure procedures, hazards analysis, and safety and environmental plans are in place and found to be acceptable.

In preparation for evaluating the applications, MMS has consulted with the following Federal, State, and private agencies: EPA , National Marine Fisheries Service, U.S. Fish and Wildlife Service, Department of Energy, State of Louisiana, State of Texas, Solution Mining Research Institute, and Sandia National Lab—Underground Storage Technology Department. MMS has also reviewed numerous documents and technical reports (*e.g.,* approval of nonhazardous oil-field waste disposal applications in Texas conducted by the Texas Railroad Commission; Texas Proposed Statewide Rule 82—Cavern Disposal Regulations; Louisiana Draft Regulations, Statewide Order No. 29–M–2, ''E&P Waste Disposal in Solution-Mined Salt Caverns''; ''Preliminary Technical and Legal Evaluation of Disposing of Nonhazardous Oil Field Waste into Salt Caverns'' (Argonne National Laboratory); ''Geologic Site Characterization Requirements for Storage and Mining in Salt'' (Sandia Lab); and ''An Investigation of the Integrity of Cemented Casing Seals with Application to Salt Cavern Sealing and Abandonment'' (Solution Mining Research Institute)).

A public scoping meeting will be held on February 21, 2002, from 1:00 to 3:00 p.m. at the Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, Room 111, New Orleans, Louisiana. At the meeting, MMS and Freeport will provide information on the applications and the public will be given an opportunity to ask questions and provide input on issues that should be addressed in the EA. For more information regarding the Main Pass Block 299 waste disposal applications, please visit those documents at: *http://www.temporarygomr.com/homepg/offshore/mp299/.*

Following completion of the programmatic EA, MMS will either issue a finding of no significant impact or prepare an environmental impact statement.

Public Comments: MMS requests interested parties to submit comments regarding issues that should be addressed in the EA to the Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5410),1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Comments must be submitted no later than 30 days from the publication of this Notice.

Dated: February 4, 2002.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 02–3009 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Outer Continental Shelf (OCS), Eastern Gulf of Mexico (GOM), Oil and Gas Lease Sales for Years 2002–2007

AGENCY: Minerals Management Service, Interior.

ACTION: Call for Information and Nominations/Notice of Intent (Call/NOI) to Prepare an Environmental Impact Statement (EIS).

SUMMARY: The purpose of the Call/NOI is to gather information and nominations on oil and gas leasing, exploration, and development and production for the two tentatively scheduled OCS lease sales in a portion of the Eastern GOM Planning Area south of Alabama. This information is important for ensuring that all interests and concerns are communicated to the Department of the Interior to use in making future decisions in the leasing processes for these two proposed sales.

DATES: Nominations and comments must be received no later than March 11, 2002.

FOR FURTHER INFORMATION CONTACT: For information on the Call/NOI, please contact Ms. Jane Burrell Johnson, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2811. For information on the Notice of Intent to Prepare an EIS, please contact Mr. Joseph Christopher,Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2788.

SUPPLEMENTARY INFORMATION: MMS proposes to adopt a multisale process for the Eastern GOM sales in the 2002–2007 OCS Oil and Gas Leasing Program. This multisale process will cover both proposed sales in the Eastern Planning Area, Eastern GOM Sale 189 and Eastern GOM Sale 197. The Call/NOI, the initial step in the process, will cover both of these sales. There will also be complete National Environmental Policy Act (NEPA), OCS Lands Act, and Coastal Zone Management Act coverage for each sale. For the 2002–2007 OCS Leasing Program, we propose to prepare a two-sale EIS for Eastern GOM Sales 189 and 197. We also propose to prepare a subsequent Environmental Assessment (EA) for Eastern GOM Sale 197, focusing primarily on new issues, to determine whether we should prepare either a Finding of No New Significant Impact or a supplemental EIS for that sale.

This is the first multisale process for the Eastern GOM. It is not, however, the very first multisale process. Beginning in 1996, MMS adopted multisale processes for sales in the Central and Western GOM. The multisale processes for those planning areas incorporated prelease planning and analysis steps for all sales proposed in the approved 5-Year OCS Oil and Gas Leasing Program. MMS is also using a multisale process in the Beaufort Sea. MMS proposes to adopt a similar process for the Eastern GOM sales in the 2002–2007 OCS Oil and Gas Leasing Program. A single multisale process will cover both proposed sales in this planning area through the final EIS stage. However, we will prepare proposed and final Notices of Sale and Consistency Determinations for each sale.

Call for Information and Nominations

1. Authority

This Call is published pursuant to the OCS Lands Act as amended (43 U.S.C. 1331–1356, (1994)), and the regulations issued thereunder (30 CFR part 256).

2. Purpose of Call

The purpose of the Call is to gather information for the following tentatively scheduled OCS Lease Sales in a portion of the Eastern GOM Planning Area south of Alabama:

Sale, OCS planning area	Tentative sale date
Sale 189, Eastern GOM	December 2003.
Sale 197, Eastern GOM	March 2005.

Information and nominations on oil and gas leasing, exploration, and development and production within the Eastern GOM are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act, and regulations at 30 CFR part 256.

Responses are requested relative to proposed sales in the Eastern GOM OCS Planning Area. Since each sale proposal and projected activities are very similar, MMS is proposing to prepare a single EIS for the two Eastern Planning Area lease sales scheduled for 2003 and 2005 in the proposed *Outer Continental Shelf Oil and Gas Leasing Program: 2002–2007.* There will be complete NEPA coverage for each sale—one EIS on both sales and a subsequent EA for the second sale, focusing primarily on new issues. We will prepare a Consistency Determination and proposed and final Notices of Sale for each proposed sale in accordance with Coastal Zone Management Act and OCS Lands Act requirements.

This Call does not indicate a preliminary decision to lease in the area described below. Final delineation for possible leasing will be made at a later date and in compliance with applicable laws including all requirements of the NEPA and OCS Lands Act. Established Departmental procedures will be employed.

3. Description of Area

The general area of this Call covers unleased whole blocks located within the portion of the Eastern GOM Planning Area that is west of 87 degrees 30 minutes West Longitude and which range from 100 to 196 miles south of Alabama, and from about 70 to 148 miles offshore Louisiana. This area is the same area that was offered for lease in Eastern GOM Sale 181 held in December 2001. The area available for nominations and comments at this time consists of approximately 1.5 million acres, of which approximately 0.8 million acres are currently available for bid in Sales 189 and/or 197.

A standard Call for Information Map depicting the proposed Eastern GOM sale area on a block-by-block basis is available without charge from: Minerals Management Service, Public Information Unit (MS 5034), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone: 1–800–200–GULF.

4. Instructions on Call

The standard Call for Information Map and indications of interest and comments must be submitted to: Ms. Jane Burrell Johnson, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Envelopes should be labeled ''Nominations for Proposed 2002–2007 Lease Sales in the Eastern Gulf of Mexico'' or ''Comments on the Call for Information and Nominations for Proposed 2002–2007 Lease Sales in the Eastern Gulf of Mexico.''

The standard Call for Information Map delineates the Call area, all of which has been identified by MMS as having potential for the discovery of accumulations of oil and gas. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have included in each of the proposed sales in the Eastern GOM.

Although individual indications of interest are considered to be privileged

and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record. Those indicating such interest are required to do so on the standard Call for Information Map by outlining the areas of interest along block lines.

Respondents should rank areas in which they have expressed interest according to priority of their interest (*e.g.,* priority 1 [high], 2 [medium], or 3 [low]). Respondents are encouraged to be specific in indicating blocks by priority, as blanket nominations on large areas are not useful in the analysis of industry interest. Areas where interest has been indicated but on which respondents have not indicated priorities will be considered priority 3 [low].

Respondents may also submit a detailed list of blocks nominated (by Official Protraction Diagram designations) to ensure correct interpretation of their nominations. Official Protraction Diagrams can be purchased from the Public Information Unit referred to under Item 3, ''Description of Area.''

Comments are sought from all interested parties about particular geological, environmental, biological, archaeological and socioeconomic conditions or conflicts, or other information that might bear upon the potential leasing and development of particular areas. Comments are also sought on possible conflicts between future OCS oil and gas activities that may result from the proposed sales and State Coastal Management Programs. If possible, these comments should identify specific Coastal Management Plans policies of concern, the nature of the conflict foreseen, and steps that MMS could take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the standard Call for Information Map.

5. Use of Information From Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose for this Call is to use the comments collected in the scoping process for the EIS and to develop proposed actions and alternatives. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore operations. And, fifth, comments may be used to assess potential conflicts between offshore gas and oil activities and a State's Coastal Management Plan.

6. Existing Information

MMS routinely assesses the status of information acquisition efforts and the quality of the information base for potential decisions on tentatively scheduled lease sales. As a result of this continually ongoing assessment, it has been determined that the status of the existing data available for planning, analysis, and decisionmaking is adequate and extensive.

An extensive environmental studies program has been underway in the GOM since 1973. The emphasis, including continuing studies, has been on environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports, and information for ordering copies, can be obtained from the Public Information Unit referenced under Item 3, ''Description of Area.'' The reports may also be ordered, for a fee, from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or telephone (703) 487–4650. In addition, a program status report for continuing studies in this area and a list of final and interim study reports for 2001–2002 can be obtained from the Chief, Environmental Sciences Section (MS 5430), Gulf of Mexico OCS Region (see address under Item 3, ''Description of Area''), or telephone (504) 736–2752. Summary Reports and Indices and technical and geological reports are available for review at Minerals Management Service, Gulf of Mexico OCS Region. Copies of the Gulf of Mexico OCS Regional Summary Reports may be obtained from the Technical Services Branch, Minerals Management Service, 381 Elden Street, MS 4063, Herndon, Virginia 20170, phone: (703) 787–1080.

7. Tentative Schedule

The following is a list of tentative milestone dates applicable to sales covered by this Call:

MULTISALE PROCESS MILESTONES FOR PROPOSED 2002–2007 EASTERN GOM SALES 189 AND 197

Call/NOI(Sales 189 and 197)	January 2002.
Comments Received on Call/NOI(Sales 189 and 197)	March 2002.
Area Identification Decision(Sales 189 and 197)	May 2002.
Draft EIS Published(Sales 189 and 197)	November 2002.
Public Hearings on Draft EIS(Sales 189 and 197)	January 2003.
Final EIS (Sales 189 and 197)	June 2003.

SALE-SPECIFIC PROCESS MILESTONES FOR PROPOSED 2002–2007 EASTERN GOM SALES 189 AND 197

Request for Information to Begin Sale 197 Sale-Specific Process	March 2004.
Sale 197 Environmental Review (EA/Finding of No New Significant Impact/Supplemental EIS (EA/FONSI/SEIS)) Published.	October 2004.
Consistency Determination	5 Months Before Each Sale.
Proposed Notice of Sale	4 Months Before Each Sale.
Final Notice of Sale	1 Month Before Each Sale.
Tentative Sale Dates	December 2003 (Sale 189) and March 2005 (Sale 197).

Notice of Intent To Prepare an EIS

1. Authority

The NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)).

2. Purpose of the Notice of Intent

Pursuant to the regulations implementing the procedural provisions of the NEPA, MMS is announcing its intent to prepare an EIS on the two proposed Eastern GOM oil and gas lease sales, tentatively scheduled for 2003 and 2005. The NOI also serves to announce the scoping process for this EIS. Throughout the scoping process, Federal, State, and local government agencies, and other interested parties have the opportunity to aid MMS in determining the significant issues and alternatives to be analyzed in the EIS.

The EIS analysis will focus on the potential environmental effects of oil and natural gas leasing, exploration, development, and production in the areas identified through the Area Identification procedure. Alternatives that may be considered for each sale are to delay the sale, cancel the sale, or modify the sale.

3. Supplemental Information

Federal regulations allow for multiple proposals to be analyzed in one EIS (40 CFR 1502.4). Since each sale proposal and projected activities are very similar, MMS is proposing to prepare a single EIS (multisale EIS) for the two Eastern Planning Area lease sales scheduled for 2003 and 2005 in the draft proposed *Outer Continental Shelf Oil and Gas Leasing Program: 2002–2007.* The multisale approach is intended to focus the NEPA/EIS process on differences between the proposed sales and on new issues and information. The multisale EIS will eliminate the repetitive issuance of complete draft and final EISs for each proposed lease sale. The resource estimates and scenario information for the EIS analyses will be presented as a range that would encompass the resources and activities estimated for either of the proposed lease sales. At the completion of this EIS process, a decision will be made only for proposed Sale 189, scheduled to be held in 2003. Subsequent to this first sale, a NEPA review will be conducted for proposed lease Sale 197 scheduled for 2005. Formal consultation with other Federal agencies, the affected States, and the public will be carried out to assist in the determination of whether or not the information and analyses in the original multisale EIS are still valid. These consultations and the NEPA review will be completed before a decision is made on proposed Sale 197.

4. For Further Information Contact

Mr. Joseph Christopher, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2774.

5. Comments

Federal, State, and local government agencies, and other interested parties are requested to send their written comments on the scope of the EIS, significant issues that should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment (MS 5410), Gulf of Mexico OCS Region, at the address under Item 4, **FOR FURTHER INFORMATION CONTACT.** Comments should be enclosed in an envelope labeled ''Comments on the Eastern Multisale EIS.'' Comments should be submitted no later than March 25, 2002. Scoping meetings will be held in appropriate locations to obtain additional comments and information regarding the scope of the EIS. Information on the dates and locations of the scoping meetings will be made available to interested parties via mailouts and advertisements in appropriate newspapers.

Dated: January 25, 2002.

Lucy Querques Denett,

Acting Director.

[FR Doc. 02–3010 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–935–942 (Final)]

Certain Structural Steel Beams From China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–935–942 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan of certain structural steel beams, provided for in subheadings 7216.32.00, 7216.33.00, 7216.50.00, 7216.61.00, 7216.69.00, 7216.91.00, 7216.99.00, 7228.70.30, and 7228.70.60 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: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION:

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.''

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain structural steel beams from China, Germany, Russia, South Africa, and Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on May 23, 2001, by Northwestern Steel & Wire Co., Sterling, IL; Nucor Corp., Charlotte, NC; Nucor-Yamato Steel Co., Blytheville, AR; and TXI-Chaparral Steel Co., Midlothian, TX.

Although the Department of Commerce has preliminarily determined that imports of certain structural steel beams from Italy, Luxembourg,[2] and Spain are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b)[3] so that the final phase of the investigations may proceed concurrently in the event that Commerce makes final affirmative determinations with respect to such imports.

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 § 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 these 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 § 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 May 1, 2002, and a public version will be issued thereafter, pursuant to § 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 May 15, 2002, 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 May 6, 2002. 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 May 8, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 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 § 207.23 of the Commission's rules; the deadline for filing is May 8, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 22, 2002; 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 May 22, 2002. On June 10, 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 June 12, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 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 §§ 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 § 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 1, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–2921 Filed 2–6–02; 8:45 am]

BILLING CODE 7020–02–P

[2] Although Commerce initially made an affirmative dumping determination, it published an amended preliminary determination of sales at not less than fair value on January 31, 2002.

[3] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a final phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of information collection under review; 60-day notice on fax request form from benefit agency to INS for confirmation of status of I–130 and fax request form from benefit agency to EOIR for confirmation of status.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The

proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until [Insert date of the 60th day from the date that this notice is published in the **Federal Register**].

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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Fax Request Form from Benefit Agency to INS for Confirmation of Status of I–130 and Fax Request Form from Benefit Agency to EOIR for Confirmation of Status.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. The data collected on these fax request sheets will be used by the INS and EOIR to determine eligibility for immigration benefits. The fax request sheets permit the INS and EOIR to share information with state and federal benefit granting agencies, making determinations relating to battered aliens for whom an I–130 petition has been filed, or who have made a *prima facie* case for status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,000 responses at 20 minutes (.333) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,996 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 31, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–2964 Filed 2–6–02; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting/ Teleconference

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ teleconference for NCD's Youth Advisory Committee. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Youth Advisory Committee: The purpose of NCD's Youth Advisory Committee is to provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

DATES: February 27, 2002, 4:00 p.m. EST.

FOR YOUTH ADVISORY COMMITTEE INFORMATION CONTACT: Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *ghawkins@ncd.gov* (e-mail).

Agency Mission: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on disability issues.

We currently have a membership reflecting our nation's diversity and representing a variety of disabling conditions from across the United States.

Open Meeting: This advisory committee meeting/teleconference of the National Council on Disability will be open to the public. Those interested in participating in the meeting/ teleconference should contact the appropriate staff member listed above. Due to limited resources, only a few telephone lines will be available.

Records will be kept of all Youth Advisory Committee meetings/ teleconferences and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on February 4, 2002.

Ethel D. Briggs,

Executive Director.

[FR Doc. 02–2953 Filed 2–6–02; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** 66 FR 46292, and two comments, showing a positive response to NSF's implementation of a web-based job recruitment system, were received. NSF is forwarding the proposed renewal

submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title: Impact of Industry-Engineering Research Center (ERC) Interaction and Effectiveness of ERC-Trained Industrially Employed Engineers.

OMB Control Number: 3145–0153.

Summary of Collection

Proposed Project: NSF's Directorate for Engineering established the Engineering Research Center (ERC) Program in 1985 to address concerns of industry regarding declining U.S. industrial competitiveness. The mission of the Program as defined by the National Academy of Engineering was to strengthen competitiveness by bringing new approaches and goals to academic engineering research and education, and by forging vital new links between universities and industry. The proposed study repeats one conducted when the Program was 10 years old, which studied the outcomes and impacts of ERC involvement upon firms involved with first generation centers. The report study would involve firms formally participating with the eight second-generation centers, which were initiated from FY 1994–96. Data will be collected from the representatives to the ERCs of these firms. Data will NOT be used to evaluate individual centers, but, rather, to study the Program's on-going as a whole.

Use of the Information: The resulting information will be used to identify program-wide patterns of outcomes and impacts on organizations that are members of ERCs. Results will be used for continuous program performance improvement and external reporting, e.g., for the Government Performance and Results Act.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Individuals.

Estimated Number of Responses Per Form: One.

Estimated Number of Respondents: 291.

Estimated Total Annual Burden on Respondents: 146 hours.

Frequency of Responses: One time.

Dated: February 4, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 02–2996 Filed 2–6–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities Submission for the Office of Management and Budget (OMB) Review; Comment request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR part 72, Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste (3150–0132).

3. *The form number if applicable:* NA.

4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur; submittal of reports varies from less than one per year under some rule sections to up to an average of about 100 per year under other rule sections. Applications for new licenses, certificates of compliance (CoCs), and amendments may be submitted at any time; applications for renewal of licenses would be required every 20 years for an Independent Spent Fuel Storage Installation (ISFSI) and every 40 years for a Monitored Retrievable Storage (MRS) facility. Application for renewal of a CoC would be required every 20 years.

5. *Who is required or asked to report:* Certificate holders of casks for the storage of spent fuel, licensees and applicants for a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, and the Department of Energy for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radioactive materials associated with spent fuel and high-level waste storage in an MRS.

6. *The estimated number of annual responses:* 201.

7. *The estimated number of annual respondents:* 33.

8. *The number of hours needed annually to complete the requirement or request:* 41,283 hours (27,777 hours for reporting plus 13,506 hours for recordkeeping) or approximately 1,251 hours per respondent.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* NA

10. *Abstract:* 10 CFR part 72 establishes requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, and requirements for the issuance of licenses to the Department of Energy to receive, transfer, package, and possess power reactor spent fuel and high-level radioactive waste, and other associated radioactive materials, in an MRS. The information in the applications, reports and records is used by NRC to make licensing and other regulatory determinations. The revised estimate of burden reflects and increase primarily because of live rulemakings completed (and approved by OMB) since the last

extension and an increase in the number of licensees.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike, Rockville, MD. OMB clearance requests are available at the NRC World Wide Web site, http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 11, 20002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 31st day of January 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–2968 Filed 2–6–02; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Budget Analysis Branch; Final Sequestration Report

AGENCY: Office of Management and Budget, Budget Analysis Branch.

ACTION: Notice of transmittal of the Final Sequestration Report for fiscal year 2002 to the President and Congress.

SUMMARY: Pursuant to Section 254(b) of the Balanced Budget and Emergency Control Act of 1985, as amended, the Office of Management and Budget hereby reports that it has submitted its Final Sequestration Report for fiscal year 2002 to the President, the Speaker of the House of Representatives, and the President of the Senate.

FOR FURTHER INFORMATION CONTACT: Sarah Lee, Budget Analysis Branch—202/395–3674.

Dated: January 31, 2002.

Cynthia A. Christian,

Assistant Director for Administration.

[FR Doc. 02–3016 Filed 2–6–02; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27491]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

February 1, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 26, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After February 26, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ameren Corporation, et al.

[70–9965]

Ameren Corporation (''Ameren''), a registered holding company, and its direct and indirect wholly owned nonutility subsidiaries, Union Electric Development Corporation (''UEDC'') and CIPSCO Investment Company (''CIC''),[1] all located at 1901 Chouteau Avenue, St. Louis, Missouri 63103, have filed an application (''Application'') under section 9(c)(3) of the Act.

Ameren, through UEDC and CIC, or one or more other nonutility subsidiaries formed specifically for this purpose, requests authority to invest up to $125 million in total from time to time through December 31, 2006 in existing or new low income housing tax credit (''LIHTC'') projects, historic building or other qualified rehabilitated building projects, and/or ''brownfield'' remediation projects (''Tax Credit Projects'') that qualify or are expected to qualify for Federal and/or State tax credits.[2] Ameren will not take any active role in the development, management or operation of any Tax Credit Project and will not acquire any interest in any venture holding a Tax Credit Project if, as a result, the venture would become an ''affiliate'' of Ameren as defined under section 2(a)(11) of the Act. Ameren and its subsidiaries will, however, conduct appropriate due diligence activities in connection with making investments and manage the investments in order to protect the tax credits that each Tax Credit Project is entitled to and to assure that the physical properties are properly maintained. These activities will include reviewing and analyzing financial statements generated by the general partners, the managing member, or third-party property manager against the approved budget for the investments and conducting due diligence assessments to determine that the properties remain in compliance with the provisions of all applicable Federal and State regulations. Investment management in this context may also include on site inspections to determine that the physical structures and grounds are maintained as quality affordable housing. Accordingly, Ameren will invest in ventures as a limited partner in one or more limited partnerships and/or as a non-member in one or more LLCs, with rights that are substantially the same as rights typically accorded limited partners under limited partnership statutes.

The applicants state that, in general, a separate limited partnership or manager-managed LLC would be

[1] Ameren's public utility subsidiaries are Union Electric Company and Central Illinois Public Service Company, which together serve approximately 1.5 million electric and 300,000 retail gas customers in portions of Missouri and Illinois, including St. Louis.

[2] As of December 31, 2000, Ameren, through UEDC and CIC, held passive investments totaling $6,923,708 in various separate limited partnerships or limited liability companies (LLCs) that own or manage low-income housing properties. In a 1997 merger order, the Commission directed Ameren to sell or reduce its ownership in certain low income housing tax credits properties held through investments in manager-managed LLCs to below 5%. By order dated June 27, 2001 (HCAR No. 27421), the Commission subsequently eliminated this requirement.

established for each new qualifying Tax Credit Project. This structure will allow for financing each Tax Credit Project on a stand-alone basis under the control of an unaffiliated third party, insulate each investment property from any liabilities that may arise in connection with the development or management of any other Tax Credit Project, and facilitate compliance with the requirements of sections 42 of the Internal Revenue Code (''Code'') (as applicable to low income housing properties) and section 47 of the Code (as applicable to certified historic structures and other qualified rehabilitated buildings), or other laws.

The applicants state that the LIHTC program provides Ameren a major incentive to invest in low income housing projects by generating a stream of tax credits that would reduce Ameren's federal and state income tax liability. Under the LIHTC program, equal annual tax credits are available over a ten-year period payable over eleven years, with the first and last years prorated. Under section 42(h)(6)(A) of the Code, no credit is allowed for any taxable year unless an agreement between the housing project owner and the applicable state housing credit agency is in effect as of the end of such taxable year. Under sections 42(h)(6)(B)(i), 42(h)(6)(D), and 42(h)(6)(E)(ii) of the Code, the agreement must prohibit any increase in gross rent for a period ending on the later of (a) the date specified by the agency in the agreement or (b) 15 years after the date when the building is placed in service. Thus, even though the flow of tax credits for an LIHTC property stops after ten years, the property remains subject to rent and income restrictions for at least fifteen years.

Likewise, Ameren seeks to earn tax credits under section 47 of the Code through investments in ''certified historic structures'' (defined as structures that are either listed in the National Register or located in a registered historic district and certified by the Secretary of the Interior as being of historic significance), as well as other types of ''qualified rehabilitated buildings'' (which could include apartment and office buildings, factories, warehouses, etc.) that were first placed in service before 1936. The tax credit is based on the qualified rehabilitation expenditures, as defined under the Code and regulations. It is equal to 20% in the case of ''certified historic structures'' and 10% in the case of other rehabilitated buildings. These credits are subject to possible recapture if the rehabilitated property is transferred before five years after it is placed in service. In addition to the federal tax credits, Ameren may also qualify for tax credits that are available under state law (including in Missouri) with respect to investments in historic building rehabilitation projects.

In addition, Ameren also may obtain state income tax credits under section 447 of the Missouri State Tax Code through qualified investments called ''brownfield'' sites that require environmental remediation in order to extend the useful life of a business property. The tax credit is based on a combination of qualified expenditures for environmental remediation and job creation by the businesses that occupy the renovated properties, as defined in the tax regulations. The credit is equal to 2.1% of the qualified investment in purchased or leased real estate or purchased or leased equipment per year, and is cumulative. Ameren requests authority to make passive investments in projects qualifying for these tax credits in Missouri or similar credits that may be available from time to time under the laws of other States in which Ameren or its subsidiaries have a state income tax liability.

Duke Energy Corp.

[70–10013]

Duke Energy Corp. (''Duke''), 526 S. Church Street, Charlotte, N.C. 28202, a North Carolina corporation, has filed an application under section 3(b) of the Act and rules 10(a)(1) and 11(b)(1) under the Act in connection with its proposed acquisition of Westcoast Energy Inc. (''Westcoast''), a corporation organized under the laws of Canada.

Duke engages directly and indirectly in the generation, transmission, distribution and sale of electric energy to retail and wholesale customers in the States of North Carolina and South Carolina. Duke is an electric utility company and a public-utility company as defined in sections 2(a)(3) and 2(a)(5) of the Act, respectively.[3] Duke entered into a Combination Agreement with Westcoast under which Duke seeks to acquire the stock of Westcoast in exchange for $3.5 billion in cash and stock and the assumption of approximately $5 billion in Westcoast debt (''Acquisition''). Duke states that Westcoast's holdings include three subsidiaries that are public-utility companies operating outside the United States (''Non-U.S. Utilities''). The Non-U.S. Utilities are:

(1) Union Gas Limited (''Union Gas''), a wholly-owned, direct subsidiary of Westcoast engaged in the transportation and storage of natural gas and the distribution of natural gas to residential, commercial and industrial customers in Ontario, Canada;

(2) Pacific Northern Gas Ltd. (''Pacific Northern''), a 40.04%-owned, direct subsidiary of Westcoast, engaged in the transportation of natural gas and the distribution of natural gas to residential, commercial, and industrial customers in British Columbia, Canada; and

(3) P.T. Puncakjaya Power (''PJP''), a 42.86%-owned indirect subsidiary of Westcoast engaged in the generation and sale of electric power to industrial customers in Irian Jaya, Indonesia.

Union Gas is a public company. Westcoast directly owns 100% of the Voting Common Shares of Union Gas stock. The public holds 100% of the Class A, Class B and the Class C Preferred, Non-Voting Shares of the Union Gas stock. The preferred shares of Union Gas trade on the Toronto Stock Exchange. The voting common shares are not listed.

Pacific Northern is a public company and has Class A Non-Voting Common Shares with a par value of $2.50 each and 6.75% Cumulative Redeemable Preferred Shares with a par value of $25.00 each that trade on the Toronto Stock Exchange. Westcoast directly owns 40.04% of the Class A Non-Voting Common Shares of Pacific Northern and 100% of the Class B Voting Common Shares, without intermediate subsidiaries. The public owns the balance of the Class A Common Shares and all (200,000 shares) of the 6.75% Cumulative Redeemable Preferred Shares.

Westcoast indirectly owns, through Westcoast (PJP) Holdings, Inc., a corporation organized under the laws of Canada, a 42.86% share of PJP. Duke indirectly owns, through Duke Energy International PJP Holdings (Maruritius), Ltd., an Indonesian company, a 42.86% share of PJP. The remaining 14.28% interest in PJP is owned by P.T. Austindo Nusantara Jaya, a limited liability company established under the laws of the Republic of Indonesia. Duke states that upon and after the effective date of the Acquisition, Duke may, for tax, legal, regulatory or administrative reasons, restructure the corporate organization described above.

Duke requests an order under section 3(b) of the Act, exempting without qualification each of the Non-U.S. Utilities from all provisions of the Act. Duke states that none of the Non-U.S. Utilities, either before or after the Acquisition, will serve customers in the United States, nor will the Non-U.S. Utilities derive any income directly or indirectly from sources within the

[3] Currently, Duke is not a holding company under the Act.

United States. Duke further states that the Non-U.S. Utilities are not qualified to do business in any state of the United States, nor is any Non-U.S. Utility a public-utility company operating in the United States.

Duke states that its domestic utility operations are, and will continue to be, fully separated from Duke's foreign operations. Duke further states that it will not seek recovery through higher rates to its domestic regulated utility customers for any possible loss it might sustain by reason of the proposed investment in the Non-U.S. Utilities or for any inadequate returns on that investment.

Duke asserts that an unqualified section 3(b) exemption of the Non-U.S. Utilities would entitle Duke and its subsidiary companies that directly or indirectly hold interests in the Non-U.S. Utilities (''Intermediate Subsidiaries'') to the exemption provided by rule 10 of the Act. Duke and the Intermediate Subsidiaries intend to rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company. Further, Duke and the Intermediate Subsidiaries intend to rely upon rule 11(b)(1), to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which Duke and its Intermediate Subsidiaries would otherwise be subject.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2963 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC—25407; 812–12664]

Commonfund Institutional Funds, et al.; Notice of Application

February 1, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 6(c), 12(d)(1)(J), and 17(b) of the Investment Company Act of 1940 (''Act'') for exemptions from sections 12(d)(1)(A) and (B) and 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 thereunder to permit certain joint transactions.

Summary of Application: Applicants request an order to permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in one or more affiliated money market funds and/or short-term bond funds.

Applicants: Commonfund Institutional Funds (the ''Company'') and Commonfund Asset Management Company, Inc. (''Comanco'').

Filing Dates: The application was filed on October 18, 2001 and amended on January 31, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 26, 2002, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: John W. Auchincloss, General Counsel, Commonfund Institutional Funds, 15 Old Danbury Road, PO Box 812, Wilton, CT 06897–0812.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Company is organized as a Delaware business trust and registered under the Act as an open-end management investment company. The Company currently consists of eight investment portfolios (''Funds''), including CIF Short Duration Fund (''Short Duration Fund'').[1] Comanco, an indirect, wholly owned subsidiary of The Common Fund for Nonprofit Organizations, serves as investment adviser for the Company, and is registered under the Investment Advisers Act of 1940.

2. Each Fund has, or may be expected to have, uninvested cash in an account at its custodian (''Uninvested Cash''). Uninvested Cash may result from a variety of sources, such as dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment purposes, scheduled maturity of investments, proceeds from liquidation of investment securities, dividend payments, or money received from investors. Certain of the Funds may also participate in a securities lending program under which the Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans will be continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash (''Cash Collateral,'' and together with Uninvested Cash, ''Cash Balances'').

3. Applicants request relief to permit certain of the Funds (the ''Investing Funds'') to use Cash Balances to purchase shares of the Short Duration Fund, as well as any future Fund that operates as a money market fund in accordance with Rule 2a–7 under the Act (''Money Market Fund'' and together with the Short Duration Fund, the ''Cash Management Funds''), and the Cash Management Funds to sell their shares to, and redeem their shares from, each of the Investing Funds. The Short Duration Fund seeks current income with some price appreciation, each consistent with liquidity and safety of principal, by investing in fixed income securities, and generally will maintain an effective duration of one year or less. Investment of Cash Balances in shares of the Cash Management Funds will be made only to the extent consistent with such Investing Fund's investment restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions will result in higher yields, increased investment opportunities, reduced transaction costs, increased returns, reduced administrative burdens, enhanced liquidity, and increased diversification.

[1] All investment companies that currently intend to rely on the requested relief have been named as applicants and any existing or future registered open-end management investment company that may rely on the requested relief in the future will do so only in accordance with the terms and conditions of the application. The applicants are also seeking relief for any registered open-end management investment company or series thereof that is currently, or in the future may be advised by the Adviser, as defined below (included in the term ''Funds''). Comanco and any person controlling, controlled by or under common control with Comanco that currently or in the future serves as investment adviser to a fund are collectively referred to as the ''Adviser''.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act authorizes the Commission to exempt any person, security or transaction (or classes thereof) from any provision of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption from the provisions of sections 12(d)(1)(A) and (B) to the extent necessary to permit each Investing Fund to invest Cash Balances in the Cash Management Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that section 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Cash Management Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Cash Management Fund through threat of redemption. Applicants also represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Cash Management Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. (''NASD'') Conduct Rules) or, if such shares are subject to any such fees in the future, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund. Applicants state that if a Cash Management Fund offers more than one class of securities, each Investing Fund will invest only in the class with the lowest expense ratio (taking into account the expected impact of the Investing Fund's investment) at the time of the investment. Before the next meeting of the board of directors (the ''Board'') of an Investing Fund is held for the purpose of voting on an advisory contract under section 15(a) of the Act, the Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee attributable to, managing the assets of the Investing Fund that can be expected to be invested in the Cash Management Funds. In connection with approving any advisory contract for an Investing Fund, the Board, including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors'') will consider to what extent, if any, the advisory fees charged to each Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in a Cash Management Fund. Applicants represent that no Cash Management Fund whose shares are held by an Investing Fund will acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of an investment company to include the investment adviser, any person that owns 5% or more of the outstanding voting securities of that company, and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that each of the Investing Funds may be deemed to be under common control, and therefore affiliated persons of each other, because they have a common investment adviser or their investment advisers may be under common control. In addition, applicants submit that because an Investing Fund could acquire 5% or more of the outstanding voting shares of a Cash Management Fund, such Investing Fund might be deemed an affiliated person of the Cash Management Fund. Accordingly, applicants state that the sale of shares of the Cash Management Fund to the Investing Funds, and the redemption of such shares by the Investing Funds, may be prohibited under section 17(a).

5. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policies of each registered investment company involved, and with the general purposes of the Act. Section 6(c) of the Act provides, in part, that the Commission may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act if, and to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief to permit the purchase and redemption of Cash Management Fund shares by the Investing Funds satisfies the standards of sections 17(b) and 6(c) of the Act. Applicants state that the investment by the Investing Funds in shares of the Cash Management Funds will be on the same terms and on the same basis as any other shareholders, and that the consideration paid and received by the Investing Funds on the sale and redemption of shares of a Cash Management Fund will be based on the Cash Management Fund's net asset value per share. In addition, under the proposed transactions, the Investing Funds will retain their ability to invest their Cash Balances directly in money market instruments or short-term instruments as authorized by their respective investment objectives and policies, if they believe they can obtain a higher rate of return, or for any other reason. Applicants also state that each of the Cash Management Funds reserves the right to discontinue selling shares to any of the Investing Funds if the management of the Cash Management Fund determines that such sales would adversely affect its portfolio management and operations.

7. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates, unless the Commission has issued an order authorizing the arrangement. Applicants state that each Investing Fund (by purchasing shares of the Cash Management Funds), each Adviser of an

Investing Fund (by managing the assets of the Investing Funds invested in the Cash Management Funds), and each Cash Management Fund (by selling shares to and redeeming them from the Investing Funds) could be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 thereunder.

8. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission will consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards because the investments by the Investing Funds in shares of the Cash Management Funds will be on the same basis and will be indistinguishable from any other shareholder account maintained by the same class of the Cash Management Funds, and the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Shares of the Cash Management Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if such shares are subject to any such fee, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Before the next meeting of the Board of the Investing Funds is held for purposes of voting on an advisory contract under section 15 of the Act, the Adviser to the Investing Funds will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Cash Management Funds. Before approving any advisory contract for an Investing Fund, the Board of the Investing Fund, including a majority of the Independent Directors, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in the Cash Management Fund. The minute books of the Investing Fund will record fully the Board's considerations in approving the advisory contract, including the considerations referred to above.

3. Each of the Investing Funds will invest Uninvested Cash in, and hold share of, the Cash Management Funds only to the extent that the Investing Fund's aggregate investment of Uninvested Cash in the Cash Management Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund or series thereof will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Cash Management Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information. No Investing Fund that relies on rule 2a–7 under the Act will invest in a Cash Management Fund that is not a Money Market Fund.

5. No Cash Management Fund shall acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

6. Each Investing Fund and Cash Management Fund that may rely on the order shall be advised by the Adviser.

7. Before a Fund may participate in a Securities Lending Program, a majority of the Board, including a majority of the Independent Directors, will approve the Fund's participation in the Securities Lending Program. Such directors also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Cash Management Funds is in the best interests of the shareholders of the Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2958 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (67 FR 4297, January 29, 2002)

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Wednesday, February 6, 2002 at 10 a.m.

CHANGE IN THE MEETING: Cancellation of Meeting/Additional Meetings.

The closed meeting scheduled for Wednesday, February 6, 2002, has been cancelled, and rescheduled for Thursday, February 7, 2002, at 10 a.m. Additional closed meetings will be held on Tuesday, February 12, 2002 and Thursday, February 14, 2002, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3) (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matters of the closed meeting scheduled for Tuesday, February 12, 2002, will be:

Litigation matter;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature;
Formal orders of investigation; and adjudicatory matters.

The subject matters of the closed meeting scheduled for Thursday, February 14, 2002, will be:

Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature; and
Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: February 5, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–3156 Filed 2–5–01; 4:13 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–45373; File No. SR–Amex–2002–03)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 2 Thereto by the American Stock Exchange LLC Relating to an Extension of the Interim Intermarket Linkage Program

January 31, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 15, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Exchange submitted Amendment No. 1 to the proposed rule change on January 18, 2002.[3] The Exchange submitted Amendment No. 2 to the proposed rule change on January 30, 2002.[4] The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[5] and Rule 19b-4(f)(6) thereunder,[6] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend until December 31, 2002 the pilot program providing for the implementation of ''interim linkages'' with the other option exchanges.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to request an extension of the ''interim'' intermarket options linkage.[7] Currently, the Exchange is operating the interim linkage on a pilot basis pursuant to Amex Rule 940. The interim linkage utilizes the Exchange's existing systems to facilitate the sending and receiving of order flow betweenAmex specialists and their counterparts on the other option exchanges as an interim step towards development of a permanent linkage in the options market.[8] The Exchange now proposes that the interim linkage remain in effect on a pilot basis until December 31, 2002.

The Commission previously approved, on an interim basis, options intermarket linkage plans for all options exchanges.[9] Although the options exchanges have made ''progress'' toward the implementation of a permanent linkage, significant work still exists in order for the linkage to be operational. Accordingly, the Amex believes that an extension of the interim linkage is necessary for the options exchanges to complete implementation of the permanent linkage.

The key component of the interim linkage is for the participating exchanges to open their automated customer execution systems, on a limited basis, to market maker orders. Specifically, market makers are able to designate certain orders as ''customer'' orders, and thereby receive automatic execution of those orders on participating exchanges.[10]

The interim linkage authorizes the Amex to implement bilateral or multilateral interim arrangements with the other exchange providing equal access between market makers on the respective exchanges. Currently, the interim linkage pilot program allows Amex specialists and their equivalents on the other exchanges, when holding customer orders, to send those orders to the other market for execution when the other market has a better quote. Such orders are limited in size to the lesser of the size of the two markets' automatic execution size for customer orders. The interim linkage may in the future be expanded to include limited access principal orders (*i.e.,* when the market maker is not holding a customer order), for orders of no more than 10 contracts.

Consistent with the interim linkage pilot program, all interim linkage orders must be ''immediate or cancel'' (*i.e.,* they cannot be placed on an exchange's limit order book), and a market maker may send a linkage order only when the other (receiving) market is displaying the national best bid or offer and the sending market is displaying an inferior price. This allows an Amex specialist to access the better price for its customer. If the interim linkage is expanded to include principal orders, such action would allow market makers to attempt to ''clear'' another market displaying a superior quote.

Specialist participation in the interim linkage is voluntary. Only when a specialist and its equivalent on another exchange believe that this form of mutual access would be advantageous will the exchanges employ the interim linkage procedures. The Amex believes that the interim linkage will benefit investors and will provide useful experience that will help the exchanges

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, from Jeffrey P. Burns, Assistant General Counsel, Amex, dated January 17, 2002 (''Amendment No. 1'').

[4] In Amendment No. 2, Amex clarified that it was filing the proposed rule change pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder, rather than Rule 19b–4(f)(3) as set forth in Amendment No. 1. *See* letter to Nancy Sanow, Assistant Director, Division, Commission, from Jeffrey P. Burns, Assistant General Counsel, Amex, dated January 29, 2002 (''Amendment No. 2''). Amendment No. 2 replaces Amendment No. 1 in full.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6). The Amex requests that the Commission waive the 30-day operative delay. The Amex provided the Commission with notice of its intention to file this proposal on January 15, 2002.

[7] On May 7, 2001, the Commission issued a notice of filing and immediate effectiveness of a pilot program submitted by the Amex authorizing the implementation of an interim linkage. *See* Securities Exchange Act Release No. 44271 (May 7, 2001), 66 FR 26887 (May 15, 2001) (File No. SR-Amex-2001–20).

[8] The Commission approved the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage in July 2000. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

[9] *See* Securities Exchange Act Release Nos. 43904 (January 30, 2001), 66 FR 9112 (February 6, 2001) (File Nos. SR-ISE–00–15 and SR-CBOE–00–58); 43986 (February 20, 2001), 66 FR 12578 (February 27, 2001) (File No. SR-PCX–2001–10); 44271 (May 7, 2001), 66 FR 26887 (May 15, 2001) (File No. SR-Amex-2001–20); and 44311 (May 16, 2001), 66 FR 28768 (May 24, 2001) (File No. SR-Phlx-2001–52).

[10] As with other orders that are executed under the automatic execution parameters of the Exchange, when a limit order constitutes the Exchange's best bid or offer, the specialist executes the incoming order against that order.

in implementing the full linkage. For these reasons, the Amex requests an extension of the pilot program until December 31, 2002.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,[11] in general, and furthers the objectives of section 6(b)(5),[12] in particular, because it should prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from the date of filing, or such shorter date as the Commission may designate, if consistent with the protection of investors and the public interest; and (4) the Exchange provided the Commission with notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)[14] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[15] does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The Amex has requested, in order to permit the uninterrupted operation of the interim linkage, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b–4(f)(6)(iii).[16] The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and, therefore, has determined to make the proposed rule change operative as of the date of this notice.[17]

At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File Number SR-Amex-2002–03 and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2934 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45357; File No. SR–GSCC–2001–14]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Liability of Affiliated Entities

January 29, 2002.

On October 11, 2001, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] a proposed rule change (File No. GSCC–2001–14). Notice of the proposal was published in the **Federal Register** on December 20, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change addresses liability issues that may arise after the completion of the integration of GSCC, MBS Clearing Corporation (''MBSCC''), and Emerging Markets Clearing Corporation (''EMCC'') with The Depository Trust and Clearing Corporation (''DTCC'').[3] For purposes of this notice, DTCC, GSCC, MBSCC, EMCC, The Depository Trust Company (''DTC''), and National Securities Clearing Corporation (''NSCC'')[4] are collectively referred to as the ''Synergy Companies.''[5]

An important aspect of the integration plan is to insulate GSCC, its members, and its clearing fund from the risks and obligations that may arise from the

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45155 (Dec. 14, 2001), 66 FR 65768.

[3] Securities Exchange Act Release Nos. 44989 (Oct. 25, 2001), 66 FR 55220 (Nov. 1, 2001) (order approving integration of GSCC), 44988 (Oct. 25, 2001), 66 FR 55222 (Nov. 1, 2001) (order approving integration of MBSCC), and 44987 (Oct. 25, 2001), 66 FR 55218 (Nov. 1, 2001) (order approving integration of EMCC).

[4] DTC and NSCC are wholly-owned subsidiaries of DTCC.

[5] After the completion of the integration, GSCC, MBSCC, and EMCC shall each be a wholly-owned subsidiary of DTCC, and a single group of individuals shall serve as directors of each of the Synergy Companies. Following the integration, GSCC will continue to exist as a separate registered clearing agency. The retained earnings of GSCC existing at the time of (or as of the end of the last full calendar month preceding) the integration of GSCC with DTCC will, as a matter of DTCC policy, be dedicated to supporting the business of GSCC. GSCC will be managed and operated so as to be appropriately capitalized for its activities as a clearing agency.

activities of the other Synergy Companies.[6] The rule change will add a section 2 to Rule 39 that provides that notwithstanding any affiliation between GSCC and any other entity, including any clearing agency, except as otherwise provided by written agreement between GSCC and such other entity, (1) GSCC shall not be liable for any obligations of such other entity and the clearing fund or other assets of GSCC shall not be available to such other entity and (2) such other entity shall not be liable for any obligations of GSCC and any assets of such other entity shall not be available to GSCC.

II. Discussion

Section 17A(b)(3)(F) of the Act[7] requires that the rules of a clearing agency assure the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible. The Commission finds that the proposed rule change is consistent with GSCC's obligations under section 17A(b)(3)(F) because it should help ensure that GSCC's assets, including it's participants fund, are not diminished as a result of its affiliation with the Synergy Companies.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–2001–14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2960 Filed 2–6–02; 8:45 am]

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[6] The integration plan attempts to similarly insulate MBSCC and EMCC. Securities Exchange Act Release Nos. 45358 (Jan. 29, 2002) (order approving MBSCC's limitation of liability) and 45359 (Jan. 29, 2002) (order approving EMCC's limitation of liability). DTC and NSCC adopted rules similar to this proposed rule as part of their 1999 integration with DTCC. Securities Exchange Act Release Nos. 42013 (Oct. 15, 1999), 64 FR 57168 (Oct. 22, 1999) (order approving NSCC's limitation of liability) and 42014 (Oct. 15, 1999), 64 FR 57171 (Oct. 22, 1999) (order approving DTC's limitation of liability).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45385; File No. SR–NASD–2002–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, Amendment No. 1, and Amendment No. 2 Thereto by the National Association of Securities Dealers, Inc. Relating to Revisions to Form U–4 and Form U–5

February 1, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), 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 NASD Regulation. On January 23, 2002, NASD Regulation submitted Amendment No. 1 to the proposed rule change.[3] On January 31, 2002, NASD Regulation submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrice M. Gliniecki, Vice President and Acting General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division of Market Regulation (''Division''), SEC, dated January 22, 2002 (''Amendment No. 1''). In Amendment No. 1, NASD Regulation: (1) removed all language from the original filing indicating that the filing was submitted pursuant to Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A); and (2) amended the legends on the Forms to read ''Rev. Form U–4 (3/2002)'' and ''Rev. Form U–5 (3/2002),'' rather than ''Rev. Form U–4 (7/2001)'' and ''Rev. Form U–5 (7/2001).''

[4] *See* letter from Patrice M. Gliniecki, Vice President and Acting General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division, SEC, dated January 31, 2002 (''Amendment No. 2''). In Amendment No. 2, NASD Regulation renumbered the amendment to comply with Form 19b–4.

[5] NASD Regulation requested that the Commission make various technical corrections and delete a reference to ''initial'' registrations with regard to the Temporary Registration Acknowledgement (15C) described in the Signature and Acknowledgement Sections of the Purpose Section of this notice. Telephone discussion between Christopher B. Stone, Attorney Advisor, Division, SEC and Gary L. Goldsholle, Associate General Counsel, NASD Regulation, and Richard E. Pullano, Chief Counsel and Associate Director, CRD Public Disclosure, NASD Regulation (January 25, 2002).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to revise the Uniform Application for Securities Industry Registration or Transfer (''Form U–4'') and Uniform Termination Notice for Securities Industry Registration (''Form U–5'') (collectively, the ''Forms'') to: (1) Make technical changes to accommodate the electronic submission of investment adviser filings in the Investment Adviser Registration Depository (''IARD℠'') system; (2) establish procedures that will enable broker/dealer firms and investment adviser firms employing dually registered persons to concur with information contained in the Forms filed on such persons; (3) make the filing instructions clearer for all filers, but especially for those firms that are electronic filers; (4) provide separate paper filing instructions for certain investment adviser representative filers and other state-only filers that do not use the Central Registration Depository (''CRD®'') or IARD systems; (5) clarify certain items that have been a source of confusion for users of the new Internet-based CRD system (''Web CRD℠''); (6) make certain formatting and technical changes to the Forms that would complete the transition from a paper-based filing model to an electronic-filing model; (7) update the Form U–4 to add examination and registration categories not previously included; and (8) amend NASD IM–8310–2, Release of Disciplinary Information, to refer to the newly numbered Section 14 of the Form U–4. The proposed technical and formatting amendments do not alter the reporting or disclosure requirements applicable to broker/dealers or their registered persons.

The text of the proposed rule change and the Exhibits related thereto are available at the principal offices of NASD Regulation and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation 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 Form U–4 is the Uniform Application for Securities Industry Registration or Transfer. Representatives of broker/dealers, investment advisers, or issuers of securities must use this form to become registered in the appropriate jurisdictions and/or with appropriate self-regulatory organizations (''SROs''). The Form U–5 is the Uniform Termination Notice for Securities Industry Registration. Broker/dealers, investment advisers, and issuers of securities must use this form to terminate registration of an individual in the various SROs and jurisdictions.

The proposed revisions to the Forms would (1) make technical changes to the Forms to accommodate the electronic submission of investment adviser filings in the IARD system; (2) establish procedures that will enable broker/dealer firms and investment adviser firms employing dually registered persons to concur with information contained in the Forms filed on such persons; (3) make the filing instructions clearer for all filers, but especially for those firms that are electronic filers; (4) provide separate paper filing instructions for certain investment adviser representative filers and other state-only filers that do not use the CRD or IARD systems; (5) clarify certain items that have been a source of confusion for Web CRD users; (6) make certain formatting and technical changes to the Forms that would complete the transition from a paper-based filing model to an electronic-filing model; (7) update the Form U–4 to add examination and registration categories not previously included; and (8) amend NASD IM–8310–2, Release of Disciplinary Information, to refer to the newly numbered Section 14 of the Form U–4. The proposed technical and formatting amendments do not alter the reporting or disclosure requirements applicable to broker/dealers or their registered persons.

On June 25, 1999, the Commission approved amendments to the Forms (''1999 Forms'')[6] that included both technical and formatting changes in anticipation of the transition to Web CRD. Web CRD was deployed on August 16, 1999, and it became the primary system for the registration of broker/dealers and their associated persons.[7]

Since the implementation of Web CRD, a task force comprised of the North American Securities Administrators Association, Inc. (''NASAA''), the states, the Commission, representatives from the securities industry, and other SROs (hereinafter referred to as the ''Working Group''), has been examining the way in which Forms filings are processed. The consensus of the Working Group is that while an Internet-based electronic registration and termination process provides efficiencies that cannot be paralleled through a paper-filing model, additional efficiencies can be achieved by transitioning from a model designed for a paper filing system to a model that is specifically designed for an electronic filing process.

The current Forms, which were designed to be used in a paper-filing environment, are not completely compatible with an electronic filing environment. For example, the current paper Forms contain formatting and numbering inconsistencies that can be confusing to electronic filers. The proposed changes to the Forms are specifically designed to accommodate electronic filing and to take full advantage of an interactive filing environment. The proposed Forms have a revised format and separate instructions for electronic and paper filers.[8] The Forms will be available interactively to users on the Web CRD and IARD systems, and an identical static version of the Forms will be available in Portable Document Format (''PDF'') on NASD Regulation's Web site.[9]

To provide useful information to Form filers, the Working Group has developed a ''Uniform Forms Reference Guide'' that, among other things: (1) Provides address and contact information for NASD Regulation and NASAA; (2) defines filing type designations;[10] (3) and identifies the certifications from professional organizations that may make investment adviser representative applicants eligible for a waiver of the applicable state examination requirement.[11] The Working Group determined to separate the stand-alone reference guide from the Forms because of the nature of the information contained in it and to allow for convenient updates to the information as needed.

On April 5, 2000, the Commission proposed new rules that would, among other things, allow investment advisers to fulfill their filing obligations with federal and state regulators by filing electronically through a new Internet-based system—the IARD.[12] On July 28, 2000, the Commission formally designated NASD Regulation as the entity to establish and maintain the IARD system.[13] In consultation with the

[6] *See* Exchange Act Rel. No. 41560 (June 25, 1999), 64 FR 36059 (July 2, 1999).

[7] For a description of the transition from the Legacy CRD system to Web CRD, *see* Exchange Act Rel. No. 41560 (June 25, 1999), cited at note 6 *supra.*

[8] Form U–4 filings generally will be made electronically through Web CRD or IARD. However, some individuals (*e.g.,* agents of issuers, filers with certain stock exchanges, certain investment advisers) may need to file the form on paper. The proposed Form U–4 suggests that filers contact state regulators or the appropriate SRO for clarification on filing status.

[9] PDF is a file format that allows for a representation or display of documents in a software manner that is independent of the original application hardware and operating system used to create those documents. NASD Regulation understands that NASAA also intends to make the PDF forms available on its Web site.

[10] On Web CRD, firms can choose from seven Form U–4 filing types: (1) Initial or Transfer: for individuals who have never been registered on Web CRD or who have not previously been licensed/registered with a jurisdiction or SRO within thirty (30) days from the date of the current filing; (2) Amendment: to add or change information on an existing FormU–4; (3) Page 2 for BD Schedule A/B: for individuals who appear on Schedules A or B of the Form BD, providing personal, employment and residential information on Direct or Indirect Owners; (4) Page 2 Amendment for BD Schedule A/B: to add or change personal, employment or residential information on Direct or Indirect Owners; (5) DualRegistration: for individuals who intend to maintain registrations with two or more firms *not* under common ownership with the submitting firm; (6) Relicensing: for individuals who are registering with a new firm within thirty (30) days from their being registered with their previous firm in jurisdictions or SROs where they previously were registered; and (7) Concurrence Filing: to enable firms to concur with certain changes made to the Form U–4 of individuals who also are employed by another broker/dealer or investment adviser. Firms can choose from three Form U–5 filing types: (1) Full Form U–5: to terminate fully an individual from the firm; (2) Partial Form U–5: to terminate individuals from selected SROs/jurisdictions; and (3) Amendment Form U–5: to update or amend disclosure and/or residential information on an individual already terminated from a firm.

[11] An investment adviser applicant will be able to indicate on the Form U–4 whether he or she holds one of the five professional certifications (*i.e.,* Certified Financial Planner, Chartered Financial Consultant, Personal Financial Specialist, Chartered Financial Analyst, or Chartered Investment Counselor) recognized by jurisdictions. The IARD system will then use information provided by the certifying organization to verify that the individual has the indicated certification.

[12] *See* Investment Advisers Act Rel. No. 1862 (Apr. 5, 2000), 65 FR 20524 (Apr. 17, 2000).

[13] *See* Investment Advisers Act Rel. No. 1888 (July 28, 2000), 65 FR 47807 (Aug. 3, 2000). As noted in the Release, in 1996, Congress gave the Commission authority ''to participate in an electronic system for the registration of investment advisers.'' As a result, Congress enacted Section 203(A)(d) of the Advisers Act, which enables the Commission to require investment advisers to file registration and other forms ''through any entity

Continued

Commission and NASAA, NASD Regulation has built and begun to operate the IARD system. NASD Regulation administered a pilot program for the IARD system in October 2000, and it commenced full operation of the ''firm'' component of the IARD system in January 2001. The ''firm'' component of the IARD system allows investment adviser firms to file electronically Forms ADV and amendments thereto in the IARD system.

Currently, investment advisers must file hard copy Forms to register and terminate the registrations of investment adviser representatives with state regulators. Starting on March 18, 2002, NASD Regulation is scheduled to deploy the ''individual'' component of the IARD system, which will allow investment adviser firms to register and terminate electronically the registrations of their investment adviser representatives with appropriate state regulators. Individuals who are registered with both a registered investment adviser and a broker/dealer will share a single registration record on the CRD and IARD systems.[14]

NASD Regulation has been working closely with other members of the Working Group to propose revisions to the 1999 Forms that would best accommodate investment adviser representative registrations through an electronic filing process. NASAA approved the proposed Forms revisions in two steps: at its April 29, 2001 membership meeting, and on October 11, 2001, by an electronic vote of the NASAA membership.

(a) *Highlights of Proposed Changes*

(i) *Section Headers Replace Numbered Fields*

The proposed Forms eliminate the numbered field approach used in the 1999 (and previous) Forms. Because an electronic interactive filing system (and an ''electronic form'') presents information in a specified order, the need for numbered fields is eliminated. Instead, the proposed Forms contain 15 clearly identified, numbered section headers that describe the core categories of information elicited or action required by the applicant or firm, with applicable subquestions contained within each section. As a result of organizing the current fields into 15 sections, the question numbers have changed, but the questions have not been changed substantively, and, importantly, there are no changes to the questions eliciting information about disclosure events. For example, current Question 23, which elicits information about disclosure events, will change to Question 14, but the subquestions, now numbered 14A, 14B, etc. are the same as current subquestions 23A, 23B, etc. Applicants and firms will not be required to ''re-file'' disclosure information with the implementation of the revised Forms.

(ii) *Explanation of Terms and Specific Instructions*

The proposed revisions to the Explanation of Terms and Specific Instructions sections use ''plain English'' and change passive language to more active and instructive language wherever possible. The revisions to the Explanation of Terms section include the addition of seven new terms[15] and an alphabetical list of definitions to better aid applicants and firms. The Specific Instructions also include directions for Investment Adviser Representative-only applicants (*i.e.,* those individuals not also registered or seeking registration with a broker/dealer), as well as specific instructions for paper filers.

(iii) *Private Residence Check Box*

The General Information section of the proposed Forms contains a ''private residence check box'' that allows individuals to indicate that their office of employment address is a private residence. This field was added to address privacy concerns raised in connection with the potential release of this information to the public through public disclosure programs administered by the SEC, NASD, and the states. The investment adviser community has raised specific concerns about the public disclosure of the home addresses of investment advisers who are sole practitioners operating out of their homes.[16] A check in the ''private residence check box'' would enable regulators to block the release of an employment address that is a private residence through public disclosure programs. Regulators or firms will be able to view the employment address on Web CRD or IARD, whether or not the box is checked.

(iv) *Fingerprint Information*

The proposed Form U–4 contains a new ''Fingerprint Information'' section to address procedures for the submission of fingerprints by persons seeking registration as required under federal, SRO, or state rules.[17] This section includes a representation that affirms that an electronic filer seeking registration with a broker/dealer is submitting or will promptly submit fingerprint cards consistent with SRO rules.[18] The representation on current Question 8A regarding fingerprint exempt firms also has been modified to permit an applicant firm to represent that the subject of a filing is exempt from the fingerprint requirement if the applicant meets one or more of the exemptions established by Rule 17f–2 under the Exchange Act.[19] In addition, this section also addresses the applicable scenarios for filing of fingerprint cards by individuals who are

designated [by the Commission] for that purpose'' and to ''pay the reasonable costs associated with[these] filings.'' A description of the IARD system is provided in Investment Advisers Act Rel. No. 1862 (Apr. 5, 2000), cited in note 7 *supra.* Although the IARD system will function in a manner similar to Web CRD, NASD Regulation will not act as an SRO for investment advisers or investment adviser representatives.

[14] NASD Regulation does not regulate the registration of investment advisers or investment adviser representatives. As a vendor of the IARD system, NASD Regulation merely maintains and supports the IARD system.

[15] The new terms are: affiliated, applicant, designated entity, filing firm, firm, firm CRD number, and individual CRD number.

[16] In December 2000, the Commission made a technical amendment to the Form ADV that added a check box for investment advisers whose employment address is a private residence. *See* Exchange Act Rel. No. 43758 (December 21, 2000), 65 FR 81737 (December 27, 2000). The amendment addressed comments received by the SEC in response to its April 2000 proposing release, Exchange Act Rel. No. 42620 (April 5, 2000), 65 FR 20524 (April 17, 2000), in which commenters expressed privacy concerns that home addresses might be disclosed through a regulator's public disclosure program.

[17] Questions involving submission of fingerprints were contained in Question 8A on the 1999 Form U–4.

[18] *See, e.g.,* NASD Rule 1140, Electronic Filing Rules. Under this rule, which was implemented with the deployment of Web CRD, NASD members have been required to submit fingerprint cards within 30 days of electronically filing Form U–4. Firms currently submit hard copy cards via U.S. Mail or other delivery service; however, the NASD is exploring the possibility of implementing an electronic fingerprinting process at some future time. Accordingly, this representation regarding submission of fingerprint cards has been drafted to accommodate technological changes that may allow for electronic submission of fingerprint cards at some future time. In addition, for these same reasons, the representation in former Question 8A that ''[a]pplicant has submitted a fingerprint card through a CRD approved electronic method'' has been deleted because it is subsumed in the new proposed representation.

[19] The representation in current Question 8A that ''[a]pplicant is applying for registration with a Fingerprint Exempt firm'' only covers the exemption under Rule 17f–2(a)(1) for entire firms. The proposed representation more clearly reflects the full set of potential exemptions available under Rule 17f–2, which not only permits an entity to claim an exemption for all of its associated persons (*e.g.,* a broker/dealer, registered transfer agent, or registered clearing agency) provided it qualifies for an exemption (*see* Rule 17f–2(a)(1)), but also permits exemptions for certain classes of partners, directors, officers or employees of any member of any national securities exchange, broker, dealer, registered transfer agent or registered clearing agent upon application to the Commission. NASD members have informed the NASD staff that it is difficult to fingerprint their associated persons who may be located in certain foreign countries; such member firms may wish to seek exemptive relief from the Commission for this class of employees under Rule 17f–2(a)(2).

filing only as investment adviser representatives.[20]

(v) *Dual Registration/Affiliated Firms*

The meaning of ''dual registration'' in Questions 9 and 10 on the 1999 Forms has caused some confusion for both regulators and member firms. A ''yes'' response to Question 9A on the current Form U–4 is intended to determine whether the applicant will maintain registrations with separately owned and unaffiliated broker/dealers. Current Question 10 is intended to elicit whether an individual is going to maintain registrations with affiliated firms. Users of the Form U–4, however, have found these two questions, as currently worded, to be confusing.

The rule change proposes that Questions 9 and 10 be placed into two sections: ''Registration with Unaffiliated Firms'' and ''Registration with Affiliated Firms.'' ''Registration with Unaffiliated Firms'' clearly states that individuals who answer this question will be considered to be ''dually registered,'' and that the individual/firm should consult applicable rules because some jurisdictions do not permit dual registrations.[21] ''Registration with Affiliated Firms'' applies to individuals registering with firms that are under common ownership or control.[22]

(vi) *Registration Categories and Examination Requests*

The proposed Forms add: (1) A new registration category for the International Securities Exchange (''ISE''); [23] (2) new registration categories for the New York Stock Exchange (''NYSE'') Trading Assistant (''TA'') and Specialist Clerk (''SC'') positions; [24] and (3) a registration category for the Private Placement (''PR'') position as required by the Gramm-Leach-Bliley Act.[25] The position described as General Securities and Options Representative has been omitted from the proposed Forms because it was included in error when the Forms were revised in 1999.

The proposed Forms also add: (1) A Series 7A examination that corresponds with the Floor Member Conducting Public Business (''PM'') registration category; [26] (2) a NYSE BranchManager Series 12 examination that corresponds with the Securities Manager (''SM'') registration category; [27] (3) a Series 21 examination that corresponds with the NYSE SC registration category; [28] (4) a Series 25 examination that corresponds with the NYSE TA registration category; [29] (5) a National Futures Association (''NFA'') Financial Instruments examination (Series 33) for individuals registered as a General Securities Representative with the NASD, or who limit their futures activities to soliciting or accepting customer orders for futures or options involving stock index, currency or interest rate products; [30] (6) a limited representative-private securities offering examination (Series 82) that corresponds to the PR registration category discussed above; [31] and (7) a new continuing education regulatory element (Series 106) for Series 6 registered persons.[32] The new Forms omit the Series 47 examination, originally anticipated for individuals with a Japanese-limited general securities (JP) registration position.[33]

(vii) *Professional Designations Section*

The proposed Form U–4 adds Section 8, ''Professional Designations,'' to enable an individual requesting registration as an investment adviser representative to seek a waiver from examinations if he or she currently maintains certain designations.[34] The instructions on the Form U–4 state that this is an optional field that will only be used by individuals who seek the applicable waiver.

(viii) *Signature and Acknowledgment Sections*

To accommodate electronic filing, proposed Section 15, the ''Signatures'' section, defines a ''signature'' as either ''a manual signature or an electronically transmitted equivalent.'' This section permits individuals and appropriate signatories to go directly to designated signature fields to execute the electronic signatures required by the Forms. Proposed Sections 15A and 15B address the individual/applicant's acknowledgment and consent and the firm/appropriate signatory's representations, both of which must be completed on all initial or temporary registration form filings. Section 15C addresses the Temporary Registration Acknowledgment (15C), which must be completed for all temporary registrations. Section 15D has been added to address an individual/applicant's acknowledgment and consent to amendments to the disclosure questions or the Disclosure Reporting Pages (''DRPs''). Firms and appropriate signatories must complete Section 15E for all amendment form filings. In addition, the signature section includes the Firm/Appropriate Signatory Concurrence (15F), which is a new signature section that enables one firm to ''concur'' with a filing made by another firm with which an individual is also registered (*i.e.,* the individual is registered with more than one broker/dealer and/or investment adviser firm).

The proposed changes to the Form U–5 combine the signatures into Section 8, which includes the firm acknowledgment in Section 8A and the individual acknowledgment and consent in Section 8B. Only appropriate signatories of firms are required to sign the Form U–5; however, if the terminating firm reports on the Form U–5 that an individual is under internal review, that individual may file a Part

[20] Not all jurisdictions currently require the submission of fingerprint cards for investment adviser representatives. Accordingly, the proposed Form U–4 permits filers to make appropriate representations, through the use of radio buttons (*i.e.,* defined fields or sections within the system that users can click on), for their particular circumstances.

[21] The ''Registration with Affiliated Firms'' section defines the majority view of states with respect to the ''dual registration'' issue. Based on information provided by the states, 28 states do not allow a person to be registered with unaffiliated entities. A list of those states may be found on the NASD Regulation Web site at *http://www.nasdr.com/pdftext/statefee sch.pdf.*

[22] The term *affiliated* is defined in the ''Explanation of Terms'' section of the Form BD as ''under common ownership or control.''

[23] *See* Exchange Act Rel. No. 42455 (Feb. 24, 2000), 65 FR 11388 (March 2, 2000), in which the Commission approved the International Securities Exchange as a national securities exchange.

[24] *See* Exchange Act Rel. No. 40943 (January 13, 1999), 64 FR 3330 (January 21, 1999) and Exchange Act Rel. No. 41701 (August 3, 1999), 64 FR 43804 (August 11, 1999) in which the Commission approved the Trading Assistant and Specialist Clerk positions, respectively.

[25] The PR position was implemented in May 2001 as required by the Gramm-Leach-Bliley Act of 1999, which added a new subsection (j) to Section 15A of the Exchange Act and created a new NASD registration category for individuals engaged only in private securities offerings. *See* Section 203, P.L. 102, Gramm-Leach-Bliley Act (Nov. 12, 1999).

[26] *See* Exchange Act Rel. No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993) in which the Commission approved the NYSE proposed rule change to adopt the Series 7A examination as a module of the Series 7 examination for floor members who only accept orders from professional customers, and to establish a new registration category. *See also* Exchange Act Rel. No. 44790 (September 13, 2001), 66 FR 48502 (September 20, 2001), in which the Commission recently approved the Series 7A examination for Pacific Stock Exchange floor members.

[27] *See* Exchange Act Rel. No. 39577 (January 23, 1988), 63 FR 4513 (January 29, 1988) in which the NYSE proposed adding a firm element for supervisors by including the Series 12 examination for branch managers in the supervisor category.

[28] *See* note 22 *supra.*

[29] *See* note 22 *supra.*

[30] Including this NFA-sponsored examination on the proposed Form will allow member firms to request this examination without having to request it on the Form U–10 (the Uniform Examination Request for Non-NASD Candidates).

[31] *See* note 20 *supra.*

[32] *See* NASD Notice to Members 01–71. *See* NASD Rule 1120, which permits the NASD to designate continuing education regulatory elements for various registration categories.

[33] Although the Commission approved the JP registration category (*see* Exchange Act Rel. No. 37112 (April 12, 1996), 61 FR 17339 (April 19, 1996)), this examination has not yet been implemented.

[34] *See* note 7 *supra.*

II to the Internal Review DRP to provide a response.[35] In addition, unregistered individuals are obligated to report to CRD any address changes for two years following the termination of registration.[36] The individual acknowledgment and consent is included in the proposed changes to the Form U–5 to require individuals submitting an address change or an Internal Review DRP–Part II to attest that the information is accurate and complete.

(ix) *Firm/Appropriate Signatory Concurrence Section*

Investment adviser representatives who are also registered with one or more broker/dealers will share a single registration record on the CRD/IARD systems.[37] Therefore, a single event may trigger Form U–4 filing obligations by more than one investment adviser and/or broker/dealer. As noted above, Section 15F provides a mechanism by which a broker/dealer may indicate that it concurs with information filed by an investment adviser regarding a representative who is registered with both entities, and vice versa.

The CRD and IARD systems would send an electronic notice to an employer broker/dealer or investment adviser that another broker/dealer or investment adviser that also employs that individual has submitted a Form U–4 for one of its associated persons. The investment adviser or broker/dealer would then be able to review the information that has been submitted. If the firm agreed that the information was correctly reported, it would make a ''concurrence filing,'' which would communicate to the CRD system (and, therefore, all appropriate regulators) that it had adopted the filing as its own. Firms would not be required to make concurrence filings where the filing amends information that is relevant only to the broker/dealer or investment adviser that initially filed the Form U–4 (*e.g.*, such firms would not be required have to submit concurrence filings for changes to registrations, office of employment address, etc. that are specific to the entity making the initial filing).

NASD Regulation believes that concurrence filings will be made in the vast majority of cases involving individuals who are registered with multiple firms (whether they are broker/dealers or investment advisers). In the event that multiple firms associated with any particular individual submit different DRPs reporting the same disclosure event, NASD Regulation staff would ''flag'' the affected record on the CRD/IARD systems. This would identify on the system that a difference exists, and it would immediately put regulators and the involved firms on notice that a difference exists. The Working Group has determined that the ''difference flag'' will be set whenever there is a change to any of the information provided in any of the fields eliciting objective factual information (*i.e.,* all of the DRP fields, with the exception of the last field on the DRP, which is reserved for the registered representative's summary or commentary on the event). The Working Group determined to set the ''difference flag'' pursuant to these criteria to eliminate subjective determinations by NASD staff in identifying such differences.

When a difference is flagged, NASD Regulation staff will alert the firms involved to request that they resolve the difference. If the firms are not able to reach an agreement within 30 calendar days, NASD Regulation staff will refer the matter to a state regulator and/or NASD Regulation's Member Regulation or Enforcement staff, as appropriate, based on the facts and circumstances of the situation, for review and resolution.[38] NASD Regulation also will implement procedures to ensure that a public investor (or other person) who requests a public disclosure report before the difference is resolved is made aware of the conflicting or inconsistent information. Specifically, NASD Regulation intends to provide to such a requestor a public disclosure report that contains both versions of the information submitted whenever such a difference has been identified.[39] This process of permitting broker/dealers and investment advisers to concur with filings submitted by another broker/dealer or investment adviser should make it more efficient for firms to comply with their reporting obligations.[40]

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6)[41] of the Act, which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by making technical changes to the Forms to accommodate the electronic submission of investment adviser filings on the IARD system; establishing procedures that will enable broker/dealer firms and investment adviser firms employing dually registered persons to concur with information contained in the Forms; making certain formatting and technical changes to the Forms that would complete the transition from a paper-based filing model to an electronic-filing model; providing separate paper filing instructions for those filers that do not

[35] With the exception of Part II of the Form U–5 Internal Review DRP, there is currently no mechanism for a former associated person or member to submit information to amend or update a disclosure record through the use of the Forms. Part II of the Form U–5 Internal Review DRP provides a current or former registered representative an opportunity to provide a summary of the circumstances relating to an internal review reported on a FormU–5 by a former employer.

[36] *See generally* Article V, Section 4 of the NASD By-Laws, Forms U–4 and U–5, and Notice to Members 97–31.

[37] NASD Regulation is scheduled to deploy the investment adviser representative component of the IARD system on March 18, 2002. With the deployment of this component of the system, investment advisers will be able to submit Forms U–4 and U–5 electronically to register and terminate the registrations of their investment adviser representatives with appropriate state regulators. Individuals who are registered with both a registered investment adviser and a broker/dealer will share a single registration record on the CRD and IARD systems.

[38] Referrals to NASD Regulation's Member Regulation or Enforcement Department would be made only in cases where a member firm is involved (*e.g.,* when a difference is identified between filings made by two broker/dealer member firms or between filings made by a broker/dealer member firm and an investment adviser firm that is registered with a state). If NASD staff identifies a difference between filings made by two non-member investment adviser firms, a referral will be made to states in which those firms are registered. Where investment adviser firms are registered in multiple states, the Working Group has indicated that referrals would be made to the state where the investment adviser firm's principal place of business is located.

[39] NASD Regulation believes that it is unlikely that there will be many cases involving these types of differences. The universe of individuals who are registered with both a broker/dealer and an unaffiliated investment adviser is small relative to the number of individuals who maintain investment adviser registrations with a firm that is registered both as a broker/dealer and an investment adviser. NASD Regulation does not expect firms that are registered both as a broker/dealer and an investment adviser to submit differing reports about the same event. NASD Regulation further expects that any differences will be quickly resolved, given that both investment advisers and broker/dealers are subject either to state or NASD rules and regulations that require complete and accurate reporting on the Forms.

[40] The proposed language in the General Instructions under Section 15F states: ''This section must be completed to concur with a U–4 filing made by another firm (IA/BD) on behalf of an individual who is also registered with that other firm (IA/BD).'' Because this addition is exclusive to the electronic form, the Specific Instructions for Paper Filers states that Section 15F does not apply to paper filers; consequently, a paper filer would be required independently to submit hard copy filings to states and would not be able to use the electronic concurrence filing mechanism.

[41] 15 U.S.C. 78*o*-3(b)(6).

use the CRD or IARD systems; clarifying certain items that have been a source of confusion for WebCRD users; and updating the Forms to add examination and registration categories that were not previously included.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the NASD consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–05 and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[42]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2959 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45379; File Nos. SR–NASD–2001–64 and SR–NASD–2001–68]

Self Regulatory Organizations; Order Granting Approval of Proposed Rule Changes by the National Association of Securities Dealers, Inc., To Adjust the Fees Charged to NASD Non-Members for the Use of the Nasdaq National Market Execution System and the SelectNet Service

January 31, 2002.

I. Introduction

On September 28, 2001, the National Association of Securities Dealers, Inc. (''NASD'') through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adjust the fees charged to NASD non-members for the use of the Nasdaq National Market Execution System (''NNMS'' or ''SuperSOES'') and the SelectNet Service.[3] On October 4, 2001, Nasdaq filed a second proposed rule change to increase the per share charge for use of SuperSOES on a pilot basis.[4] The Commission received three comment letters on the proposals.[5] This order approves the proposed rule changes.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 44898 (October 2, 2001), 66 FR 51703 (October 10, 2001) (File No. SR-NASD–2001–64). *See also* Securities Exchange Act Release No. 44899 (October 2, 2001) (File No. SR-NASD–2001–63, which applied the new fees to NASD members, effective upon filing, and was implemented on October 1, 2001).

[4] *See* Securities Exchange Act Release No. 44914 (October 9, 2001), 66 FR 52649 (October 16, 2001) (File No. SR-NASD–2001–68). *See also* Securities Exchange Act Release No. 44910 (October 5, 2001) (File No. SR-NASD–2001–67, which applied these pilot changes to NASD members, effective upon filing, for a pilot period from November 1, 2001 through October 31, 2002).

[5] *See* Letter from Meyer S. Frucher, Chairman and Chief Executive Officer, Philadelphia Stock Exchange, Inc. (''Phlx'') to Jonathan G. Katz, Secretary, Commission, dated October 31, 2001 (''Phlx Letter); Letter from Michael T. Dorsey, Senior Vice President, General Counsel and Secretary, Knight Trading Group, Inc. to Jonathan G. Katz, Secretary, Commission, dated November 2, 2001 (''Knight Letter''); and Letter from Michael Bird, Chairman, Trading Issues Committee, Security Traders Association, to Jonathan G. Katz, Secretary, Commission, dated November 6, 2001 (''STA Letter'').

II. Description of the Proposals

A. SR–NASD–2001–64

In SR-NASD–2001–64, Nasdaq proposes to adjust the fees for SelectNet and the NNMS for NASD non-members and consolidate the rules governing these fees into NASD Rule 7010(i).[6] First, Nasdaq proposes to replace the current order execution charge in the NNMS, which is based on the number of orders executed per month, with a $0.001 per share charge for execution of orders through the NNMS. Second, Nasdaq proposes to impose a $0.10 order entry charge on orders in both the NNMS and SelectNet.

Third, Nasdaq proposes to modify the charges for order execution in SelectNet to reflect its transformation, in connection with the implementation of the NNMS, into a system that is intended to be used primarily for the delivery of negotiable, non-liability orders to market makers and electronic communication networks that participate in the NNMS.[7] Nasdaq will charge $0.90 per execution for the first 25,000 liability orders executed in a month, $0.60 per execution for the next 25,000 liability orders executed, $0.10 per execution for the next 200,000 liability orders executed, and will assess no order-execution charge for the remaining liability orders executed in a month. In addition, Nasdaq will charge a fee of $0.90 per execution for all non-liability orders executed.

B. SR–NASD–2001–68

In this filing, Nasdaq proposes to increase the per share charge for orders entered and executed in the NNMS from $0.001 per share to $0.002 per share, in keeping with Nasdaq's ongoing efforts to

[6] SR-NASD–2001–63 applied the same fees to NASD members, effective upon filing, and was implemented on October 1, 2001.

[7] Under current rules, SelectNet may still be used for liability orders by (i) national securities exchanges trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges'') that choose not to participate in the automatic execution functionality of the NNMS, and (ii) other market participants directing orders to market participants that choose not to participate in the automatic execution functionality of the NNMS. The NASD filed a proposed rule change to prohibit UTP Exchanges that do not participate in the NNMS from using SelectNet. *See* Securities Exchange Act Release No. 45319 (January 18, 2002), 67 FR 3923 (January 28, 2002).

align charges with costs and benefits.[8] Nasdaq will implement this proposed rule change on the first day of the month immediately following Commission approval; it will remain in effect, on a pilot basis, until October 31, 2002.

III. Summary of Comments

The Commission received three comment letters on the proposals. One commenter expressed general support for Nasdaq's new pricing system but did not specifically address the proposals contained in SR–NASD–2001–64 and SR–NASD–2001–68.[9] Another commenter, writing in support of the proposed rule changes, believed that a per share approach with SuperSOES is appropriate, because it seems to be the general method of calculating fees by Nasdaq's competitors and members.[10] The commenter also noted that the new fee structure would allow Nasdaq to become more competitive with other trading venues.[11]

The third commenter objected on the basis that allowing Nasdaq to charge national securities exchanges for execution and entry of orders, while also requiring national securities exchanges to pay as part of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''Plan'')[12] in effect amounts to dual charges for the same service.[13] The commenter believed that Nasdaq's pricing policy thus might not promote a level playing field.[14]

Nasdaq's Response to the Comments

Nasdaq filed its response to comments with the Commission on January 15, 2002.[15] In the Nasdaq Letter, Nasdaq responds that charges of duplicative fees ''reflect a misunderstanding of the nature of the fees to be established by [SR–NASD–2001–64 and SR–NASD–2001–68] and therefore do not articulate a reasoned basis for challenging those fees.''[16] Nasdaq believes that the Plan does not guarantee access to Nasdaq market participants through Nasdaq proprietary trading systems. Nevertheless, Nasdaq notes that it has, via NASD rule, allowed UTP Exchanges to use two of its proprietary systems, SuperSOES and SelectNet. Nasdaq stated that the UTP Filings merely change the fees to be paid by UTP Exchanges that elect to use these systems. Specifically, the UTP Filings would specify order entry and order execution charges for the use of SelectNet and the NNMS by UTP Exchanges, including a per share charge for orders executed through the NNMS.

At this time, only two UTP Exchanges—the Chicago Stock Exchange and the Boston Stock Exchange—participate in the NNMS and SelectNet. According to Nasdaq, other UTP Exchanges that commence trading of Nasdaq securities can, if they choose, avoid paying any of the fees to be established by the UTP Filings by using the telephone linkages guaranteed by the Plan, as the Cincinnati Stock Exchange currently does. Alternatively, if they elect to use Nasdaq execution systems, Nasdaq believes that they must pay the fees associated with those systems.

Nasdaq also represented that the costs incurred by Nasdaq in developing and maintaining the NNMS and SelectNet are not, and never have been, covered by the Plan.[17] According to Nasdaq, those costs are not deducted from the data revenues distributed to Plan participants, nor were they included in the initial development costs shared among Plan participants.[18]

IV. Discussion

After careful review, 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 association, and, in particular, the requirements of section 15A of the Act.[19] Specifically, the Commission finds that the proposal is consistent with section 15A(b)(5) of the Act,[20] which requires that the rules of a national securities association provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

The Commission believes that Nasdaq may adjust the fees charged to NASD non-members for the use of SuperSOES and the SelectNet Service to align those fees with the fees charged to members.[21] If UTP Exchanges trade Nasdaq securities on Nasdaq SuperSOES and SelectNet, Nasdaq may charge fees for usage as long as those fees are reasonable and equitably allocated.[22] The Commission notes that Nasdaq is currently working on upgrades to the UTP lines in order to meets its obligations as the exclusive securities information processor under the OTC/UTP Plan.

V. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule changes (SR–NASD–2001–64 and SR–NASD–2001–68) be and hereby are approved on a pilot basis through October 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2962 Filed 2–6–02; 8:45 am]

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[8] SR–NASD–2001–67 applied these same changes to NASD members, effective upon filing, for a pilot period from November 1, 2001 through October 31, 2002.

[9] *See* STA Letter.

[10] *See* Knight Letter, p. 2.

[11] *See* Knight Letter, p. 4.

[12] The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange pursuant to unlisted trading privileges (''UTP''). The Plan provides for the collection from Plan participants, and the consolidation and dissemination to vendors, subscribers and others, of quotation and transaction information in ''eligible securities.'' The Plan also contains various provisions concerning its operation and sets out the responsibilities of the participants with respect to each other and the Plan processor.

[12] *See* Phlx Letter, p. 1.

[14] *Id.*

[15] *See* Letter from John Yetter, Assistant General Counsel, Nasdaq, to Belinda Blaine, Associate Director, Division of Market Regulation (''Division''), Commission, dated January 15, 2002 (''Nasdaq Letter''). The Nasdaq Letter responds to comments on SR–NASD–2001–64, SR–NASD–2001–68, and SR–NASD–2001–72 and amends SR–NASD–2001–72. Nasdaq filed SR–NASD–2001–72 on October 9, 2001. *See* Securities Exchange Act Release No. 44931 (October 12, 2001), 66 FR 53276 (October 19, 2001). Under the proposal, the per share charge for orders executed in the NNMS by non-members would increase to $0.003 per share and will remain at $0.002 per share for NASD Members. The Commission has not yet acted on SR–NASD–2001–72.

[16] Nasdaq Letter, pp. 2–3.

[17] Nasdaq Letter, p. 3.

[18] Nasdaq Letter, pp. 3–4.

[19] 15 U.S.C. 78*o*–3(b). In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78o-3(b)(5).

[21] *See supra* note 3 (SR–NASD–2001–3) and note 4 (SR–NASD–2001–67).

[22] For example, the NYSE charges NYSE non-members certain fees to access its Super Designated Order Turnaround System (SuperDOT), the NYSE's electronic order routing system.

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45374; File No. SR–PCX–2002–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to an Extension of the Interim Intermarket Linkage Program

January 31, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 29, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to extend the effective date of its rules providing for interim linkage from January 31, 2002 to the earlier of January 31, 2003 or such time when the participating exchanges implement permanent intermarket linkage in the options market.[5] The text of the proposed rule change is below; new language is italicized.

Interim Intermarket Linkage Program

RULE 6.91 Pilot Program for Away Market Maker Access.

(d) Implementation of the Pilot Program. The Chairman, or his designee, may implement the Pilot Program, in whole or in part, with respect to specific Participating Exchanges, to the extent that any such Participating Exchange has agreed to implement corresponding aspects of the Pilot Program. Lead Market Maker participation in the Pilot Program will be voluntary. *The Pilot Program will expire on the earlier of January 31, 2003 or at such time when the Participating Exchanges implement permanent linkage.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 20, 2001, the Commission issued a Notice of Filing and Immediate Effectiveness of a pilot program authorizing the PCX to participate in an interim linkage plan with the other options exchanges.[6] The interim linkage plan utilizes existing systems to facilitate the sending and receiving of order flow between PCX market makers and their counterparts on the other option exchanges. The key component of the interim linkage is for the participating exchanges to open their automated customer execution systems, on a limited basis, to market maker orders. Market makers are able to designate certain orders as ''customer'' orders and are thus eligible for automatic execution and similar processing efficiencies.

The options exchanges implemented the interim linkage pending completion of a permanent linkage. That linkage will provide enhanced connectivity between the markets and will have additional rules and mechanisms to help investors achieve the best execution of their orders. While work continues on the permanent linkage, the Exchange currently does not believe that permanent linkage will be implemented until late this year. At the same time, the Exchange's interim linkage rules will expire on January 31, 2002. The Exchange proposes to extend the effectiveness of the interim linkage rules until the full implementation of the permanent intermarket linkage in the options market, or January 31, 2003, whichever comes first. The Exchange believes investors will benefit from the continued operation of interim linkage pending completion of permanent linkage.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[7] in general, and section 6(b)(5),[8] in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, 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 burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission ActionBecause the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to section 19(b)(3)(A)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). In its filing, the PCX requested that the Commission waive the rule's requirement of a 30-day operative delay. The PCX also requested that the Commission shorten the rule's requirement of a five-day pre-filing notice to a three-day pre-filing notice. Telephone conversation between Mai Shiver, Senior Attorney, PCX, and Jennifer Lewis, Attorney, Division of Market Regulation, Commission, on January 30, 2002.

[5] The Commission approved the Plan for the purpose of Creating and Operating an Intermarket Options Linkage (''Linkage Plan'') in July 2000. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

[6] *See* Securities Exchange Act Release No. 43986 (February 20, 2001), 66 FR 12578 (February 27, 2001) (SR–PCX–2001–10).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

of the Act[9] and Rule 19b–4(f)(6)[10] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The PCX has requested, in order to permit the uninterrupted operation of the interim linkage, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b–4(f)(6)(iii).[12] The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and, therefore, has determined to make the proposed rule change operative as of the date of this notice.[13]

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b–4(6)(iii)[15] permits the Commission to designate a shorter time. The PCX seeks to have the five-business-day pre-filing requirement shortened to a three-business-day pre-filing requirement with respect to the proposed rule change.[16] The Commission has determined to shorten the five-business-day pre-filing requirement with respect to this proposal.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File Number SR–PCX–2002–06 and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2933 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See supra* note 4.

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45383; File No. SR–Phlx–2002–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Conform Its Fee Schedule to Congress' Amendment of Section 31 of the Securities Exchange Act of 1934

February 1, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On February 1, 2002, the Exchange amended the proposal.[3] The Exchange filed this proposal under section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(2)[5] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its schedule of dues, fees and charges to reflect the revised fees imposed pursuant to section 31 of the Act.[6] Until recently, section 31 of the Act required that national securities exchanges pay to the SEC ''a fee at a rate equal to 1/300 of one percent of the aggregate dollar amount of the sales of securities (other than bonds, debentures, other evidences of indebtedness and security futures products) transacted on such national securities exchange * * * '' Congress recently passed the ''Investor and Capital Markets Relief Act'' (''ICMRA''),[7] which amends section 31 of the Act. The ICMRA will reduce the fee to $15 per $1 million of the aggregate dollar amount of the sale of securities. In addition, section 31 fees would no longer apply to sales of options on securities indexes (other than narrow-based security indexes). The Phlx proposes to amend its schedule of dues, fees and charges to reflect the reduced section 31 fee.[8] The new fee is effective as of December 28, 2001. The text of the proposed rule change is available at the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] *See* January 31, 2002 letter from Cynthia K. Hoekstra, Counsel, Phlx, to Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC (''Amendment No. 1''). In Amendment No. 1, the Phlx provided new text to the proposed rule, and clarified that although the fee referred to in section 31 of the Act is imposed on national securities exchanges, the Phlx imposes this same fee on its members.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

[6] 15 U.S.C. 78ee.

[7] H.R. 1088, 107th Cong. (2001).

[8] While the fee referred to in section 31 of the Act is imposed on national securities exchanges, the Phlx imposes this same fee on its members. *See* Amendment No. 1.

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 Phlx proposes to amend its schedule of dues, fees and charges to incorporate the amended section 31 fee passed by Congress.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act [9] in general, and in particular, with section 6(b)(4),[10] by providing for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [11] and subparagraph (f)(2) of Rule 19b–4 thereunder,[12] because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–Phlx–2002–02, and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2961 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3907]

Office of Overseas Schools

ACTION: 60-Day notice of proposed information collection: Overseas Schools Grant Request Automated Submissions Program (GRASP): Forms DS–573, DS–574, DS–575, and DS–576 (Formerly Forms FS–573, FS–573A, FS–573B, and FS–574 Respectively) OMB Number 1405–0036.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: Reinstatement with change of a currently approved collection.

Originating Office: A/OPR/OS.

Title of Information Collection: Overseas Schools Grant Request Automated Submissions Program (GRASP).

Frequency: Annual.

Form Numbers: DS–573, DS–574, DS–575, DS–576 (Formerly FS–573, FS–573A, FS–573B, FS–574).

Respondents: Recipients of grants.

Estimated Number of Respondents: 189.

Average Hours Per Response: 1.5.

Total Estimated Burden: 56.70.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Washington, DC 20522–0132, (202) 261–8200.

Dated: January 15, 2002.

Robert B. Dickson,

Executive Director, Bureau of Administration, Department of State.

[FR Doc. 02–3008 Filed 2–6–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 3904]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Small Grants Competition for Women's Political Leadership, Girls' Education, Disability Issues, and Women-Led Small Business Development, for Afghanistan, North Africa, the Arabian Peninsula States of the Middle East, and Latin America and the Caribbean

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces a Small GrantsCompetition designed to promote Women's PoliticalLeadership, Girls' Education, Disability Issues, and Women-Led Small Business Development. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals to conduct exchanges for a *single country* from the following: Afghanistan, North Africa, the ArabianPeninsula States of the Middle East, and Latin America & the

Caribbean. The goal of this initiative is to provide support for grassroots organizations or local chapters of national groups to expand the scope of their overseas work and build or strengthen linkages with partner organizations in other countries. Approximately $500,000 has been allotted for this competition, with at least $250,000 projected for Afghanistan and countries in North Africa and the Arabian Peninsula States. ''(Afghanistan is included in this solicitation, contingent on security and feasibility of programming.)'' Grant awards will not exceed $60,000, with most grants ranging from $25,000 to $50,000.

Overview

The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs (ECA) announces a small grants competition for U.S. nonprofit, nongovernmental organizations and institutions to implement international exchange programs, in partnership with one or more local organization(s) in one of the countries listed below. Each Small Grant award is meant to fund a single-country project, with the exception of projects for Afghanistan*. The following are this year's priority themes: (1) Political Leadership for Women, (2) Girls' Education, (3) Disability Issues, or (4) Women-Led Small Business Development. Project activities may take place in the partner's country overseas, or in both the U.S. and the partner country.

* Two-country projects with Afghanistan and one other MiddleEastern or North African country are eligible. These projects should recruit an equal number of participants from each country. Alternatively, single-country projects for Afghanistan may take place in the U.S., Afghanistan and/or a third country.

With the exception of Women-Led Small Business Development, eligible countries for each theme are:

Afghanistan (included in this solicitation, contingent on security and feasibility of programming.)

Latin America: Bolivia, Brazil, Colombia, Ecuador,Paraguay, Peru, Uruguay, Venezuela, Belize, Costa Rica, ElSalvador, Guatemala, Honduras, Nicaragua, Panama, Mexico; Caribbean: The Bahamas, Barbados, Dominican Republic,Haiti, Jamaica, Trinidad.

North Africa: Algeria, Morocco, Tunisia.

Arabian Peninsula States of the Middle East: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates,Yemen.

Proposals for Women-Led Small Business Development may include Afghanistan, and the countries listed under NorthAfrica and the Arabian Peninsula States of the Middle East.

ECA seeks organizations that are interested in expanding or developing grassroots training programs and international exchanges in Afghanistan, North Africa, Latin America & the Caribbean, and the Arabian Peninsula States of the Middle East. Eligibility: U.S. nonprofit 501(c)3 organizations that *have not* received prior funding directly from ECA; and organizations that have received prior ECA funding, *but only under previous Small Grants competitions,* are eligible to apply. All proposals will receive equal consideration. Foreign organizations may submit a joint proposal with the U.S. partner as the principal applicant.

Organizations planning to submit a proposal are strongly encouraged to contact the program office for a consultation. Before calling, applicants should be ready to discuss a concrete concept specific to the guidelines supplied in this request for grant proposals (RFGP).

For Latin America & the Caribbean: Laverne Johnson, *ljohnson@pd.state.gov,* Tel: (202) 619–5337.

For North Africa, the Arabian Peninsula States of the Middle East and Afghanistan: Susan Krause, *skrause@pd.state.gov,* Tel: (202) 619–5320.

Guidelines

To be considered for a grant award in this competition, the proposed project must address one of the themes described in this RFGP for a single country from the above list (except as noted above for Afghanistan).

Applicants should describe a clear and convincing plan for carrying out project components that will fulfill the expected outcomes stated in the proposal narrative. Proposals should address the REVIEW CRITERIA outlined below.

Projects funded under this competition should enhance partnerships among American and foreign organizations, reach the widest possible audiences, provide hands-on activities and training sessions with practical materials in the local language for use during the project and after the grant period is over, and achieve permanent and sustainable results.

This program is not academic in nature; proposals should be creative and innovative, combining elements of skill enrichment, experiential learning and exposure to American life and culture. The activities should also provideAmericans an opportunity to experience the culture of the partner country. Cultural programming may include activities or events hosted by local institutions and home stays with community members. Orientation sessions must be included for all foreign and American program participants.

The majority of funding should be directed toward participant program costs.

Unless otherwise specified below, project components may include, but are not limited to, training of trainers(TOT), internships & job shadowing, workshops, site visits, consultations, and short-term training. Distance learning techniques using appropriate technology and activities meant to bridge the digital divide are also encouraged.

Partner organizations should be identified in the proposal, with project plans developed collaboratively by both the American and foreign organization(s). Applicants that have not yet identified local partners, but whose proposals show significant regional and thematic expertise, are also eligible to apply.

The proposal narrative (excluding resumes, sample materials, the budget & budget notes) should be 3–5 pages and double-spaced. The budget should be presented on one page. Budget notes should be included. The proposed start date should not commence before June 1, 2002, and may be subject to change.

Women's Political Leadership

Proposals should focus on promoting women's political leadership by (1) strengthening the capacity of grassroots women's organizations in developing the skills of current and future women political leaders, and (2) compiling a repertoire of practical materials in the local language for use in workshops, mock elections and campaigns, educational sessions, or other activities. Proposals must indicate a practical knowledge of the political and legislative environment in the partner country. Projects may include, but are not limited to, components listed above and may also include the following: ''Workshops for PoliticalLeaders,'' ''Women's Political Awareness Campaigns'' and ''NGO Management,'' as described below.

Workshops for Political Leaders might include such topics as public speaking, message development, leadership, campaign management, accountability and constituencies, consensus building, lobbying, surveying, polling, advocacy, voter outreach, networking, working with the media, and fundraising. Mock campaigns and elections are encouraged.

Women's Political Awareness Campaigns should educate women on the political process and get them actively involved in the political arena. Awareness campaigns should be jointly conducted with partner organizations, and should reach the widest possible audience in large and small cities, towns and villages.

NGO Management Part of the program design may also include workshops on NGO management and capacity building, for NGOs whose work is linked to emerging or enhanced women's political leadership. NGO workshop topics might include: strategic planning, managing volunteers, coalition building, public relations, facilitation training, peer education & outreach, public-private partners, information management, and website development.

Girls' Education

The proposal should focus on exchanges and training for grassroots educational and community leaders who are actively involved in girls' education. Emphasis should be on providing essential tools and support to educators for classes and leadership activities. Potential topics for activities include, but are not limited to, creating & reconstructing educational opportunities, methodology & practice, the role of women & girls in society, leadership, civic responsibility, mentoring, women in history, conflict resolution, health education, and social issues. Only adult professionals or grassroots practitioners may be selected to travel internationally for exchange activities. Girls may take part as students in pilot sessions and other in-country educational activities.

Disability Issues

Projects should focus on engaging disability NGOs and institutions, individuals with disabilities, leaders in the disability community, as well as the community at-large, to improve opportunities and expand services for the disabled. Projects should seek to involve victims of civil wars and acts of terrorism. Possible themes for exchanges and training include: professional & occupational training, accessibility, entrepreneurship, community involvement, educational & extra-curricular issues, association building, leadership, dealing with mental & emotional scars, public relations, and NGO management. Projects may be designed to cover a range of topics and/or methods, or may focus more intensively on a specific area.

Women-Led Small Business Development

Projects should foster the development of local women-led businesses in the partner country and create ongoing international partnerships. Project components in the U.S. or overseas, with *examples* of possible topics, include: seminars for women considering micro-enterprise (e.g. entrepreneurship, management, finance and registration issues); workshops (start-up, loan packages, marketing, staff training, appropriate technology); site visits(chamber of commerce, local government, women's business association, small business resource centers); mentoring; consultancies; internships; job-shadowing; or other activities.

Grant funds may be used to establish or enhance overseas Women's Business Resource Centers, Women's Business Associations, and regularly published not-for-profit Women's Business Newsletters in the local language, or other sustainable elements. For women's business centers,ECA funding may be used on resources and development of services, but may not be used to furnish new centers. No more than $5,000 may be used to purchase computer and/or office equipment. No funds may be used for micro-credit or re-lending activities.

Foreign participants should be linked with U.S. mentors or counterparts with similar work responsibilities, in order to ensure ongoing professional interaction. In addition to activities for businesswomen, proposals should include components targeting potential entrepreneurs, single mothers and low-income working or non-working women, particularly in countries with critical social and economic challenges.

Countries eligible for Women-Led Small Business Development grants are Afghanistan, and those listed above under NorthAfrica and the Arabian Peninsula States of the Middle East.

Selection of Participants

The proposal narrative should include a description of an open, merit-based selection process for all international exchange components and/or any other component requiring participant selection. A draft application and a sample announcement used for recruitment advertising should be included. ECA and the U.S. embassies retain the right to nominate participants and approve or reject participants recommended by the grantee institution. For exchanges to the U.S., priority must be given to foreign participants who have not previously traveled to the United States.

VISA Regulations

Foreign participants on programs sponsored by ECA are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations.

Project Funding

Funding available for the FY 2002 Small Grants Competition will be disbursed through grants to several organizations. Priority will be given to grant proposals with budgets ranging from $25,000 to $50,000, with funding limited at $60,000. Applicants should not submit a budget that exceeds $60,000 in costs to be paid by ECA, however the overall budget may exceed $60,000 through cost sharing by the U.S. and foreign partner organization(s), and/or other sources. Approximately $500,000 has been allotted for this competition, but may be subject to change. At least $250,000 is projected for Afghanistan, and the countries of North Africa and the Arabian Peninsula States of the Middle East. ECA expects to announce the small grants awards recipients around late May 2002.

Budget Guidelines

To assist applicants in preparing project budgets, listed below are selected sample allowable costs. Applicants should refer to the Proposal Submission Instructions for specific formatting instructions and sample line items.

(1) General Program Expenses (*i.e.* orientation & program-related supplies, educational materials, traveling campaigns, consultants, interpreters, room rental, etc.)

(2) Participant Program Expenses (*i.e.* domestic and international travel, per diem)

(3) Administrative Expenses (*i.e.* salaries, telephone/fax, and other direct administrative costs)

Review Process

In support of first-time applicants, the grant proposal, budget and review process has been modified for this competition. Proposals will be reviewed in two tiers. First, all proposals will be reviewed by a team of qualified staff from the Office of Citizen Exchanges and the respective Department of State regional bureaus per the established review criteria outlined in this RFGP. Second, the most competitive proposals will be forwarded to embassies overseas and to ECA panels for formal advisory review. Non-finalists will be advised at

this point in the process. Please follow the instructions in this RFGP and the Proposal Submission Instructions (PSI) for guidelines. ECA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the ECA GrantsOfficer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. Proposals should adequately address each area of review. The criteria are not rank ordered and all carry equal weight.

1. *Quality of Program Idea and Ability to Achieve Objectives:* Program objectives should be clearly and precisely stated and respond to the priority topics in this announcement. The proposal should articulate the organization's ability to carry out the planned objectives, and should include an outline of the U.S. and foreign staff responsibilities, staff resumes, the organizations' mission statements, a monthly timetable, and sample schedules for program components.

2. *Cost Effectiveness and Cost Sharing:* Administrative costs should be kept to a minimum. Proposals should maximize cost sharing through support and in-kind contributions from the U.S. and partner organization(s).

3. *Program Evaluation:* Proposals must include a plan and methodology to evaluate the program's successes and challenges. The evaluation plan should show a clear link between program objectives and expected outcomes, and should include a brief description of performance indicators and measurement tools. A draft questionnaire for evaluation purposes may be attached to support the proposal.

4. *Support of Diversity:* Proposals should demonstrate substantive support of ECA's policy on diversity. Program content (orientation, evaluation, program sessions, resource materials, follow-on activities) and program administration (selection process, orientation, evaluation) should address diversity in a comprehensive and innovative manner. Applicants should refer to ECA's Diversity, Freedom and Democracy Guidelines on page four of the Proposal Submission Instructions (PSI).

Announcement Title and Number

All communications with ECA concerning this Request for Grant Proposals should refer to the announcement title *FY02 Small Grants* and reference number ECA/PE/C–02–37.

Diversity, Freedom and Democracy Guidelines

Pursuant to ECA's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' ECA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Deadline for Proposals

The U.S. Department of State, Bureau of Educational and Cultural Affairs must receive all copies by 5 p.m. Washington, DC time on Friday, March 29, 2002. Faxed documents will not be accepted at any time. The mailroom closes at 5:00 p.m.; no late submissions will be accepted. Documents postmarked by March 29, 2002, but received at a later date, will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

To Download an Application Package Via the Internet

The entire Application Package may be downloaded from ECA's Web site at *http://exchanges.state.gov/education/rfgps/*.

Submissions

Applicants must follow all instructions given in the Application Package. The applicant's original proposal and ten (10) copies should be sent to: U.S. Department of State, Ref.: ECA/PE/C–02–37, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the ''Executive Summary,'' ''Proposal Narrative'' and ''Budget'' sections of the proposal on a 3.5″ diskette. ECA will transmit these files electronically to the Public Affairs Sections of the U.S. Embassies for review. Once the RFGP deadline has passed, Bureau staff may not discuss this competition in any way with applicants until the proposal review process has been completed.

FOR FURTHER INFORMATION, CONTACT By mail: United States Department of State, SA–44, Bureau of Educational and Cultural Affairs, Office of Citizen Exchanges (ECA/PE/C), Room 220, Washington, DC 20547, Attn: FY02 Small Grants, By phone: (202) 619–5334; By fax: (202) 619–4350, By e-mail: *pmidgett@pd.state.gov.*

Interested applicants may request a copy of the Application Package, which includes the RFGP and the Proposal Submission Instructions (PSI). Please specify ''FY02 Small Grants'' on all inquiries and correspondence. All potential applicants should read the complete announcement before sending inquiries or submitting proposals.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau or program officers that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the U.S. Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with the Bureau in evaluating their programs under the principles of the Government Performance and Results Act (GPRA) of

1993, which requires federal agencies to measure and report on the results of their programs and activities.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: January 28, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 02–3005 Filed 2–6–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 3905]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Central and East European Exchanges and Training Programs for Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Hungary, Kosovo, Macedonia, Montenegro, Poland, Romania, Serbia, the Slovak Republic, and Slovenia

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for Central and East European Exchanges and Training Programs. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals to conduct training programs.

Program Information

Overview

The Bureau of Educational and Cultural Affairs (ECA) invites applicants to submit proposals that encourage the growth of democratic institutions in Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Hungary, Kosovo, Macedonia, Montenegro, Poland, Romania, Serbia, the Slovak Republic, and Slovenia. Exchanges and training programs supported by institutional grants from ECA should operate at two levels: they should enhance institutional partnerships, and they should offer practical information to individuals and groups to assist them with their professional and volunteer responsibilities.

Strong proposals usually have the following characteristics: an active, existing partnership between a U.S. organization and an in-country institution(s); a proven track record for conducting successful program activity; cost-sharing from U.S. and in-country sources, including donations of air fare, hotel and/or housing costs, ground transportation, interpreters, room rentals, *etc.*; experienced staff with language ability; a clear, convincing plan outlining exactly how the program components will be carried out and how permanent results will be achieved as a result of the grant; and a follow-on plan that extends beyond the ECA grant period. Knowledge of the current technological capacity (Internet connectivity, e-mail, hardware and software) of in-country partners and their countries and/or regions, and a description of the role of technology in the proposed program, are essential. Cost sharing, which should be included in the budget, must be in tangible forms, both in-kind and monetary. Cost sharing may be contributed to the program by the prospective grantee institution, in-country partners and by third party sources.

Unless otherwise specified below: (1) Program activity may include: ''training of trainers (TOT),'' internships, short-term training, consultations, site visits, workshops; and (2) programming may take place in the United States or, when possible, in the target country(ies), or in both. Proposals should reflect a practical understanding of the current political, economic and social environment that is relevant to the theme addressed in the proposal. In order to avoid the duplication of activities and programs, proposals should also indicate knowledge of similar projects being conducted in the region.

Applicants are expected to identify the U.S. and in-country partner organizations and individuals with whom they are proposing to collaborate and describe in detail previous cooperative projects undertaken by the organizations/individuals. Specific information about in-country partners' activities and accomplishments is required and should be included in the section on ''Institutional Capacity.'' Resumes for individuals mentioned in the proposal should be provided, including proposed U.S. and in-country staff, trainers, consultants, *etc.* Letters of support from partner organizations as well as internship and site visit hosts should be included in the proposal.

Programs should be designed so that the sharing of information and training that occurs during the grant period will continue long after the grant period is over. Proven methods of sustainability include, but are not limited to: a model TOT program that would include initial training, practice presentation sessions for the in-country participants, followed by training activities coordinated and implemented by the in-country participants in their home countries; a commitment to create or support in-country training/resource centers; plans to create coalitions, professional interests groups, networks, or associations; regularly published electronic and/or hard-copy newsletters; and ongoing mentoring through Internet communication.

All proposals should include a discussion of the follow-on activities that will continue after the USG funding period is over.

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

To be eligible for a grant award under this competition, the proposed training and exchange programs must address one of the following specific themes for regional projects or single country projects, as specified.

- *Prevention of Trafficking in Women and Girls*—Regional Project—Must include all of the following countries: Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, Macedonia, Montenegro, Romania, and Serbia
- *Diplomatic Training*—Single Country Project: Must target Macedonia or Romania
- *Professional Internships*—Projects for Bulgaria, Hungary, Poland, the Slovak Republic and Slovenia (please see topics and country assignments below)

Prevention of Trafficking in Women and Girls

Trafficking in Women and Girls has become a widespread problem in Southeastern Europe (SEE). In June 2001 the U.S. Department of State released its first report on the issue of trafficking in persons worldwide. (Please see *http://www.state.gov/g/inl/rls/tiprpt/2001/.)* The need to educate and inform communities, lawmakers and media representatives has become imperative to prevent women and girls from falling victim to trafficking in the SEE region.

The Bureau seeks proposals that provide training and capacity building to individuals and communities in the SEE region to help combat trafficking in women and girls. Programs should be regional in focus and should include cross-border efforts to ensure integration of efforts and cooperation among SEE countries. To avoid duplication of efforts, applicants should be familiar with the International Organization for Migration and the UNHCR's programs as well as indigenous SEE NGOs' programs to combat trafficking. Priority will be given to programs that propose to reach risk groups where anti-trafficking initiatives have been limited or

nonexistent. Proposals may address multiple themes listed below. Applicants should expect to work closely with the Public Affairs Sections of the U.S. Embassies in SEE on coordination of all activities, including participant selection.

Areas of Focus

Bilateral exchange and training programs that may address public awareness, victim assistance, reintegration and/or occupational training:

1. The Bureau is seeking two-way exchange programs that will educate the U.S. and SEE citizenries on the issue of trafficking. Many NGOs in SEE have been confronting the issue of trafficking and have much to share with their U.S. counterparts. Given that many women are now being trafficked into the United States, it is important that U.S. relief and assistance organizations are exposed to effective prevention and assistance programs in SEE. SEE participants in turn will benefit from exposure to U.S. models for job training and life skills management programs, peer education and economic assistance programs as well as models for successful advocacy and fundraising campaigns on the issue. Participants may be leaders of NGOs, community leaders, teachers and school administrators and local government officials. Follow-up workshops/on site consultations in the region are encouraged after the U.S.-based training. Programs may focus on developing participants' skills to establish job training programs and centers in the region, but funding may not be used for the establishment of the centers. Successful proposals will offer hands-on training, including shadowing and internship opportunities, as well as the development of action plans, publications, web-based information and/or other products that can be accessed easily by the general public.

2. Training and exchanges of SEE media representatives: The Bureau seeks proposals that will provide hands-on training to SEE journalists to ensure widespread, accurate media coverage on the issue of trafficking, to raise media professionals' awareness of the issue, and to train journalists to cover the issue of trafficking without stigmatizing victims. Workshops and on-site consultations at media outlets in the region are strongly encouraged. U.S.-based training may also be proposed when appropriate. Target participants may include media managers, editors and journalists. Successful proposals will include plans for interactive training, as well as the development of action plans, publications, web-based information and/or other results-oriented products that media representatives may access.

3. Training and exchanges of parliamentarians and other government officials: The Bureau welcomes proposals that will encourage members of parliament and other government officials to take an active stand against trafficking in the SEE region. Proposals should focus on how government should enforce and/or improve laws against trafficking. Proposals should outline a strategy on how governments in the region can increase information sharing among the SEE governments on the issue and cooperate to close down trafficking routes in the region. Proposals should also address how training will encourage cooperative and complementary efforts among government, the media and the NGO community regarding the issue. Two-way exchanges and follow-up workshops in the region are strongly encouraged. The Bureau is interested in results-oriented proposals that include regional action plans, publications and other work products that will serve to educate government officials throughout the SEE region regarding the issue of trafficking.

Funding: The total funding available for prevention of trafficking programs is $989,450. The Bureau anticipates awarding 4–6 proposals for this competition, averaging approximately $60,000–$215,000 each.

Diplomatic Training

For Macedonia

The Bureau is seeking proposals that will offer training to representatives of Macedonia's Ministry of Foreign Affairs (MFA). Programs will offer training and assistance to the Macedonian MFA to help establish a unified foreign policy in the face of ethnic and political divisions and to create a professional, multi-ethnic Macedonian foreign service that can represent the country abroad.

Macedonian diplomats, including deputy chiefs of mission and other senior, mid-level and junior officials, should be trained in the essentials of foreign policy formulation. Training will be based on courses offered to U.S. diplomats and will incorporate such practical and substantive themes as: international politics (including international organizations and lending institutions); the structure and operation of an embassy; professional ethics; management skills; analytical reporting; negotiation skills; media relations and public diplomacy; trade promotion; management of VIP visits and other relevant topics.

The program should include in-country training as well as training in the United States. Program activity may incorporate training-of-trainers, workshops, internships and site visits and should reflect a practical understanding of the current political, economic and social climate in Macedonia. Training should balance formal presentations, discussions and group exercises and should be targeted at diplomats with a wide range of experience, including some who are new to the profession. The Macedonian MFA will nominate participants. The U.S. Embassy in Skopje will make final participant selection. Applicants are required to work closely with the Public Affairs Section in Skopje during all program planning and implementation. Language issues must also be addressed throughout the proposal.

Funding: The total funding available for Diplomatic Training in Macedonia is $239,375. The Bureau anticipates awarding one grant.

For Romania

The Bureau is seeking proposals that will provide consultative support and professional training for the staff and faculty of the Diplomatic Academy (DA) in Bucharest. The objectives of the project are:

—To improve the existing training of new foreign service officers;

—To develop advanced training programs for mid- and senior-level career diplomats;

—To develop short-term academic courses in international affairs to be offered to Romanian government employees and employees of Romanian NGOs;

—To establish a documentation center for the DA;

—To establish a system for evaluating work performance at DA which will help the Ministry of Foreign Affairs (MFA) in determining assignments and promotions of diplomats.

Currently, the only activity that the DA conducts is beginning-level training for new foreign service officers. There is one class per year composed of about fifteen freshman foreign service officers. The nine-month course is composed of six months of theoretical instruction at the academy followed by three months of practical training somewhere else in the MFA, which oversees the work of the DA.

The following program activities should be proposed:

An Initial Needs Assessment of the DA by a U.S. Consultant

A needs assessment of the DA should be carried out in the opening weeks of the program. Specific recommendations will be provided to the Public Affairs Section (PAS) of the U.S. Embassy in Bucharest. These recommendations will, in turn, be shared with the MFA.

US-Based Training Visit(s) for Faculty/Staff of the DA

The grantee organization will organize short-term U.S.-based training for key DA staff in order to allow them to: (1) Improve the existing training that it provides to new foreign service officers, (2) develop training courses for mid- and senior-level diplomats, and (3) develop and implement a mechanism for evaluating work performance to help in determining diplomat assignments and promotions. Further, U.S.-based training may be proposed for the DA staff that will be setting up the documentation center.

Visit(s) to DA by U.S. Trainers and/or Grantee Coordinators

The in-country components should be proposed for American experts who will: (1) Provide follow-on consultations and assess the effectiveness of the U.S.-based training on developing curriculum and courses for DA, (2) develop courses on international relations, and (3) assist with the establishment of the DA's documentation center.

Equipment Purchases

Based on the finds of the initial needs assessment, reasonable requests for basic office equipment, such as a computer, printer, or scanner, may be proposed for the documentation center.

Applicants will be required to work very closely with PAS/Bucharest throughout the program, including the recruitment and selection of participants.

Funding: The total funding available for Diplomatic training in Romania is $137,250. The Bureau anticipates awarding one grant.

Professional Internships

The Bureau is seeking proposals that provide community based, four-to six-week practical training opportunities with home-stays in the United States on the topics listed below. The objectives of the exchanges are to provide participants with exposure to the day-to-day functioning of a democratic, free market system and create links between U.S. and CEE regions and communities. Projects may also include in-country components that send American experts to conduct or co-conduct workshops or consultancies. These activities may be held in a central location or in individual countries. Participants in the internship components must speak English; interpreters may be used at in-country workshops.

Proposals should address one of the following themes and include the countries listed beside each topic.

1. Public Administration Focusing on Transparency at the Local Level—Bulgaria, Hungary, Poland, Slovak Republic,Slovenia (Must Include All Countries)

Projects should examine transparency and freedom of information issues for local governments and NGOS.

2. Tolerance, Pluralism and Diversity—Bulgaria, Hungary, Poland, Slovak Republic (Must Include All Countries)

Projects should examine approaches taken by NGO, government and education leaders to promote tolerance and protect the rights of minority populations.

Funding: The total funding available for Professional Internships is approximately $400,000. The Bureau anticipates awarding 2–3 grants for this competition. Although no set funding limit exists, proposals for less than $150,000 will receive preference.

Guidelines: Subject to the availability of funds, ECA anticipates that grant will begin in August, 2002.

Selection of Participants

Except when the U.S. Embassies' Public Affairs Sections will nominate participants, a competitive selection process is required. The majority of proposals should include a description of an open, merit-based participant selection process, including advertising, recruitment and selection. A sample application should be submitted with the proposal. Applicants should expect to carry out the entire selection process, with the understanding that ECA and the Public Affairs Sections of the U.S. Embassies abroad must be consulted during the recruitment and selection procedures. ECA and the U.S. Embassies retain the right to nominate participants and to approve or reject participants recommended by the grantee institution. Priority must be given to foreign participants who have not traveled to the United States.

Visa Regulations

Foreign participants on programs sponsored by ECA are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to the Proposal SubmissionInstructions (PSI) for further information.

Project Funding

Budget Guidelines

Applicants must submit a comprehensive line item budget based on the model in the Proposal Submission Instructions, but are encouraged to provide the optional separate sub-budgets for each program component, location or activity in order to facilitate decisions on funding. Applicants should include a budget narrative or budget notes for clarification of each line item.

Cost sharing: Since ECA's grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of cost sharing, including financial and in-kind support. Proposals with substantial private sector support from foundations, corporations, and other institutions will be considered highly competitive. Please refer to the statement on cost sharing in the Proposal Submission Instructions.

The Following Program Costs Are Eligible for Funding Consideration

1. *Transportation.* International and domestic airfares (per the Fly America Act), transit costs, ground transportation costs, and visas for U.S. participants (visas for ECA-supported participants from Central and Eastern Europe to travel to the U.S. are issued at no charge).

2. *Per Diem.* For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. For activities in Europe and Eurasia, ECA strongly encourages applicants to budget realistic costs that reflect the local economy. Domestic per diem rates may be accessed at: *http://www.policyworks.gov/* and foreign per diem rates can be accessed at: *http://www.state.gov/www/perdiems/index.html.*

3. *Interpreters.* Local interpreters with adequate skills and experience may be used for program activities. Typically, one interpreter is provided for every four visitors who require interpreting, with a minimum of two interpreters. ECA grants do not pay for foreign interpreters to accompany delegations from their home country. Salary costs for local interpreters must be included in the budget. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters. ECA strongly encourages applicants to use local interpreters. U.S.

Department of State Interpreters may be used for highly technical programs with the approval of the Office of Citizen Exchanges. Proposal budgets should contain a flat$170/day per diem for each U.S. Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter, reimbursements for taxi fares, plus any other transportation expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget.

4. *Book and cultural allowance.* Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise or to make presentations. Daily honoraria cannot exceed $250 per day. Subgrantees may also be used, in which case the written agreement between the prospective grantee and the subgrantee should be included in the proposal. Subgrants should be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop and translate materials for participants.

ECA strongly discourages the use of automatic translation software for the preparation of training materials or any information distributed to the group of participants or network of organizations. Costs for good-quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA.

8. *Equipment.* Proposals may contain costs to purchase equipment for Europe/Eurasia-based programming such as computers, fax machines and copy machines. Costs for furniture are not allowed. Equipment costs must be kept to a minimum.

9. *Working meal.* Only one working meal may be provided during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. The allowance may be used for incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of a Bureau-sponsored health insurance policy. The premium is paid by ECA directly to the insurance company. Applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from ECA. Proposals should show strong administrative cost-sharing contributions from the applicant, the in-country partner and other sources.

Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines.

Announcement Title and Number

All correspondence with ECA concerning this RFGP should reference the above title and number ECA/PE/C/EUR–02–60.

FOR FURTHER INFORMATION CONTACT:

By mail: United States Department of State, SA–44, Bureau of Educational and Cultural Affairs, Office of Citizen Exchanges (ECA/PE/C), Room 220, Washington, DC 20547,
attn: Central and Eastern European
Exchanges & Training Programs

By phone: Tel: (202) 619–5328 (Kendra Davis), (202) 619–5327 (Henry Scott); or (202) 619–5330 (Michael George); fax: 202–619–4350

By e-mail: *kldavis@pd.state.gov, hscott@pd.state.gov,* or *mdgeorge@pd.state.gov.*

Interested applicants may request an application package that is composed of the Request for Grant Proposals (RFGP), the Proposal Submission Instructions (PSI), and the Bureau's Diversity Flyer. Please specify Kendra Davis, Henry Scott, or Michael George on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals.

Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The Solicitation Package may be downloaded from ECA's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on April 12, 2002. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and eight copies (unbound) of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/EUR–02–60, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully

adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and CulturalAffairs. Final technical authority for assistance awards cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Planning and Ability to Achieve Objectives:* Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the included countries. Objectives should be reasonable and attainable. A detailed work plan should explain step-by-step how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars, presentations and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of in-country partners should be clearly described.

2. *Institutional Capacity:* The proposal should include (1) The U.S. institution's mission and date of establishment (2) detailed information about the subgrantee's or in-country partner institution's capacity and the history of the U.S. and in-country partnership (3) an outline of prior awards— U.S. government and private support received for the target theme/region (4) descriptions of experienced staff members who will implement the program. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/region(s).

3. *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs for the proposal, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total funds requested from ECA. Applicants are encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, the in-country partner, and other sources should be included in the budget.

4. *Program Evaluation:* Proposals must include a plan and methodology to evaluate the program's successes, both as the activities unfold and at the program's conclusion. ECA recommends that the proposal include a draft survey questionnaire or other technique (such as a series of questions for a focus group). The evaluation plan should show a clear link between program objectives and expected outcomes in the short- and medium-term, and provide a well-thought-out description of performance indicators and measurement tools.

5. *Multiplier Effect/Impact:* Proposals should show how the program will strengthen long-term mutual understanding and institutionalization of program goals. Applicants should describe how responsibility and ownership of the program will be transferred to the in-country participants to ensure continued activity and impact. Programs that include convincing plans for sustainability will be given top priority.

6. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (beyond ECA grant period) ensuring that the ECA-supported programs are not isolated events. Follow-on activities should be clearly outlined.

7. *Support of Diversity:* Proposals should demonstrate substantive support of ECA's policy on diversity. Program content (orientation, evaluation, program sessions, resource materials, follow-on activities) and program administration(selection process, orientation, evaluation) should address diversity in a comprehensive and innovative manner. Applicants should refer to ECA's Diversity, Freedom and Democracy Guidelines on page four of the Proposal Submission Instructions (PSI).

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * *and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authorities for the programs above are provided through the Fulbright-Hays Act and the Support for East EuropeanDemocracy (SEED) Act of 1989.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: January 31, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 02–3006 Filed 2–6–02; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 3906]

Bureau of Educational and Cultural Affairs Request for GrantProposals: United States—East Timor Scholarship Program

SUMMARY: The Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the United States—East Timor Scholarship Program (formerly the East Timor Scholarship Program). Public and private non-profit organizations meeting the provisions described in Internal

Revenue Code section 26 USC 501(c)(3) may submit proposals to provide administrative and support services for the United States—East TimorScholarship Program (USET).

Program Information

Overview: In response to Public Law 103–236, which directed the Bureau of Educational and Cultural Affairs (ECA) to provide scholarships for East Timorese students, ECA created an East Timor scholarship program in Fiscal Year (FY) 1999.As East Timor makes the transition to independence and democratic government, it is essential to develop the human resource capacity of the East Timorese people, especially in fields such as agricultural science, business, communication, economics, education, environmental science, international relations, political science, and psychology.The goal of the scholarship program is to identify and support undergraduate level study at accredited higher education institutions in the United States for a select cadre of academically talented East Timorese who are expected to assume future leadership roles in East Timor's development.

Guidelines: Program administration activities should cover the time period June 1, 2002 through December 31, 2005. The projected grantee caseload is expected to be up to five (5) new students to begin U.S. English language training in January 2003. USET scholarships are offered for the final two years of undergraduate level study in designated fields, with the provision of pre-academic training depending on participant academic readiness and English-language abilities. Program design should either assume placement of all grantees at a single academic institution or propose an alternative structure in order to foster grantee cohesion and build USET program identity. The successful applicant will have responsibility for program administration, which involves performance of services in the following broad categories: Program Planning and Management; Recruitment and Selection; Placement; Orientations; Supervision and Support Services; Special Programs Management; Fiscal Management and Budgeting Services; and Program Projection, Reporting and Evaluation Services. Applicants for this award should submit a program proposal with yearly budget projections for the full duration of the award. Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further information.

Budget Guidelines

The Bureau anticipates awarding one grant up to $500,000 to support program and administrative costs required to implement this program. The Bureau encourages applicants to provide maximum levels of cost sharing and funding from private sources in support of its programs. Proposals whose administrative costs are 20% or less of the total requested from ECA will be deemed more competitive.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the UnitedStates—East Timor Scholarship Program and numberECA/A/E/EAP–02-USET.

FOR FURTHER INFORMATION CONTACT: Matt McMahon, Office of Academic Exchange Programs,ECA/A/E/EAP, Room 208, United States Department of State,301 4th Street, S.W., Washington, DC 20547, phone:(202) 619–4148, fax: (202) 401–1728, e-mail: *mmcmahon@pd.state.gov* to request a Solicitation Package. TheSolicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Program Officer Matt McMahon on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, D.C. time on April 4, 2002. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven (7) copies of the application should be sent to:U.S. Department of State,SA–44,Bureau of Educational and Cultural Affairs,Ref.: ECA/A/E/EAP–02–USET,Program Management, ECA/EX/PM, Room 534,301 4th Street, SW.,Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and

''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.''Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein

and in the Solicitation Package.All eligible proposals will be reviewed by the program office, as well as the appropriate Public Diplomacy Section overseas. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review.Proposals may also be reviewed by the Office of the LegalAdviser or by other Department elements. Final funding decisions are at the discretion of the Department of State'sAssistant Secretary for Educational and Cultural Affairs.Final technical authority for assistance awards resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity.Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content(orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

9. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology used to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

10. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals whose administrative costs are 20% or less of the total requested from ECA will be deemed more competitive.

11. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in Public Law 103–236. The purpose of the legislation is to make available scholarships for qualified East Timorese students to study at U.S. colleges and universities. The funding authority for the United States—East TimorScholarship Program is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative.Explanatory information provided by the Bureau that contradicts published language will not be binding.Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: January 29, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 02–3007 Filed 2–6–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: King County Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent

SUMMARY: The FHWA, in cooperation with the Washington State Department of Transportation, is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposal to either repair or replace the South Park Bridge, which crosses the Duwamish River in King County, Washington.

FOR FURTHER INFORMATION CONTACT: Elizabeth Healy, Transportation and Environmental Engineer, Federal Highway Administration, 711 South Capital Way, Suite 501, Olympia, Washington 98501–1284, Telephone: (360) 753–8655 or Jim Sussex, Environmental Engineer, King County, Road Services Division, Department of Transportation, King Street Center M.S. KSC–TR–0231, 201 South Jackson Street, Seattle, WA 98104–3856, Telephone: (206) 296–8737.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation and the King County Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to either repair or replace the South Park Bridge, which spans the Duwamish River between 14th Avenue South and 16th Avenue South. The existing movable span bridge structure is owned jointly by King County and the City of Tukwila, and the bridge approaches extend into the City of Seattle. The bridge was built in 1931, using a Scherzer Rolling Lift double leaf bascule span, with steel truss and concrete approach spans on both sides. In spite of substantial ongoing maintenance and repairs, the bridge has suffered significant deterioration over the past 70 years.

Damage that occurred during the Nisqually Earthquake of February 2001 has been repaired, but the bridge is increasingly vulnerable to future seismic events. The proposed project is necessary in order to implement a long-term solution to the deteriorated condition and the seismic vulnerability of the bridge. Specific alternatives for this project have not yet been developed. However, it is anticipated that approximately four build alternatives will be developed for analysis in the EIS, in addition to the no action alternative. The build alternatives may include: (1) Restoration of the existing bridge, (2) a movable span replacement bridge, and (3) a fixed span replacement bridge, The exact alignment and other significant design features may vary for each of these build alternatives, and variations may be different enough to warrant consideration as separate alternatives. Details regarding the number and character of these alternatives will be established through an extensive process of resource agency consultation and public involvement.

Scoping meetings will be held for the public and resource agencies during late February or early March 2002. A Project Advisory Committee (PAC) will be established to provide ongoing input from relevant government agencies and tribes. A Citizen Advisory Group (CAG) will be formed to provide additional involvement for representatives from neighborhood and business groups, as well as the public at large. A public hearing to gather public comments will be held after the draft EIS is issued and made available for public and agency review. The time and location of public meetings, when determined, will be announced in the local news media and public mailings.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or King County at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 31, 2002.

Elizabeth Healy,

Transportation and Environmental Engineer, Olympia, Washington.

[FR Doc. 02–2922 Filed 2–6–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

Revised Guidance for Implementing the March 1999 Circuit Court Decision Affecting Transportation Conformity

AGENCIES: Federal Highway Administration (FHWA), Federal TransitAdministration (FTA), DOT.

ACTION: Notice; issuance of revised guidance.

SUMMARY: The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) have issued revised guidance for implementing a March 1999 Circuit Court decision affecting transportation conformity. In previous guidance issued on June 18, 1999, the FHWA and FTA indicated that projects that had received funding commitments for construction prior to the conformity lapse could proceed during a lapse. However, project development activities such as right-of-way (ROW) acquisition and design that had received funding commitments prior to the conformity lapse could not proceed. After reviewing the implementation and effectiveness of the previous guidance, the FHWA and FTA decided to supplant the previous guidance and allow completion of all project phases during a conformity lapse, if such activities were approved prior to the lapse. The FHWA and FTA believe the revision is necessary for consistency and will help in streamlining the transportation planning and development process.

DATES: This revised guidance was effective on January 2, 2002.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Cecilia Ho, Office of Natural Environment (HEPN), (202) 366–9862; Mr. Gary Jensen, Office of Natural Environment (HEPN), (202) 366–2048; or Mr. Reid Alsop, Office of the Chief Counsel (HCC–30), (202) 366–1371. For FTA: Mr. Abbe Marner, Office of Planning (TPL–30), (202) 366–4317; or Mr. Scott Biehl, Office of the Chief Counsel (TCC–30), (202) 366–0748. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's Web page at *http://www.access.gpo.gov/nara.* A copy of this guidance can be obtained by accessing the FHWA Web site at *http://www.fhwa.dot.gov/environment/conformity/con_mdash;guid.htm.*

March 2, 1999, Court Decision

Under section 176 of the Clean Air Act (CAA) as amended, the U.S. Department of Transportation (U.S. DOT) cannot approve or fund any activity that does not conform to the State implementation plan (SIP) in nonattainment and maintenance areas. The CAA provides that conformity to an implementation plan means conformity to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards. Conformity to an implementation plan also means that such activities will not cause or contribute to any new violation of any standard in any area; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The FHWA and FTA funded activities must come from a transportation plan and transportation improvement program (TIP) that have been found to conform.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on the Environmental Protection Agency's (EPA) August 1997 transportation conformity amendments in response to a case brought by the Environmental Defense Fund (EDF) (*EDF* v. *EPA,* 167 F.3d 641 (DC Cir. 1999)). The court ruled that CAA Section 176(c)(2)(C) prohibits the U.S. DOT from approving or funding new projects in the absence of a conforming plan and TIP. The decision also held that, among other things, projects that had previously been found to conform and had completed the National Environmental Policy Act (NEPA) process (''grandfathered'' projects) may not be advanced (that is, such projects should not be approved or funded) in a nonattainment or maintenance area if there is no currently conforming transportation plan and TIP for the area. The court did not rule on the issue of how active right-of-way (ROW) acquisition and design projects

should be treated during a conformity lapse.

Previous Guidance From the FHWA and FTA Concerning the March 2, 1999, Court Decision

On March 31, 1999, the FHWA and FTA issued interim guidance [1] implementing this court decision, which was supplemented by additional guidance [2] on May 7, 1999. On June 18, 1999, the FHWA and FTA issued an additional memorandum [3] that replaced the previously issued guidance. In the June 18, 1999, guidance, the FHWA and FTA indicated that projects that received funding commitments for construction prior to the conformity lapse could proceed during a lapse.

For the FHWA, a funding commitment means there is a project agreement, which is a contractual obligation by the Federal Government to reimburse the Federal share of expenses on a Federal-aid highway project. A project agreement includes approval of plans, specifications, and estimates. For the FTA, a funding commitment means there is a full funding grant agreement (FFGA). For transit projects not covered by FFGAs, the construction commitment occurs after the FTA grant is made and a local contract for construction or vehicle purchase has been approved.

The June 18, 1999, guidance also stated that the FHWA could not continue to reimburse with Federal funds active highway design and ROW acquisition activities, except for exempt projects, during a conformity lapse, even though these activities were approved before the conformity lapse. Likewise, funding for active transit design and land acquisition activities, except for exempt projects, which received a grant, other than a FFGA, could not continue unless: (1) The FTA approved the grant before the conformity lapse; and (2) the grantee had awarded a contract for construction or for vehicle acquisition like procurement of rolling stock before the lapse.

Since the release of the June 18, 1999, guidance, the FHWA and FTA have had the opportunity to review the implementation and effectiveness of that guidance. As a result of our review, the FHWA and FTA decided to revise the guidance concerning the March 2, 1999, court decision to allow completion of a project development activity during a conformity lapse, if that activity was approved prior to the lapse (e.g., final design or ROW acquisition). We consulted with the EPA in the development of the following revised guidance.

The revised guidance does not allow new ROW acquisition or final design approvals to occur during a conformity lapse. The revisions only allow ROW acquisition and design activities that had received approvals and funding commitments before a lapse to be federally reimbursed during a lapse. We believe this is a reasonable interpretation that is consistent with the March 2, 1999, court decision.

Reasons for Revising the June 19, 1999, Guidance

The FHWA and FTA believe that we can and should provide flexibility and consistency, by allowing Federal reimbursement of previously authorized ROW acquisition and design activities, as well as previously authorized construction activities, to proceed during a conformity lapse. There are several reasons for this revision.

First, our June 18, 1999, guidance provides that when the CAA says that the U.S. DOT cannot ''fund'' a project unless it conforms, ''fund'' actually means the point at which the U.S. DOT commits to funding the project. For the FHWA, this point is the project agreement and for the FTA, it is the FFGA or equivalent authorization.

The June 18, 1999, guidance made a distinction between the construction phase and ROW acquisition and design activities phases. According to the June 18, 1999, guidance, projects that received funding commitments for construction prior to the conformity lapse could proceed during the conformity lapse. However, reimbursements for previously authorized ROW acquisition and design activities could not proceed during a conformity lapse. In other words, the Federal Government had to suspend its previously authorized commitment to these activities.

The FHWA and FTA have concluded that guidance concerning Federal authorizations should be consistent, regardless of whether our authorization is for construction, ROW acquisition, or design activities. By treating each phase of a project similarly in the revised guidance, we consistently apply the principle that ''fund'' actually means the point at which the U.S. DOT commits to funding a phase of the project, not just the point the U.S. DOT commits to funding the construction of the project.

Second, streamlining transportation planning and development processes continues to be a priority of the U.S. DOT. Suspending Federal reimbursement of active ROW acquisition and design activities is an onerous process that can be time and resource intensive for the project sponsor, and, as discussed, was not directly addressed by the court in its March 2, 1999, decision.

Third, although the FHWA and FTA discouraged it, under the June 18, 1999, guidance these activities could be continued using State or local funds. Also, projects using design-build contracting could proceed with all project phases that were included in the design-build contract, which the FHWA authorized before the lapse.

Finally, ROW acquisition and design activities will not affect regional motor vehicle emissions until such time as the project is constructed and completed. The construction of non-exempt projects utilizing such acquired ROW or designs cannot be authorized until a new conformity analysis and conforming plan and TIP are adopted and the conformity lapse has ended. Therefore, this revised guidance will not lessen the air quality protection afforded by the transportation conformity provisions of the CAA.

Other Information Regarding Revised Guidance

The June 18, 1999, guidance contained a detailed discussion on how the court decision affected areas that relied on submitted, but not yet approved, motor vehicle emission budgets for their most recent conformity determination. This discussion is no longer needed, as all areas, except one where conformity has remained suspended, have now determined conformity based on budgets that have been found adequate or approved by EPA, or based on the appropriate emissions reductions test(s). For guidance on the process EPA currently uses to review and decide whether motor vehicle emissions budgets are adequate and can be used for conformity, refer to EPA's May 14, 1999, ''Conformity Guidance on Implementation of March 2, 1999

[1] The March 31, 1999, interim guidance entitled ''Interim Guidance for the Implementation of the Circuit Court Decision Affecting Transportation Conformity'' may be obtained by contacting Mr. Gary Jensen, Office of Natural Environment (HEPN), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2048.

[2] The May 7, 1999, supplemental guidance entitled ''Supplemental Guidance for the Implementation of the Circuit Court Decision Affecting Transportation Conformity'' is available at the following URL: *http://www.fhwa.dot.gov/environment/gdad—int.htm.*

[3] The June 18, 1999, supplemental additional guidance entitled ''Additional Supplemental Guidance for the Implementation of the Circuit Court Decision Affecting Transportation Conformity'' is available at the following URL: *http://www.fhwa.dot.gov/environment/gdad—add.htm.*

Conformity Court Decision'' which is available at the following URL: *http://www.epa.gov/otaq/transp/conform/epaguidf.pdf.*

Authority: 23 U.S.C. 106; 23 U.S.C. 134; 42 U.S.C. 7506; 23 U.S.C. 315; and 49 CFR 1.48.

Issued on: January 31, 2002.

Mary E. Peters,

Federal Highway Administrator.

Jennifer L. Dorn,

Federal Transit Administrator.

The text of the revised guidance for implementing the March 1999 Circuit Court decision affecting transportation conformity and dated January 2, 2002 reads as follows:

Information

Revised Guidance for Implementing the March 1999 Circuit Court Decision Affecting Transportation Conformity, HEPN–10

Mary E. Peters, Administrator, FHWA

Jennifer L. Dorn, Administrator, FTA

FHWA Division Administrators

Federal Lands Highway Division Engineers

FTA Regional Administrators

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on EPA's August 1997 transportation conformity amendments in response to a case brought by the Environmental Defense Fund. The EPA will be providing revised conformity regulations that implement this ruling in the near future. This memorandum supersedes and replaces all previous FHWA and FTA guidance implementing this ruling, including the Additional Supplemental Guidance issued on June 18, 1999. The FHWA and FTA consulted with EPA on the development of this guidance. This guidance does not supersede any existing settlement agreements that address this subject. In addition, guidance on other issues addressed by the March 1999 court decision can be found in EPA's ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' published on May 14, 1999 (http://www.epa.gov/otaq/transp/conform/epaguidf.pdf).

Projects That Can Proceed During a Conformity Lapse

The court decision held that projects that had previously been found to conform and had completed the National Environmental Policy Act (NEPA) process (''grandfathered'' projects) may not be advanced (that is, such projects should not be approved) in nonattainment and maintenance areas which do not have a currently conforming transportation plan and transportation improvement program (TIP). Thus, in such areas, no new approvals or grants for further development of projects (*i.e.,* NEPA, final design, right-of-way acquisition, or construction) should be made. The only projects which can receive further approvals or grants during a plan and TIP conformity lapse are: (1) Projects exempt from the conformity process; and (2) transportation control measures (TCMs) which are included in an approved State implementation plan (SIP).

A non-exempt project is any project that is not listed as exempt in the transportation conformity rule at 40 CFR 93.126 or 93.127, or the project is not a TCM in an approved SIP.

For FHWA-funded projects, project phases (i.e., design, right-of-way acquisition, or construction) that received funding commitments or an equivalent approval or authorization prior to a conformity lapse may continue during the lapse. The execution of a project agreement (which includes Federal approval of the plans, specifications, and estimates) indicates funding commitment.

For FTA, the largest projects are handled with a full funding grant agreement (FFGA). If the FFGA was executed prior to a conformity lapse, the project can continue to utilize Federal funding during the lapse. If the FFGA was not completed by the date of the lapse, the project sponsor may only complete the current stage of project development (e.g., final design or land acquisition), but may not use Federal funds to proceed further. Transit projects not handled with FFGAs may proceed during a lapse if, prior to the lapse, FTA approved a grant and the project sponsor awarded a contract for construction or vehicle acquisition. If a local contract was not approved by the date of the lapse, the project sponsor may only complete the current stage of project development with Federal funds.

Subsequent phases of a project for which FHWA or FTA has not taken an approval action or awarded a grant may not proceed in the absence of conformity. For transportation project phases not requiring a project specific project agreement/authorization approval, the State or local transportation agency should not take any action committing the State or local agency to proceed with the project phase during a lapse unless the project phase had already received full approval or authorization for funding before the lapse.

Preliminary engineering for project development activities that are necessary to assess social, economic, and environmental effects of the proposed action or alternatives as part of the NEPA process for a non-exempt project may continue during the lapse, according to 40 CFR 93.126. However, FHWA or FTA cannot approve a categorical exclusion, finding of no significant impact, final environmental impact statement, or a record of decision for a non-exempt project during a conformity lapse. The NEPA process can be completed for exempt projects and TCMs in an approved SIP during a conformity lapse.

When a community is facing a conformity lapse within 6 months, FHWA, FTA, and EPA will meet and jointly evaluate the potential consequences of the lapse and assess any concerns. The FHWA, FTA, and EPA will meet at least 90 days before a conformity lapse to determine which projects could receive funding commitments before the lapse, and which projects could potentially be delayed, and the actions that would be necessary to correct the lapse. In preparation for these discussions, FHWA and FTA offices, in consultation with project sponsors, should review the current TIP to identify the current status of development of non-exempt projects being advanced in the nonattainment or maintenance area. As you know, some nonattainment areas include more than one metropolitan planning organization (MPO).

When a conformity lapse is imminent, FHWA Division Administrators and FTA Regional Administrators shall notify the Governor or the Governor's designee immediately to inform him/her of the consequences, and potential solutions to minimize disruptions to the transportation programs in the respective nonattainment and maintenance areas. The FHWA and FTA will consult with EPA regional offices before notifying the Governor or the Governor's designee of conformity consequences and solutions.

Coordination between FHWA, FTA and EPA prior to a conformity lapse is detailed in the April 19, 2000, National Memorandum of Understanding (MOU) Between the U.S. DOT and the U.S. EPA (http://www.fhwa.dot.gov/environment/cnfmou.htm). Appendix A of the MOU also discusses how to meet the transportation planning requirements during a lapse in order to continue funding exempt projects and TCMs until conformity is reestablished. Therefore, in the event of a conformity lapse, an MPO must create an interim plan and TIP for any projects that can be federally-funded and approved during the lapse, including exempt projects and

TCMs in an approved SIP. Please see the MOU for more information regarding the requirements for including projects in an interim plan and TIP.

Other Issues

To address other issues related to the Court ruling, on May 14, 1999, EPA issued ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision'' which provides more details about using submitted budgets, projects requiring Federal approval, non-Federal projects, SIP disapprovals, and reallocation of a SIPs safety margin. Areas should reference this guidance for specific information on these other issues. The EPA, in coordination with DOT, will be working to formalize the guidance through the rulemaking process to amend the conformity regulation.

If you have questions on this guidance, please contact Ms. Cecilia Ho (202) 366–9862 or Mr. Gary Jensen (202) 366–2048 of FHWA, or Mr. Abbe Marner (202) 366–4317 of FTA.

cc: Directors of Field Services

[FR Doc. 02–2957 Filed 2–6–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–7–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–7–90 (TD 8461), Nuclear Decommissioning Fund Qualification Requirements (§ 1.468A–3).

DATES: Written comments should be received on or before April 8, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Nuclear Decommissioning Fund Qualification Requirements.

OMB Number: 1545–1269.

Regulation Project Number: PS–7–90.

Abstract: If a taxpayer requests, in connection with a request for a schedule of ruling amounts, a ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 1, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–2993 Filed 2–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8697

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.

DATES: Written comments should be received on or before April 8, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665 or through the internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.

OMB Number: 1545–1031.

Form Number: Form 8697.

Abstract: Taxpayers who are required to account for all or part of any long-term contract entered into after February 28, 1986, under the percentage of completion method must use Form 8697 to compute and report interest due or to be refunded under Internal Revenue

Code section 460(b)(3). The IRS uses Form 8697 to determine if the interest has been figured correctly.

Current Actions: There are no changes being made to Form 8697 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 13 hours, 40 minutes.

Estimated Total Annual Burden Hours: 68,340.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 30, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–2994 Filed 2–6–02; 8:45 am]

BILLING CODE 4830–01–P

Notices

Federal Register
Vol. 67, No. 26
Thursday, February 7, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet on February 18, 2002, in Yreka, California. The purpose of the meeting is organizational and will serve as an orientation to RAC committee members regarding the Secure Rural School and Community Self-Determination Act of 2000. Members will also critic the February 15, 2002 Public Proposal Workshop and the results of the first public outreach.

DATES: The meeting will be held February 18, 2002 from 3 p.m. to 6 p.m.

ADDRESSES: The meeting will be held at the Miners Inn and Convention Center, 122 E. Miner Street, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Heidi Perry, Meeting Coordinator, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097, (530) 841–4468; e-mail *hperry@fs.fed.us*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Roles and Responsibilities for Advisory Committees; (2) Critic Public Proposal Workshop; (3) Project Submittal Process; (4) Project Timelines and (5) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: January 29, 2002.

Edward L. Matthews,

Acting Forest Supervisor.

[FR Doc. 02–2923 Filed 2–6–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will meet Wednesday, February 20, 2002 in Boise, Idaho for a business meeting. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Randy Swick, McCall District Ranger and Designated Federal Officer, at (208) 634–0400.

SUPPLEMENTARY INFORMATION: The business meeting on February 20, begins at 10:30 AM, at the Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho. Agenda topics will include development and approval of form for submitting project proposals, development of procedures for soliciting project proposals, a guest speaker, and an open public forum.

Dated: January 30, 2002.

David F. Alexander,

Forest Supervisor.

[FR Doc. 02–2969 Filed 2–6–02; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa 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 of the Iowa Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 12 p.m. on February 27, 2002, at the Marriott, 700 Grand Avenue, Des Moines, Iowa 50309. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). 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, February 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–2891 Filed 2–6–02; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Mississippi 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 of the Mississippi Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 8 p.m. on February 28, 2002, at the Crowne Plaza, 200 East Amite Street, Jackson, Mississippi 39201. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). 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, February 1, 2002.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 02–2892 Filed 2–6–02; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–803]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Extruded Rubber Thread From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results and partial rescission of antidumping administrative review.

SUMMARY: In response to a request by the petitioner and one producer/exporter of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on extruded rubber thread (rubber thread) from Indonesia for the period May 1, 2000 through April 30, 2001 (hereafter referred as the period of review).

We preliminary determine that during the period of review (POR), P.T. Swasthi Parama Mulya (Swasthi) did not make sales of the subject merchandise at less than normal value. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service to liquidate entries of subject merchandise by these companies without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this proceeding should also submit with them: (1) A statement of the issues; (2) a brief summary of their comments; and (3) a table of authorities. Further, parties submitting written comments, should provide the Department with an additional electronic copy of the public version of any such comments on a 3.5″ floppy diskette.

EFFECTIVE DATE: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Lyman Armstrong, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3965 or (202) 482–3601, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department regulations refer to the regulations codified at 19 CFR part 351 (2001).

Case History

On May 21, 1999, the Department published in the **Federal Register** the antidumping duty order on rubber thread from Indonesia (64 FR 27755). On May 1, 2001, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order, for the period May 1, 2000, through April 30, 2001 (66 FR 21740).

On May 31, 2001, we received a request to review the antidumping duty order with respect to Swasthi from North American Rubber Thread, the petitioner in this case, in accordance with 19 CFR 351.213(b)(1). On May 31, 2001, we also received a request to review the antidumping order from Filati Lastex Sdn. Bhd. (Filati), an exporter/producer of rubber thread, in accordance with 19 CFR 351.213(b)(2). On June 19, 2001, we published the notice of initiation of this antidumping duty administrative review of Filati and Swasthi covering the period May 1, 2000, through April 30, 2001. *See Notice of Initiation,* 66 FR 32934 (June 19, 2001).

On July 23, 2001, we sent the antidumping duty questionnaires to Filati and Swashti.

On August 17, 2001, Filati withdrew its request for review. Thus, we are rescinding the review of Filati, because Filati withdrew its request and there were no additional requests for a review of Filati from any other interested party. *See* the *Partial Rescission* section below.

For Swasthi, the Department disregarded sales that failed the cost test during the most recently completed segment of the proceeding in which Swasthi participated. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Extruded Rubber Thread From Indonesia,* 64 FR 27755 (May 21, 1999). Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that Swasthi sales of the foreign like product were made at prices below the cost of production (COP). Therefore, we initiated a cost investigation at the time we initiated an antidumping review.

Swasthi submitted its section A through D questionnaire response on September 21, 2001.

The Department issued a supplemental section A through D questionnaire to Swasthi on November 9, 2001. Swasthi submitted its response to our supplemental questionnaire on December 11, 2001. The Department issued a second supplemental section A through D questionnaire to Swasthi on December 27, 2001. We received Swasthi's response to our second supplemental questionnaire on January 14, 2002.

Partial Rescission of Antidumping Duty Administrative Review

On August 17, 2001, Filati withdrew its request for a review. Because there were no other request for review for Filati, and because Filati's letter withdrawing its request was timely filed, we are rescinding the review with respect to Filati in accordance with 19 CFR 351.213(d)(1).

Scope of Review

For purposes of this review, the product covered is extruded rubber thread (ERT) from Indonesia. ERT is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inches or 140 gauge, to 1.42 mm, which 0.056 inch or 18 gauge, in diameter.

ERT is currently classified under subheading 4007.00.00 of the *Harmonized Tariff Schedule* (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

Comparisons to Normal Value

To determine whether sales of extruded rubber thread from Indonesia to the United States were made at less than normal value (NV), we compared the export price (EP) to (EP) to the NV for Swasthi, as specified in the *Export Price* and *Normal Value* sections of this notice, below.

When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the *Scope of Review* section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 771(16) of the Act, the Department first attempted to match contemporaneous sales of products sold in the U.S. and the home market that were identical with respect to the following characteristics: (1) Size; (2) finish; (3) color; (4) special qualities (5) uniformity; (6) elongation; (7) tensile strength; and (8) modulus. Where there were no sales of identical merchandise

in the home market made in the ordinary course of trade (*i.e.*, sales within the contemporaneous window which passed the cost test), we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, or constructed value (CV), as appropriate.

Export Price

For the price to the United States, we used EP in accordance with section 772(a) of the Act because the merchandise was sold by the producer or exporter outside the United States to the first unaffiliated purchaser in the United States prior to importation and constructed export price was not otherwise warranted based on the facts on the record. We based EP on the packed delivered prices to the first unaffiliated customer in the United States. Where appropriate, we reduced these prices to reflect discounts and rebates. We also added interest revenue.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, insurance, foreign brokerage handling and fumigation charges, and international freight.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B) of the Act, because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for the producer.

B. Cost of Production Analysis

1. Calculation of Cost of Production

Before making any comparisons to NV, we conducted a COP analysis, pursuant to section 733(b) of the Act, to determine whether the respondent's home market sales were made below the COP. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A), and packing, in accordance with section 773(b)(3) of the Act. We relied on the respondent's information as submitted. *See* Swasthi's Preliminary Calculation Memorandum (January 31, 2002) on file in the Central Records Unit (CRU), for a description of any changes that we made.

2. Test of Comparison Market Prices

As required under section 773(b) of the Act, for Swasthi, we compared the weighted-average COP to the weighted-average per unit price of the home market sales of the foreign like product, to determine whether their respective sales had been made at prices below the COP within an extended period of time in substantial quantities. For Swasthi, we determined the net home market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of Swasthi's sales of a given product during the twelve-month period were at prices less than the COP, in accordance with section 773(b)(2)(B) and (C) of the Act, we determined such sales to have been made in ''substantial quantities'' within an extended period of time. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, for Swasthi we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1)(B) of the Act.

C. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to home market customers. We made deductions from the starting price for inland freight and inland insurance. In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted home market packaging costs and added U.S. packing costs.

When comparing U.S. sales with home market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Pursuant to section 351.411 of the Department's regulations, we based this adjustment on the difference in the variable cost of manufacturing (VCOM) for the foreign like product and subject merchandise, using twelve-month average costs for each month of the twelve-month period, as described in the *Cost of Production Analysis* section above.

D. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the home market at the same level of trade (LOT) as the U.S. EP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to home market sales at a different LOT.

Pursuant to section 351.412 of the Department's regulations, to determine whether home market sales were at a different LOT, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the affiliated (or arm's length) customers. If the home market sales were at a different LOT and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home market sales at the LOT of the export transaction, we made a LOT adjustment under section 773(a)(7)(A) of the Act.

For Swasthi, there was only one home market LOT and one U.S. EP level of trade. The U.S. LOT differed from the home market LOT; however because there was only one LOT in the home market, we could not determine that there was a pattern of price differences between sales at different LOTs in the home market. *See* section 773(a)(7)(A)(ii) of the Act. Consequently, we have granted no LOT adjustment.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, *see* Swasthi's January 31, 2002, Preliminary Calculation Memorandum on file in the CRU.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank, in accordance with section 773(A) of the Act.

Preliminary Results of Review

As a result of our review, we preliminary determine that the following percentage weighted-average

margin exists for the period May 1, 2000 through April 30, 2001:

Manufacturer/exporter	Margin (percent)
Swasthi	0.00

The Department will disclose the calculations performed within five days of the date of publication of this notice to the parties to this proceeding in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief of summary of the argument and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessments Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent) the Department will issue appraisement instructions directly to the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise reported by Swasthi. 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

To calculate the cash deposit rate for Swasthi, we divided the total dumping margins for Swasthi by the total net value of Swasthi's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of ERT from Indonesia entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company listed above will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 24.00 percent, the ''All Others'' rate established in the LTFV investigation. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Extruded Rubber Thread From Indonesia,* 64 FR 27755 (May 21, 1999).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary 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 double antidumping duties.

The administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–2990 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–855]

Certain Non–Frozen Apple Juice Concentrate From the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the First Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the first administrative review of the antidumping duty order on certain non–frozen apple juice concentrate from the People's Republic of China. The period of review is from November 23, 1999 through May 31, 2001. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Rounds Agreement Act.

DATES: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Andrew Covington, Office of AD/CVD Enforcement I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone numbers: (202) 482–3464 or (202) 482–3534, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statutes and Regulations

Unless otherwise indicated, all citations to the statute are references to 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, and all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (2001).

Statutory Time Limits

Section 751(a)(3)(A) of the Act requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final

determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On July 23, 2001, the Department published the notice of initiation of the antidumping administrative review on certain non–frozen apple juice concentrate from the People's Republic of China (PRC) covering the period from November 23, 1999 through May 31, 2001. (See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 38252 (July 23, 2001)). The preliminary results are currently due no later than March 2, 2002.

Extension of Time Limits for Preliminary Results

Due to the number of companies and complexity of the issues, including the gathering of the surrogate value information, it is not practicable to issue the preliminary results within the originally anticipated time limit (i.e., March 2, 2002). Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the completion of preliminary results in this case 60 days, (i.e., no later than May 1, 2002).

This notice is published pursuant to sections 751(a)(1) and 777(i)(1) of the Act.

February 1, 2002.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 02–2992 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–830]

Stainless Steel Plate in Coils From Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: February 7, 2002.

ACTION: Notice of the Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review.

SUMMARY: On June 19, 2001, the Department of Commerce (''Department'') published a notice of initiation of an antidumping duty administrative review on stainless steel plate in coils from Taiwan. This review covers two manufacturers/exporters of the subject merchandise, Yieh United Steel Corporation (''YUSCO''), a Taiwan producer and exporter of subject merchandise, and Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen''), a Taiwan exporter of subject merchandise. The period of review (''POR'') is May 1, 2000 through April 30, 2001.

For the reasons provided in the ''Facts Available'' section of this notice, we have preliminarily determined that YUSCO's antidumping rate be based on total adverse facts available due to YUSCO's failure to participate in this proceeding. Therefore, for YUSCO, we applied the highest margin rate determined in prior segments of this proceeding. We are preliminarily rescinding this review with respect to Ta Chen based on record evidence supporting the conclusion that there were no entries into the United States of subject merchandise during the POR. (For a discussion of the preliminary rescission as to Ta Chen, see ''Preliminary Rescission of Review in Part'' section of this notice.)

FOR FURTHER INFORMATION CONTACT: Doreen Chen or James C. Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–0193 (Chen) or 202–482–0159 (Doyle), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On May 21, 1999, the Department of Commerce (''Department'') published the antidumping duty order on stainless steel plate in coils from Taiwan. See Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan, 64 FR 27756 (May 21, 1999). On August 1, 2001, the Department published a notice of opportunity to request an administrative review of this order for the period May 1, 2000 through April 30, 2001. See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 66 FR 39729 (August 1, 2001). Petitioners Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., North American Stainless, United Steelworkers of America, AFL–CIO/CLC, and Zanesville Armco Independent Organization (collectively ''petitioners'') timely requested that the Department conduct an administrative review of sales by YUSCO, a Taiwan producer and exporter of subject merchandise, and Ta Chen, a Taiwan exporter of subject merchandise. On June 19, 2001, in accordance with section 751(a) of the Act, the Department published in the Federal Register a notice of initiation of this antidumping duty administrative review of sales by YUSCO and Ta Chen for the period May 1, 2000 through April 30, 2001. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part, 66 FR 32934 (July 19, 2001). On July 10, 2001, the Department issued its antidumping duty questionnaire to YUSCO and Ta Chen. On August 2, 2001, Ta Chen stated that it did not have any U.S. sales, shipments or entries of subject merchandise during the POR, and requested that it not be required to answer the Department's questionnaire. YUSCO did not respond to the Department's antidumping questionnaire.

Scope of the Review

For purposes of this review, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat–rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold–rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this review are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition,

certain cold–rolled stainless steel plate in coils is also excluded from the scope of these orders. The excluded cold–rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold–reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process. The merchandise subject to this review is currently classifiable in the HTS at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.0070, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Review

The POR is May 1, 2000 through April 30, 2001.

Preliminary Rescission of Review in Part

The Department preliminarily finds that Ta Chen had no entries during the POR. Thus, the Department is preliminarily rescinding this review.

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. The Department explained this practice in the preamble to the Department's regulations. See Antidumping Duties; Countervailing Duties; 62 FR 27314, 27314 (May 19, 1997); (''Preamble''):

Because of the respondent's inability to tie entries to sales, the Department normally must base its review on sales made during the period of review. Where a respondent can tie its entries to its sales, we potentially can trace each entry of subject merchandise to unaffiliated customers, and we conduct the review on that basis. However, the determination of whether to review sales of merchandise entered during the period of review hinges on such case–specific factors ....[including] whether a respondent has been able to link sales and entries previously for prior review periods and whether it appears likely that the respondent will continue to be able to link sales and entries in future reviews.

This is the second administrative review of Ta Chen under this order. In the first administrative review, Ta Chen certified that of the POR resales, none of the merchandise entered the U.S. after the commencement of the POR – in other words, after the initial suspension of liquidation during the investigation. The Department has previously determined that ''(s)ales of merchandise that can be demonstrably linked with entries prior to the suspension of liquidation are not subject merchandise and therefore are not subject to review by the Department.'' See Certain Stainless Wire Rod From France: Final Results of Antidumping Duty Administrative Review, 61 FR 47874, 47875 (September 11, 1996); Preamble at 271314. The Department conducted a Customs inquiry and determined in the first administrative review to its satisfaction on the record that there were no entries of subject merchandise during the POR. See Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review, 66 FR 18610, 18612 (April 10, 2001). The Department, therefore, rescinded the review.

In this review, Ta Chen has certified that of POR resales from its U.S. affiliate Ta Chen International's (TCI) U.S. warehouse inventory, all merchandise entered before the POR. The Department therefore conducted a Customs inquiry and confirmed, to its satisfaction, that there were no entries of subject merchandise during the POR. Because there were no entries during this POR, nor the last POR, we are satisfied that Ta Chen has successfully linked its POR resales to entries that not only precede the POR, but also precede the suspension of liquidation.

Therefore, pursuant to 19 CFR 351.213(d)(3), the Department is preliminarily rescinding this review because we find that there were no entries of subject merchandise during the POR.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form requested, significantly impedes a proceeding under the antidumping statute, or provides information that cannot be verified, the Department shall use facts available in reaching the applicable determination. In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. See The Statement of Administrative Action to the URAA, H. Doc. 103–316 (1994) at 870 (''SAA'').

We preliminarily find, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for YUSCO. We confirmed that YUSCO received, but failed to respond to, the Department's questionnaire. Since YUSCO has failed to provide any information for our review on the record, the use of facts available is appropriate. Therefore, in accordance with section 776(a)(2) of the Act, we preliminarily determine that the use of total facts available is appropriate.

As noted above, in selecting facts otherwise available, pursuant to section 776(b) of the Act, the Department may use an adverse inference if the Department finds that an interested party, such as YUSCO in this case, failed to cooperate by not acting to the best of its ability to comply with requests for information. Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b)(3) of the Act, as adverse facts available we have applied a margin based on the highest margin from this or any prior segment of the proceeding. See Certain Cased Pencils From the People's Republic of China; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 67 FR 2402, 2407 (January 17, 2002). In this case, the highest margin from any segment of the proceeding is 8.02 percent, the petition rate in the less–than–fair–value (LTFV) investigation.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary information is described in the SAA as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' SAA at 870. The SAA further provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. Thus, to corroborate secondary information, to the extent practicable, the Department

will examine the reliability and relevance of the information used. In the investigation, the Department determined that the petition margin was fully corroborated by examining the key elements of the U.S. price and normal value calculations on which the petition margin was based and then comparing the sources used in the petition to YUSCO's reported sales databases. Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Taiwan, 64 FR 15493, 15497 (March 31, 1999). This petition rate was applied to YUSCO in the investigation. For purposes of this administrative review, we have reviewed the petition, information and the administrative record, and found no reason to believe that the reliability of this information should be called into question. Further, the Department finds the administrative record of this review does not contain information which indicates that the application of the petition rate would be inappropriate in the instant review. Therefore, we find that the petition rate is sufficiently reliable and relevant to YUSCO for the present review.

Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin for use as adverse facts available because the margin was based on another company's uncharacteristic business expense, resulting in an unusually high margin). In this review, we are not aware of any circumstances that would render the use of the margin selected for YUSCO as inappropriate.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margin exists for the period May 1, 2000 through April 30, 2001:

Manufacturer/Exporter	Margin(percent)
YUSCO	8.02

Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

Assessment Rate

In the event these preliminary results are made final, we intend to assess antidumping duties on YUSCO's entries at the same rate as the dumping margin (i.e., 8.02 percent) since the margin is not a current calculated rate for the respondent, but a rate based upon total facts available pursuant to section 776(a) of the Act.

Cash Deposit

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly tot he Customs Service. Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for YUSCO will be the rate established in the final results of this administrative review (no deposit will be required for a zero or de minimis margin, i.e., a margin lower than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company–specific rate published for the most recent segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be the ''all other'' rate established in the LTFV investigation, which was 7.39 percent. See Notice of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Taiwan, 64 FR 15493 (March 31, 1999). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 double antidumping duties.

This administrative review and notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

January 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–2989 Filed 2–6–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Notice of Extension of Time Limit for 2000–2001 Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the fourteenth review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China. The period of review is June 1, 2000 through May 31, 2001. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

DATES: February 7, 2002.

FOR FURTHER INFORMATION CONTACT: Melani Miller or Andrew Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–0116 or (202) 482–1276, respectively.

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, and all citations to the regulations are to 19 CFR Part 351 (2001).

Statutory Time Limits

Section 751(a)(3)(A) of the Act requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On July 23, 2001, the Department published a notice of initiation of administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished (''TRBs'') from the People's Republic of China, covering the period June 1, 2000, through May 31, 2001 (65 FR 38252). The preliminary results for the antidumping duty administrative review of TRBs from the People's Republic of China are currently due no later than March 4, 2002.

Extension of Time Limits for Preliminary Results

Due to the number of companies and complexity of the issues, it is not practicable to complete this review within the originally anticipated time limit (i.e., March 4, 2002). See Memorandum from Team to Richard W. Moreland, ''Extension of Time Limit for Preliminary Results,'' dated, February 1, 2001. Therefore, the Department of Commerce is extending the time limit for completion of the preliminary results to not later than June 30, 2002, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

February 1, 2002.

Richard W. Moreland,

Deputy Assistant Secretaryfor AD/CVD Enforcement.

[FR Doc. 02–2991 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010302E]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Hazard Investigations in Washington State

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S. Geological Survey (USGS) for an authorization to take small numbers of marine mammals by harassment incidental to collecting marine seismic reflection data to investigate the earthquake hazard in the Straits of Georgia region of Washington State. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize the USGS to incidentally take, by harassment, small numbers of marine mammals in the above mentioned area during April and late May, 2002.

DATES: Comments and information must be received no later than March 11, 2002.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, which includes a list of references used in this document, and an Environmental Assessment (EA) may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, or Brent Norberg, Northwest Regional Office, NMFS, (206) 526–6733.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines ''harassment'' as:

> * * * any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

In April and May, 2002, the USGS, in cooperation with the Geological Survey of Canada and the University of Victoria, will collect marine seismic reflection data to investigate the earthquake hazards in the Straits of Georgia. For approximately 2 to 4 days this research will be in U.S. waters and about 17 to 19 days will be in Canadian waters. Geological features around the Straits of Georgia that might produce earthquakes lie obscured beneath water, urban areas, forest, and thick glacial deposits. As a result, investigators must use sound waves that are produced by either single airguns or more usually an array of airguns to indirectly view these features. Because seismic noise from the proposed survey's airguns could potentially affect marine mammals due to disturbance by sound (i.e., acoustic

harassment), an incidental harassment authorization (IHA) under the MMPA is warranted.

Throughout western Washington state and southwest British Columbia (BC), geological faults that might produce earthquakes lie hidden beneath the dense forest and the waters of Puget Sound and the Strait of Georgia. Although some faults are known from limited exposures on land and from marine seismic surveys, such as the Lummi Island and Outer Islands faults (see Figure 1 in the USGS application), more may have eluded detection in this little-studied area. Furthermore, the amount of recent (<50,000 years) motion on these faults, if any, is unknown. Estimating the frequency and sizes of earthquakes on both the known and unknown faults is crucial to understanding the earthquake risk to the cities of Bellingham and Anacortes, WA to Vancouver and Victoria, BC and to the more rural parts of the region. For more detailed information on the geological faults in this area, please refer to the USGS application.

Seismic reflection data will be collected during the period of April and May by the Canadian research vessel *J. P. Tully*. Seismic profiling will be done by towing a 600-m (1,968.5-ft) long hydrophone streamer for sensing and recording pressure changes from the airgun echos. The streamer will be towed at a depth of 5 m (16.4 ft). Near the forward end of the streamer, an airgun will be towed about 10 m (32.8 ft) behind the ship at a depth of about 5 m (16.4 ft). The hydrophone streamer, which is connected to a computer recording system, will record echos coming from the strata beneath the sea bottom. These recordings will be computer-processed to create an image of the subsurface strata, including any faults that are crossed during the profiling. The seismic operation will operate 24 hours/day while in U.S. waters and will be traveling at a speed of 6 to 8 knots (6.9 to 9.2 miles/hr; 11.1 to 14.8 km/hr).

The sound source will be either a single, 120 inch^3 airgun or, more likely, a small array of airguns consisting of two 40-in^3 and two 20-in^3 guns being fired within several milliseconds ($^1/_{1000}$ second) of each other. The source will be chosen after tests at the beginning of the cruise. Either way, this sound source, as measured by the volume of the chamber, is only 2 percent of the size of the airgun array used in the USGS survey conducted in 1998 in Puget Sound (see 63 FR 2213, January 14, 1998). Both of the USGS' potential sources will produce similar levels of sound pressure, which is estimated to be about 225 dB. An array of small airguns increases the frequency of the sound over that from a single gun, and an array better directs the sound downward. This array has been used previously in the inland waters of Canada (Reidel *et al.,* 1999), and the characteristics of this sound source have been measured (see Figure 3 in the USGS application).

The airgun does not emit a prolonged sound source; rather, it emits an impulsive noise burst (<10 milliseconds) with a peak-to-peak (P-P) sound pressure level (SPL) estimated to be 220 to 230 dB. The USGS' best estimate is that the source will have an SPL of about 225 dB. This compares to an estimated 240 dB SPL for the 6730 inch^3 airgun array used in the 1998 Puget Sound seismic survey project (Fisher, 1997). This also compares with the continuous noise from freighters and other ship traffic in the area, which is estimated to be 150 to 205 dB (Natural Resources Defense Council, 1998). The airgun will be fired almost continuously 3 to 6 times per minute.

The frequency spectrum of the sound emission was measured when the array was used in a previous study (Reidel *et al.,* 1999). The airgun's energy is concentrated below 200 Hz, with a rapid decrease in amplitude with increasing frequency between 200 and 400 Hz. Frequencies above 400 Hz have amplitudes that are less than 10 percent of the lower frequencies. For purposes of later discussion, frequencies below 1,000 Hz (1 kHz) are considered low frequency (LF).

Description of Habitat and Marine Mammals Affected by the Activity

A description of the affected habitat and its associated marine mammals can be found in the USGS application and in several documents issued previously for acoustic research in Washington State waters (NMFS, 1996, 1997).

Marine Mammals

The species of marine mammals that are likely to be present in the region of the Straits of Georgia include the harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor seal (*Phoca vitulina*) California sea lion (*Zalophus californianus*) and elephant seal (*Mirounga angustirostris*) (Calambokidis and Baird, 1995). Additional species that are rare or only occasionally seen in the area at the time of the survey include: Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), northern sea lion (*Eumetopias jubatus*), minke whale (*Balaenoptera acutorostrata*) humpback whale (*Megaptera novaengliae*) and gray whale (*Eschrichtius robustus*). However, because of the short duration of this project in waters under the jurisdiction of the United States, it is very unlikely that these latter species would be harassed, or injured as a result of conducting seismic surveys. These species include: Pacific white-sided dolphin, northern sea lion, minke whale, humpback whale, and gray whale.

General information on the marine mammal species can be found in the USGS application and the previously mentioned documents prepared under the National Environmental Policy Act (NEPA). Information on marine mammal species in this area can also be found in Forney *et al.* (2000). The NEPA documents are available upon request (see **ADDRESSES**); Forney *et al.* (2000) is available at the following URL: *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html.* Please refer to these documents for specific information on marine mammal species.

Potential Effects of Seismic Surveys on Marine Mammals

Discussion

Disturbance by seismic noise is the principal means of taking incidental to this activity. Vessel noise may provide a secondary source. Also, the physical presence of vessel(s) could also lead to some non-acoustic effects involving visual or other cues.

The effects of underwater noise on marine mammals are highly variable, and can be categorized as follows (based on Richardson *et al.,* 1995): (1) The noise may be too weak to be heard at the location of the animal (i.e. lower than the prevailing ambient noise level, the hearing threshold of the animal at relevant frequencies, or both); (2) the noise may be audible but not strong enough to elicit any overt behavioral response; (3) the noise may elicit behavioral reactions of variable conspicuousness and variable relevance to the well being of the animal; these can range from subtle effects on respiration or other behaviors (detectable only by statistical analysis) to active avoidance reactions; (4) upon repeated exposure, animals may exhibit diminishing responsiveness (habituation), or disturbance effects may persist (the latter is most likely with sounds that are highly variable in characteristics, unpredictable in occurrence, and associated with situations that the animal perceives as a threat); (5) any noise that is strong enough to be heard has the potential to

reduce (mask) the ability of marine mammals to hear natural sounds at similar frequencies, including calls from conspecifics and/or echolocation sounds, and environmental sounds such as storms and surf noise; and (6) very strong sounds have the potential to cause either a temporary or a permanent reduction in hearing sensitivity (i.e., temporary threshold shift (TTS) or permanent threshold shift (PTS), respectively). In addition, intense acoustic or explosive events may cause trauma to tissues associated with organs vital for hearing, sound production, respiration and other functions. This trauma may include minor to severe hemorrhage.

Few data on the effects of non-explosive sounds on hearing thresholds of marine mammals have been obtained. However, in terrestrial mammals (and presumably in marine mammals), received sound levels must far exceed the animal's hearing threshold for there to be any TTS and must be even higher for there to be risk of PTS (Richardson *et al.,* 1995).

Depending upon ambient conditions and the sensitivity of the receptor, underwater sounds produced by open-water seismic operations may be detectable some substantial distance away from the activity. Any sound that is detectable is (at least in theory) capable of eliciting a disturbance reaction by a marine mammal or masking a signal of comparable frequency. An incidental harassment take is presumed to occur when marine mammals in the vicinity of the seismic source (or vessel) show a significant behavioral response to the generated sounds or visual cues.

High-intensity LF seismic pulses are known to cause some species of whales, including gray and bowhead whales, to behaviorally respond within a distance of several kilometers (Richardson *et al.* 1995). Although some limited masking of low-frequency sounds is a possibility for those species of whales using low frequencies for communication, the intermittent nature of seismic source pulses will limit the extent of masking. Bowhead whales, for example, are known to continue calling in the presence of seismic survey sounds, and their calls can be heard between seismic pulses (Richardson *et al.* 1986).

When the received levels of noise exceed some behavioral reaction threshold, cetaceans will show disturbance reactions. The levels, frequencies, and types of noise that will elicit a response vary between and within species, individuals, locations and season. Behavioral changes may be subtle alterations in surface-dive-respiration cycles. More conspicuous responses include changes in activity or aerial displays, movement away from the sound source, or complete avoidance of the area. The reaction threshold and degree of response are related to the activity of the animal at the time of the disturbance. Whales engaged in active behaviors such as feeding, socializing or mating are less likely than resting animals to show overt behavioral reactions, unless the disturbance is directly threatening.

Hearing damage is not expected to occur during the project. While it is not known whether a marine mammal very close to an airgun array would be at risk of temporary or permanent hearing impairment, TTS is a theoretical possibility for animals within a few hundred meters (Richardson *et al.* 1995), if the SPL of an acoustic source is of sufficient intensity. However, planned monitoring and mitigation measures (described later in this document) are designed to detect marine mammals occurring near the seismic array and to avoid, to the greatest extent practicable, exposing them to sound pulses that have any possibility of causing hearing damage.

Two factors determine the effect of the airgun array on marine mammals: (1) The intensity of the sound, and (2) the frequency range of the sound. There is about a 16-dB difference between measuring the P–P sound pressure and the more commonly used root-mean-square (RMS) measurement of sound pressure on marine mammals (6 dB converts P–P to peak-to-zero values, and an additional 10 dB converts peak-to-zero to RMS values). These conversions mean that the USGS airgun array will be approximately equivalent to a source with a RMS sound pressure of about 204 to 214 dB (relative to 1 micron Pa-m), with a best estimate being about 209 dB (RMS).

The airgun sound spreads laterally in the water as the radius of the sound wave increases, resulting in a decrease in amplitude with distance of 20Log(R) or greater (R=distance in meters). Given this estimate of decay, a 230 dB (P–P) sound pressure decays to 180 dB (P–P) at a distance of about 300 m (984.3 ft) (see Figure 4 in the USGS application) and to 180 dB (RMS) at about 50 m (164 ft) from the source. Thus, the maximum range at which the USGS sound source could theoretically result in TTS is 50 m (164 ft).

However, the frequency range of the airguns lies primarily outside the hearing range of most marine mammals. Data on hearing thresholds for odontocetes and pinnipeds show that the most sensitive hearing is in the 1,000- to 100,000-Hz frequency range (see Figure 5 of the USGS application; Richardson *et al.,* 1995; Kastack and Schusterman, 1995). The USGS airgun source rapidly decreases in strength above 200 Hz, resulting in the source strength above 400 Hz being less than 10 percent of the amplitude at lower frequencies. The USGS has estimated the SPL of its airgun source as a function of frequency. The P–P sound pressure is created by the sum of waves of all the frequencies emitted by the airguns, with each frequency contributing only a portion of the total sound. If the maximum P–P SPL is divided by the frequency spectrum of the airgun array, the amplitude of the individual frequency components can be estimated at several distances, as shown in Figure 5 of the USGS application. The results indicate that the noise from any specific frequency emitted from the airgun array lies below the TTS of marine mammals at all distances (see Figure 5 of the USGS application).

The latter estimate of the strength of the individual frequency components is an underestimate, however, because it assumes that all the frequencies are exactly in phase to produce the sound pulse. In reality, the system is not perfectly efficient as implied in this calculation, and the individual frequency components are somewhat larger than shown in Figure 4 of the USGS application. If it is assumed that the USGS source is about 70 percent efficient, the individual frequency components would be about 1.43 times what the USGS estimates assuming perfect efficiency. By this calculation, the sound levels from the airgun lie below the temporary hearing shift of most marine mammals at any distance greater than 50 m (164 ft)(USGS, 2001).

The USGS proposes that the best estimate of the strength of the airgun source is the 209 dB (RMS) measure of sound pressure. Using this RMS measure, the ''annoyance'' or behavioral-response threshold is reached at a distance of 300 m (984.3 ft) from the airguns. This implies that animals 300 m (984.3 ft) from the USGS airguns will become annoyed and presumably will move away, but TTS would potentially not occur unless the USGS airguns were within 50 m (164 ft) of a marine mammal.

Mitigation

Several mitigation measures to reduce the potential for marine mammal harassment will be implemented by USGS as part of their proposed activity. These include:

(1) Scheduling the survey for the period of April and May, when marine mammal abundance in the Straits of Georgia is low;

(2) Having the vessel's speed between 6 and 8 knots to permit marine mammals that hear the ship and airgun noise to be able to move out of the area of the ship's track if they find the approaching vessel and accompanying noise annoying.

(3) A safety zone of 100 m (328 ft) around the seismic aigruns will be established and the USGS will shut down the airgun operation if any marine mammal except seals enters the safety zone. The 100-m (328-ft) distance is double the 50-m (164-ft) estimate of the distance for TTS. This safety zone radius compares with a 100-m or 200-m (328- or 656-ft) safety radius for marine mammals that was used successfully in the 1998 Puget Sound seismic experiment using much larger airguns (Fisher, 1997; Calambokidis and Osmek, 1998; Bain, 1998). The 1998 experiment had a 500-m (1,640-ft) safety radius for gray, humpback and minke whales, which are not expected to be in the area during the short period of time (2–4 days) for surveys in U.S. waters. Given that the current USGS airgun source is only 2 percent of the size of the 1998 source as measured in chamber volume (120 inch^3 versus 6730 inch^3, the USGS believes that a 100-m (328-ft) safety radius is ample to ensure that no injury is caused to a marine mammal.

(4) For pinnipeds (seals and sea lions), if the seismic vessel approaches a pinniped, a safety radius of 100 m (328 ft) will be maintained from the animal(s). However, if a pinniped approaches the towed airgun array during airgun transmissions, the USGS will not be required to shutdown the airguns. Experience indicates that pinnipeds will come from great distances to scrutinize seismic operations. Seals have been observed swimming within airgun bubbles, 10 m (33 ft) away from active arrays and, more recently, Canadian scientists, who were using a high-frequency seismic system that produced sound closer to pinniped hearing than will the USGS airgun array, describe how seals frequently approached close to the seismic source, presumably out of curiosity. Therefore, the above-mentioned mitigation plan has been proposed. In addition, the USGS will gather information on how often pinnipeds approach the airgun array on their own volition, and what effect the airguns appear to have on them.

(5) To ensure no marine mammals are inadvertently harmed when data collection first begins or resumes after operations have ceased, the airguns will be turned on sequentially, so that peak power is achieved gradually to give marine mammals a chance to move away from the source.

(6) Upon notification by a local stranding network that a marine mammal has been found dead within the waters of the Straits of Georgia or nearby U.S. waters when the array is operating within that body of water, NMFS will investigate the stranding to determine whether a reasonable chance exists that the USGS seismic survey project caused the animal's death. If NMFS determines, based upon a necropsy of the animal(s), that the death was likely due to the seismic source, the survey must cease U.S. operations until procedures are altered to eliminate the potential for future deaths.

Monitoring

To monitor the 100 m (328 ft) safety zone when in U.S. waters, the USGS proposes to have two observers, one on each side of the ship, specifically watching for marine mammals at all times that the airguns are operating. Members of the crew, specifically the ship's pilot, will also be instructed to immediately notify the observers if any marine mammals are sited. Observations will begin at least 10 minutes before airguns are turned on. The observers will be equipped with binoculars during the day and night-vision equipment during the night, both of which are believed adequate to monitor the 100-m (328-ft) safety zone while standing on the ship. The observers will order the airgun operations to cease if the vessel approaches within 100 m (328 ft) of a marine mammal.

The objectives of the proposed monitoring program will be: To mitigate potential harassment of marine mammals, to document the number of animals of each species present in the vicinity of the sound transmissions, and to evaluate the reactions of marine mammals to these transmissions.

It should be recognized that, at this time, the monitoring program may not be adequately funded to meet the requirements of the MMPA and therefore may need to be modified. In order for an IHA to be issued, monitoring will need to be conducted at a level which ensures that the activity will have no more than a negligible impact on marine mammal species or stocks.

Reporting

The USGS will provide an initial report to NMFS within 120 days of the completion of the Straits of Georgia marine seismic survey project. This report will provide dates and locations of seismic operations, details of marine mammal sightings, and estimates of the amount and nature of all takes by harassment. A final technical report will be provided by USGS within 1 year of completion of the project. The final technical report will contain a description of the methods, results, and interpretation of all monitoring tasks.

NEPA

In conjunction with a seismic survey project in Puget Sound in 1998, NMFS completed an EA that addressed the impacts on the human environment from issuance of an authorization and the alternatives to that action. NMFS' analysis resulted in a Finding of No Significant Impact. This proposed seismic survey will operate in the same geographic area as the 1998 survey and as the seismic airgun sources used in this proposed action are significantly less intense. Accordingly, this proposed action qualifies for a categorical exclusion under NEPA. Therefore, a new EA will not be prepared. A copy of the 1997 EA is available upon request (see **ADDRESSES**).

Preliminary Conclusions

NMFS has preliminarily determined that the short-term impact of conducting a marine seismic survey in the Straits of Georgia will result, at worst, in a temporary modification in behavior by certain species of pinnipeds, and possibly some individual cetaceans. While behavioral modifications may occur in certain species of marine mammals to avoid the resultant noise from airgun arrays, this behavioral change is expected to result in the harassment of only small numbers of each of several species of marine mammals and would have no more than a negligible impact on the affected species or stocks of marine mammals.

In addition, no take by injury and/or death is anticipated and takes by harassment will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously. No known rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

As a result, NMFS proposes to issue an IHA to the USGS for the possible harassment of small numbers of several species of marine mammals incidental to collecting marine seismic data in Straits of Georgia region of Washington State, provided the above-mentioned mitigation, monitoring, and reporting requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: January 31, 2002.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–2998 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020402C]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Northwest Crab Advisory Committee, will meet in Seattle (Ballard), WA.

DATES: The meeting will be held on Thursday, February 21, 2002.

ADDRESSES: The meeting will be held at the Leif Erickson Hall, 2245 N.W. 57th Street, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Arni Thomsom, Alaska Crab Coalition; 206–547–7560.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9:00 a.m. in the Conference Room at Leif Erickson Hall and continue until business is concluded. The North Pacific Northwest Crab Advisory Committee was formed by the Council to provide a means of access to the Bering Sea/Aleutian Islands king and Tanner crab regulatory process for nonresidents of Alaska. At this meeting, the committee will receive a presentation from the Alaska Department of Fish and Game on the opilio harvest strategy and will review proposals concerning the Bering Sea/Aleutian Island crab fisheries which will be considered by the Alaska Board of Fisheries in March 2002. If time permits, the Committee will discuss recent actions of the North Pacific Fishery Management Council concerning crab rationalization and other topics of interest concerning the Alaska crab fisheries.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: February 4, 2002.

Richard W. Surdi,

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

[FR Doc. 02–3003 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012402F]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Trawl Permit Stacking Work Group (Work Group) will hold a meeting which is open to the public.

DATES: The meeting will convene at 8:30 a.m. on Tuesday, February 26, 2002, and adjourn when business for the day is completed.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 7900 NE 82nd Avenue, Portland, OR 97220.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384; 503–326–6352.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, Fishery Economics Staff Officer; 503–326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to begin development of trawl capacity reduction options to be incorporated into a regulatory amendment or plan amendment to the groundfish fishery management plan. The Work Group will develop a number of options for Council consideration. One of the primary options to be developed will be the stacking of multiple permits on a single vessel. The Council has directed the Work Group to include individual quotas among the options it considers.

Although nonemergency issues not contained in the meeting agenda may come before the Work Group for discussion, those issues may not be the subject of formal Work Group action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice requiring emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Work Group's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–326–6352 at least 5 days prior to the meeting date.

Dated: February 1, 2002.

Richard W. Surdi,

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

[FR Doc. 02–3002 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012802B]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of Law Enforcement Committee Meeting

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a joint meeting of its Law Enforcement Committee and Law Enforcement Advisory Panel (AP).

DATES: The meeting will take place on Tuesday, February 26, 2002, from 1:30 p.m until 5 p.m. and Wednesday, February 27, 2002, from 8:30 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407; 843/571–1000; fax: 843/766–9444.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; phone: 843/571–4366; fax: 843/769–4520.

SUPPLEMENTARY INFORMATION: The Committee and AP will address the following issues: review and comment on the Council's proposed marine protected area sites; Vessel Monitoring System use in the Southeast; the status of cooperative law enforcement agreements in the South Atlantic; an on-line computer reporting system; a report on NOAA General Counsel enforcement activities; a review of 50 CFR Part 622 regulations; and discuss the use of commercial vessels under contract for law enforcement activities.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by February 22, 2002.

Dated: February 1, 2002.

Richard W. Surdi,

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

[FR Doc. 02–2999 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012202E]

Marine Mammals; File No. 1022–1659

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Doyle Hanan, Ph.D., P.O. Box 8914, Rancho Santa Fe, CA 92067 has been issued a permit to take California sea lions (*Zalophus californianus*) and harbor seals (*Phoca vitulina*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Ruth Johnson, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On November 30, 2001, notice was published in the **Federal Register** (66 FR 59781) that a request for a scientific research permit to take California sea lions and harbor seals had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: February 4, 2002.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–3004 Filed 2–6–02; 8:45 am]

BILLING CODE 3510–22–S

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Sequestration Preview Report for Fiscal Year 2003 to the Congress and the Office of Management and Budget

Pursuant to Section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its *Sequestration Preview Report for Fiscal Year 2003* to the House of Representatives, the Senate, and the Office of Management and Budget.

William J. Gainer,

Associate Director, Management, Congressional Budget Office.

[FR Doc. 02–2947 Filed 2–6–02; 8:45 am]

BILLING CODE 1450–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Meeting

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Intelligence in Support of War on Terrorism will meet in closed session on February 25–26, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. The Task Force will identify capabilities, technologies and approaches for strengthening intelligence in support of the war against terrorism.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Defense Science Board Task Force will address capabilities and approaches for achieving early indications and warning of terrorist capabilities and intentions, providing effective operational and tactical intelligence in support of crisis operations against terrorists, and the capability for attribution of attackers, should a terrorist event occur. The Task Force will also consider promising new capabilities facilitated by recent changes in statutes (e.g., Combating Terrorism Act of 2001).

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, this meeting will be closed to the public.

Dated: February 1, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–2894 Filed 2–6–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the

Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 11, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before April 8, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren—Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: January 31, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Application for New Grants—State Program Improvement Grants for Children with Disabilities.

Abstract: This information collection is necessary to make awards authorized by the Individuals with Disabilties Education Act, Part D, Subpart 1—State Program Improvement Grants. Eligible grantees are State Departments of Education in the 50 states, the District of Columbia, or Puerto Rico or an outlying area (Virgin Islands, Guam, American Somoa, and the Northern Mariana Islands). This program was newly authorized by the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105–17). The purpose of this program is to assist State educational agencies, and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities. Appropriations for the first awards under this program become available for obligation on June 15, 2002.

Additional Information: The State Improvement program funds have significant potential in making a positive difference in the education of children with disabilities. Since the inception of this program in FY 1998, grant applications have been invited through a ''Zippy Application Package'' (ZAP), a mechanism developed by the Department to provide applicants, through a **Federal Register** notice, both the closing date notice and the application package.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 30. Burden Hours: 2,700.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, *vivian.reese@ed.gov,* or should be electronically mailed to the internet address *OCIO—RIMG@ed.gov,* or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@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. 02–2893 Filed 2–6–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 8, 2002.

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: February 1, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension of a currently approved collection.

Title: Annual Performance Report for the Talent Search and Educational Opportunity Centers (EOC) Programs (JS).

Frequency: Annually.

*Affected Public:*Not-for-profit institutions (primary);State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 3000.

Abstract: Talent Search and EOC grantees must submit the report annually. The reports are used to evaluate the performance of grantees and to award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the programs and to analyze the impact of the program on the academic progress of participating students.

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 or to the e-mail address *vivian.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to SCHUBART at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–2930 Filed 2–6–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the AtomicEnergy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Between the United States and Japan Concerning Peaceful Uses of Nuclear Energy and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of eight unirradiated mixed-oxide (MOX) fuel assemblies, containing 3,439,377 g of U.S.-origin uranium (9,879 g U–235) and 255,086 g plutonium, from the Kansai Electric Power Co., Inc. to the Euratom Supply Agency. The material, which is currently located at the Takahama Nuclear Power Station Unit 4, Japan, is being returned to British Nuclear Fuels PLC, United Kingdom, because it cannot be utilized as originally intended. Upon its return to British Nuclear Fuels, the material will be stored in an approved facility pending recovery of the plutonium contained in the unirradiated fuel assemblies. The recovered plutonium will be returned to Japan in the form of fresh MOX fuel assemblies.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice, and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required under section 131 of the Atomic Energy Act, as amended, are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above may run concurrently.

Dated: February 4, 2002.

For the Department of Energy.

Trisha Dedik,

Director, Office of Nonproliferation Policy.

[FR Doc. 02–2954 Filed 2–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Advisory Board Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Alternative Technologies to Incineration Committee (ATIC) of the Environmental Management Advisory Board (EMAB). The EMAB is a Federal Advisory Committee Act (FACA) entity.

DATES: Wednesday, February 20, 2002 and Thursday, February 21, 2002.

ADDRESSES: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., (Room 6E–069), Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: James T. Melillo, Executive Director of the Environmental Management Advisory Board, (EM–10), 1000 Independence Avenue SW., (Room 5B–171), Washington, DC 20585. The telephone number is 202–586–4400. The Internet address is *james.melillo@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

The Purpose of the Board: To provide the Assistant Secretary for Environmental Management (EM) with information and advice on corporate issues. It recommends options to resolve difficult issues faced in the Environmental Management Program including: Public and worker health and safety, integration and disposition of waste, regulatory agreements, roles and authorities, risk assessment and cost-benefit analyses, program performance and functionality, and science requirements and applications. The ATIC will examine emerging candidate technologies identified by the Department for treatment for disposal of mixed transuranic (TRU) and low-level wastes previously scheduled for incineration at the Idaho National Engineering and Environmental Laboratory (INEEL). The Department is identifying these technologies through implementation of its technology Research Development Deployment & Demonstration (RDD&D) plan. The ATIC will facilitate stakeholder comment and communications on issues related to emerging alternative technologies to incineration for the treatment of mixed TRU and low-level wastes.

Tentative Agenda:

Wednesday, February 20, 2002.

8:30 a.m.—Welcome and Introductions

—Introductory Comments

—Approval of Minutes from 6/13/01 Meeting

—Remarks

—The EM–50 Science and Technology Work Plan Initiatives

—Status of Development Efforts for Technologies Identified by the Blue Ribbon Panel

—Regulatory Initiatives for Waste Isolation Pilot Plant (WIPP)

—Public Comment Period

5:00 p.m.

—Summary and Closing Comments

Thursday, February 21, 2002.

8:30 a.m.

—Introductory Comments

—The Stakeholder Forum

—Q&A Session and Summary Comments

—Committee Work Session

—Public Comment Period

4 p.m.–Adjournment

Public Participation: This meeting is open to the public. If you would like to file a written statement with the Committee you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, please contact Mr. Melillo at the address and telephone number listed above, or call the Environmental Management Advisory Board office at 202–586–4400, and we will reserve time for you on the agenda. You may also register to speak at the meeting on February 20–21, 2002, or ask to speak during the public comment period. Those who call in and or register in advance will be given the opportunity to speak first. Others will be accommodated as time permits. The Committee Co-Chairs will conduct the meeting in an orderly manner. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: We will make the minutes of the meeting available for public review and copying by April 20, 2002. The minutes and transcript of the meeting will be available for viewing at the Freedom of Information Public Reading Room (1E–190) in the Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. The room is open Monday through Friday from 9 a.m.–4 p.m. except on Federal holidays.

Issued in Washington, DC on February 4, 2002.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–2970 Filed 2–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration, Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments on the proposed extension for three years of the information collection, EIA–882T, ''Generic Clearance for Questionnaire Testing, Evaluation, and Research.''

DATES: Written comments must be filed within 60 days of the publication of this notice. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Comments should be directed to Herbert Miller. To ensure receipt of the comments by the due date, submission by FAX (202–287–1705) or e-mail (*Herbert.Miller@eia.doe.gov*) is recommended. The mailing address is Statistics and Methods Group, EI–70, Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Alternatively, Mr. Miller may be contacted by telephone at 202–287–1711.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the Department of Energy Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*) require the Energy Information Administration (EIA) to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek a three-year extension of this approval under Section 3507(a) of the Paperwork Reduction Act of 1995 from the Office of Management and Budget (OMB).

The EIA–882T was last extended for three years on July 26, 1999, and expires July 31, 2002. The information collections that would be conducted as part of this approval will facilitate EIA's use of techniques to improve our current information collections and to develop new collections. The goal is to improve the collections thereby reducing respondent burden and improving the quality of the information collected.

The information collections will include:

1. Pretests

Pretest methods will include face-to-face interviews, telephone interviews, mail questionnaires, and electronic questionnaires. Pretests conducted will generally be methodological studies of limited size, normally involving either purposive or statistically representative samples. They will include a variety of surveys, the exact nature and sample designs will be determined at the time of development of the pretests. The samples will be designed to clarify particular issues rather than to be representative of the universe. Collection may be on the basis of convenience, e.g., limited to specific geographic locations. The needs of a particular sample will vary based on the content of the information collection being tested, but the selection of sample cases will not be completely arbitrary in any instance.

2. Pilot surveys

Pilot surveys will generally be methodological studies of limited size, but will always employ statistically representative samples. The pilot

surveys will replicate components of the methodological design, sampling procedures (where possible), and questionnaires of a full-scale survey. Pilot surveys may be utilized when EIA is undertaking a complete revamping of a survey methodology (e.g., moving to computer-assisted information collections) or when EIA is undertaking a new information collection.

3. Focus groups

Focus groups involve group sessions guided by a monitor who follows a topical outline containing questions or topics focused on a particular issue, rather than adhering to a standardized questionnaire. Focus groups are useful for surfacing and exploring issues. Focus groups are typically used with specific groups of stakeholders.

4. Cognitive interviews

Cognitive interviews are one-on-one interviews in which a respondent is typically asked to ''think aloud'' as he or she answers survey questions, reads survey materials, or completes other activities as part of a survey process. A number of different techniques may be involved, including asking respondents to paraphrase questions, probing questions to determine how respondents come up with their answers, and similar inquiries. The objective is to identify problems of ambiguity, misunderstanding, or other difficulties respondents have answering questions. This may be used as the first stage of questionnaire development.

A wide variety of uses are made of the data obtained through this generic clearance. These projects represent significant strides in our efforts to improve the pretesting of EIA surveys. As EIA gains more experience, we hope to broaden involvement in testing, evaluation, and research.

II. Current Actions

EIA plans to request a three-year extension of the OMB approval for this collection. For each information collection that EIA proposes to undertake under this generic clearance, OMB will be notified at least two weeks in advance, and provided with an information copy of the collection instrument and all other materials describing the testing activity. EIA will only undertake a collection if OMB does not object to EIA's proposal.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Are the Types of Proposed Collections of Information Necessary for the Proper Performance of the Functions of the Agency and Does the Information Have Practical Utility?

Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What Enhancements Can Be Made to the Quality, Utility, and Clarity of the Information To Be Collected?

As a Potential Respondent

A. Public reporting burden for collections under the generic clearance are estimated to average 25 minutes per response. The range for burden varies significantly depending on the particular type of testing activity undertaken. The estimated burden for each response includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose and provide the information.

Please comment on the (1) the accuracy of the agency's estimate and (2) how the agency could minimize the burden of collecting this information, including the use of information technology.

B. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

C. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential Data User

A. Are there alternate sources for the information and are they useful? If so, what are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC February 1, 2002.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 02–2955 Filed 2–6–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC01–2–001 FERC Form No. 2]

Information Collection Submitted for Review and Request for Comments

February 1, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received one comment from an entity who supported the continued use of this information collection. The comments were in response to an earlier **Federal Register** notice of September 28, 2001 (66 FR 49653). The Commission has acknowledged these comments in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW., Washington, DC 20503. The Desk Officer may also be reached at (202) 395–7318. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Mr. Miller may be reached by telephone at

(202) 208–1415, by fax at (202) 208–2425, and by e-mail at mike.miller@ferc.gov.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. Collection of Information: FERC Form 2 ''Annual Report of Major Natural Gas Companies''

2. Sponsor: Federal Energy Regulatory Commission

3. Control No.: OMB No. 1902–0028. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no proposed changes to the existing collection. There is an adjustment to the reporting burden due to an additional respondent since the Commission's last submission in 1998. In addition, the availability of Form 2 submission software for all filers for the 2001 filing year, will the Commission believes, reduce the burden as respondents will benefit from user support at the Commission and from filing the FERC Form 2 electronically through the Commission's gateway on its website. This is a mandatory information collection requirement.

4. Necessity of Collection of Information: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the provisions of the Natural Gas Act (NGA). Under the NGA the Commission may prescribe a system of accounts for jurisdictional companies, and after notice and hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited. The FERC Form 2 is designed to collect financial information from ''Major Natural Gas Companies''. A company is defined as a ''Major Natural Gas Company'' if its combined gas transported or stored exceeded 50 million dekatherms (dth) in each of the three previous calendar years. The form collects general corporate information: summary financial information, balance sheet and income statement supporting information, gas plant, operating expenses and statistical data. The information collected is used by the Commission, state regulatory agencies and others in the review of the financial condition of the regulated companies, in various rate proceedings and audit programs and in the assessment of annual charges which are necessary to recover the Commission's costs.

5. Respondent Description: The respondent universe currently comprises on average, 57 companies subject to the Commission's jurisdiction.

6. Estimated Burden: 84,360 total burden hours, 57 respondents, 1 response annually, 1,480 hours per response (average).

7. Estimated Cost Burden to Respondents: 84,360 hours ÷ 2,080 hours per year × $117,041 per year = $ 4,746,913 average cost per respondent = $83,279.

Statutory Authority: Sections 8 and 10 of the Natural Gas Act (NGA), 15 U.S.C. 717g–717i.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–2973 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–199–000, ER02–218–000, ER02–219–000, ER02–220–000, ER02–221–000, ER02–222–000, ER02–223–000, ER02–224–000, ER02–225–000, ER02–226–000, ER02–227–000, ER02–228–000, ER02–229–000, ER02–230–000, ER02–498–000, ER02–788–000, EL02–50–000]

Mississippi Power Company, Southern Company Services, Inc., Georgia Power Company, Alabama Power Company, Gulf Power Company, Southern Company Services, Inc.; Notice Specifying Time for Submission of State Commission Comments

February 1, 2002.

Take notice that on January 30, 2002, the Commission issued an order in this proceeding that set these dockets for a trial-type, evidentiary hearing, but held the hearing in abeyance. Because the triennial review process of the underlying settlements did not explicitly invite state commission comments, the Commission explained in its January 30 order that it wished to solicit comments and views as to the reasonableness of the formula rates at issue in these dockets from the state commissions for the states where the retail customers of the entities which are purchasers under the rate schedules at issue in these dockets are located. *Mississippi Power Co., et al.,* 98 FERC ¶ 61,065 (2002).

Accordingly, the Commission invites comments and views as to the reasonableness of the formula rates at issue in these dockets from the state commissions for the states where the retail customers of the entities which are purchasers under the rate schedules at issue in these dockets are located.

Such comments and views shall be filed on or before February 28, 2002, and should reference the above dockets.

The Commission does not intend to permit answers to the state commissions' comments and views.

Magalie R. Salas,

Secretary.

[FR Doc. 02–2972 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–40–029]

Panhandle Eastern Pipe Line Company; Notice of Refund Report

February 1, 2002.

Take notice that on January 25, 2002, Panhandle Eastern Pipe Line Company (Panhandle) filed a Refund Report in the above-referenced docket pursuant to a settlement approved by the Commission on September 13, 2001. On December 28, 2001, Panhandle refunded to its jurisdictional customers their allocated share of the refunds of Kansas ad valorem taxes Panhandle received from its producer suppliers in accordance with the settlement.

Panhandle states that Schedules 1 and 2 show the refunds Settling Working Interest Owners made, the Jurisdictional/Non-Jurisdictional allocation, and the derivations of the Jurisdictional Sales Customer refund amounts. These schedules reflect the Missouri Public Service Commission's (MoPSC) election to opt-out off discrete portions of the settlement. Panhandle adjusted the jurisdictional customer distribution allocation to reflect MoPSC's election. Schedule 3 includes refund statements for large and small first sellers, that show the refund amounts due, including additional interest for the period February 1, 2001 to October 15, 2001. Schedule 4 lists the Non-Settling First Sellers that have not provided refunds under the settlement. Panhandle provided copies of its filing to all parties and respective State Regulatory Commissions.

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 February 22, 2002. 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.,

Deputy Secretary.

[FR Doc. 02–2976 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93–541–010]

Young Gas Storage Company, Ltd.; Notice of Application

February 1, 2002.

Take notice that on January 28, 2002, Young Gas Storage Company, Ltd. (Young), Post Office Box 1087, Colorado Springs, Colorado, 80944, filed an application pursuant to Section 7 of the Natural Gas Act and Rules 207 and 2001, *et seq.*, for the Commission's Rules of Practice and Procedure to amend the orders issues on June 22, 1994 at Docket Nos. CP93–541–000 and 001, October 5, 1995 at Docket Nos. CP93–541–004 and 006, August 30, 1996 at Docket No. CP93–541–007, September 16, 1997 at Docket No. CP93–541–008, and May 8, 1998 at Docket No. CP93–541–009. Young seeks amended authorization to modify the current maximum volumes of working gas and base gas that it may store. 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).

The Young gas storage field was initially developed for 5,271 MMcf of working gas and 4,674 MMcf of base gas. Young seeks to amend its certificate to remove 519 MMcf of base gas and add 519 MMcf to its working gas inventory, to maintain its certificated total capacity of 9,945 MMcf. Young, also, seeks to amend its approved Tariff by modifying the following: (i) ADWQ; (ii) reservoir integrity limit curve; (iii) average daily injection quantity; and (iv) maximum daily injection and withdrawal quantities. Young states the change in working and base gas will allow it to maximize the effectiveness of the storage field, the proposed changes will not affect existing shipper rates, and there will be no landowner or environmental impacts because the proposed changes are operational in nature.

Any questions regarding the application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, Colorado Interstate Gas Company, as Operator for Young Gas Storage Company, Ltd., Post Office Box 1087, Colorado Springs, Colorado, 80944; telephone 719–520–3788.

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 February 11, 2002, 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–2971 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

February 1, 2002.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents 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).

Exempt

Docket No.	Date filed	Presenter
1. Project No. 2145–000	01–18–02	Kate Terrell.
2. CP01–433–000	01–25–02	Jim D. Bloemker.
3. Project No. 1927–008	01–25–02	John Smith/Charles Hall.
4. CP01–260–000	01–28–01	John J. Wisniewski.
5. CP01–176–000	01–28–02	Laura Turner.
6. Project Nos. 1975–000, 2061–000 and 2777–000	01–30–02	Susan Giannettinno.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–2974 Filed 2–6–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–7]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260–2740, or e-mail at *Farmer.sandy@epa.gov.* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1463.05; National Oil and Hazardous Substances Pollution Contingency Plan (NCP); in 40 CFR parts 300.430–300.435 was approved 10/04/2001; OMB No. 2050–0096; expires 10/31/2004.

EPA ICR No. 1564.05; NSPS for Small Industrial-Commercial-Institutional Steam Generating Units; in 40 CFR part 60, subpart Dc; was approved 10/12/2001; OMB No. 2060–0202; expires 10/31/2004.

EPA ICR No. 1086.06; NSPS Standards of Performance for Onshore Natural Gas Processing Plants; in 40 CFR part 60, subpart KKK and LLL; was approved 10/12/2001; OMB No. 2060–0210; expires 10/31/2004.

EPA ICR No. 1587.05; Operating Permits Regulations; in 40 CFR part 70; was approved 10/12/2001; OMB No. 2060–0243; expires 10/31/2004.

EPA ICR No. 1897.02; Information Requirements for Marine Diesel Engines; in 40 CFR 40 part 96; was approved 10/12/2001; OMB No. 2060–0460; expires 10/31/2004.

EPA ICR No. 1726.03; Marine Engine Manufacturer In-House Emission Testing Program Reporting and Recordkeeping, in 40 CFR part 91, subpart N; was approved 10/12/2001; OMB No. 2060–0322; expires 10/31/2004.

EPA ICR No. 1596.05; Information Collection Activities; Significant New Alternatives Policy (SNAP) Program Final Rulemaking under Title VI of the Clean Air Act Amendments of 1990; in 40 CFR part 82, subpart G; was approved 10/12/2001; OMB No. 2060–0226; expires 10/31/2004.

EPA ICR No. 1058.07; NSPS for Incinerators; in 40 CFR part 60, subpart E; was approved 10/12/2001; OMB No. 2060–0040; expires 10/31/2004.

EPA ICR No. 1658.03; Control Technology Determinations for Constructed or Reconstructed Major Sources of Hazardous Air Pollutants; in 40 CFR part 63, subpart B; was approved 10/12/2001; OMB No. 2060–0373; expires 10/31/2004.

EPA ICR No. 0586.09; TSCA Section 8(A) Preliminary Assessment Information Rule (PAIR); was approved 10/15/2001; in 40 CFR part 712; OMB No. 2070–0054; expires 10/31/2004.

EPA ICR No. 1655.04; Detergent Gasoline: Certification Requirements for Manufacturers of Detergent Additives; Requirements for Transferors and Transferees of Detergent Additives; Requirements for; in 40 CFR part 80 subpart G; was approved 10/12/2001; OMB No. 2060–0275; expires 10/31/2004.

EPA ICR No. 1078.06; NSPS for Phosphate Rock Plants; in 40 CFR part 60 subpart NN; was approved 10/15/2001; OMB No. 2060–0111; expires 10/31/2004.

EPA ICR No. 1676.03; Clean Air Act Tribal Authority; was approved 10/15/2001; in 40 CFR parts 35, 49, 50 and 81; OMB No. 2060–0306; expires 10/31/2004.

EPA ICR No. 1414.04; National Emissions Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Hazardous Organic NESHAP (HON); in 40 CFR part 63, subpart F, G, H, I; was approved 10/15/2001; OMB No. 2060–0282; expires 10/31/2004.

EPA ICR No. 1050.16; NSPS for Storage Vessels for Petroleum Liquids; in 40 CFR part 60, subpart Ka; was approved 10/12/2001; OMB No. 2060–0212; expires 10/31/2004.

EPA ICR No. 1808.03; Environmental Impact Assessment of Nongovernmental Activities in Antarctica; in 40 CFR part 8; was approved 10/15/2001; OMB No. 2020–0007; expires 10/31/2004.

EPA ICR No. 1807.02; National Emissions Standards for Hazardous Air Pollutants—Pesticide Ingredient Production; in 40 CFR part 63, subpart MMM; was approved 10/16/2001; OMB No. 2060–3070; expires 10/31/2004.

EPA ICR No. 2018.01; Pollution Prevention Compliance Alternative; Transportation Equipment Cleaning (TEC) Point Source Category; in 40 CFR part 442; was approved 10/15/2001 OMB No. 2040–0235; expires 10/31/2004.

EPA ICR No. 0143.07; Recordkeeping Requirements for Producers of Pesticides under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); in 40 CFR part 169; was approved 10/15/2001; OMB No. 2070–0028; expires 10/31/2004.

EPA ICR No. 0234.07; Performance Evaluation Studies on Water and Wastewater Laboratories; in 40 CFR part 136, 141, and 142; was approved 10/15/2001; OMB No. 2080–0021; expires 10/31/2002.

EPA ICR No. 1791.03; Establishing No-Discharge Zones (NDZs) Under Clean Water Act Section 312; in 40 CFR part 139; was approved 10/15/2001; OMB No. 2040–0187; expires 10/31/2004.

EPA ICR No. 1139.06; TSCA Section 4 Test Rules, Consent Orders, Test Rule Exemptions, and Voluntary Data Submission; was approved 10/15/2001; OMB No. 1139.06; expires 10/31/2004.

EPA ICR No. 0328.09; Spill Prevention, Control and Countermeasure (SPCC) Plans; was approved 10/15/2001; in 40 CFR 112.1–112.7; OMB No. 2050–0021; expires 10/13/2004.

EPA ICR No. 1680.03; Combined Sewer Overflow Policy; was approved 10/15/2001; OMB No. 2040–0170; expires 10/31/2004.

EPA ICR No. 1914/01; Valuing Inland Water Quality Improvements; was approved 10/15/2001; OMB No. 2010–0031; expires 10/31/2004.

EPA ICR No. 1652.04; NESHAP for Halogenated Solvent Cleaners/Halogenated Hazardous Air Pollutants; in 40 CFR part 63, subpart T; was approved 10/16/2001; OMB No. 2060–0273; expires 10/31/2003.

EPA ICR No. 1352.08; Community Right-to-Know Reporting Requirements under Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA); in 40 CFR part 370.21, .25, and .30; was approved 10/31/2001; OMB No. 2050–0072; expires 10/31/2004.

EPA ICR No. 1773.03; NESHAP for Hazardous Waste Combusters (Direct Final Rule); in 40 CFR part 63, subpart EEE; was approved 10/16/2001; OMB No. 2050–0171; expires 10/31/2004.

EPA ICR No. 1816.02; State Source Water Assessment and Protection Programs; was approved 10/18/2001; OMB No. 2040–0197; expires 10/31/2004.

EPA ICR No. 1132.06; NSPS for Volatile Organic Liquid Storage Vessels; in 40 CFR part 60, subpart Kb; was approved 10/25/2001; OMB No. 2060–0074; expires 10/31/2004.

EPA ICR No. 1713.04; Federal Operating Permit Program of the Clean Air Act; in 40 CFR part 71; was approved 10/25/2001; OMB No. 2060–0336; expires 10/31/2004.

EPA ICR No. 0916.11; Annual Updates of Emission Data to the Aerometric Information Retrieval System (AIRS); was approved 10/29/2001; OMB No. 2069–0088; expires 10/31/2004.

EPA ICR No. 1360.06; in 40 CFR part 280 and 281; Underground Storage Tanks: Technical & Financial Requirements & State Program Approval Procedures; was approved 10/29/2001; OMB No. 2050–0068; expires 10/31/2004.

EPA ICR No. 0820.08; Hazardous Waste Generator Standards; 40 CFR part 262; was approved 10/29/2001; OMB No. 2050–0035; expires 10/31/2004.

EPA ICR No. 1158.07; Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing; in 40 CFR part 60, subpart BBB; OMB No. 2060–0156; expires 10/31/2004.

EPA ICR No. 0657.07; New Source Performance Standards for Graphic Arts Industry; in 40 CFR part 60, subpart QQ; was approved 10/29/2001; OMB 2060–0105; expires 10/31/2004.

EPA ICR No. 1748.03; State Small Business Stationary Source Technical and Environmental Compliance Assistance Program Annual Reporting Form; was approved 10/29/2001; OMB 2060–0337; expires 10/31/2004.

Short Term Extensions

EPA ICR No. 1832.02; Consumer Confidence Reports for Community Water Systems; OMB No. 2040–0201; on 09/26/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1860.01; Agency Generic Information Collection Request, regional compliance Assistance Program Evaluation; OMB No. 2020–0015; on 09/25/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1741.02; Correction of Misreported Chemical Substances on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory; OMB No. 2070–0145; on 09/25/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1637.04; General Conformity of Federal Actions to State Implementation Plans; in 40 CFR part 51, subpart W and part 93, subpart B; OMB No. 2060–0279; on 09/28/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1800.01; Information Requirements for Locomotives and Locomotive Engines; in 40 CFR part 92 subpart D; OMB 2060–0392; on 09/28/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1831.01; NESHAP for Ferroalloys Production; in 40 CFR part 63, Subpart XXX; OMB No. 2060–0391; on 09/28/2001 OMB extended the expiration date through 10/31/2001.

EPA ICR No. 1836.01; Public Water System Supervision Primary Regulation in 40 CFR part 142; OMB No. 2040–0195; on 09/26/2001 OMB extended the expiration date through 12/30/2001.

EPA ICR No. 1955.01; Operator Certification Guidelines and Operator Certificate Expense Reimbursement Grants Program; OMB No. 2040–0236; on 10/29/2001 OMB extended the expiration date through 02/2002.

OMB Withdrawals

EPA ICR No. 1923.02; Radon in Drinking Water; on 10/18/2001 was withdrawn from OMB review.

EPA ICR No. 1931.01; Information Collection Request for Proposed NPDES Requirements for Municipal Sanitary Sewers, Municipal Satellite Collection Systems and Sanitary Sewer Outflows on 10/18/2001 was withdrawn from OMB review.

EPA ICR No. 1937.01; Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations on 10/18/2001 was withdrawn from OMB review.

EPA ICR No. 0226.16; Application for NPDES Ocean Discharge Permit (CWA Section 403) Proposed Rule was withdrawn from OMB review.

EPA ICR No. 1362.04; National Emissions Standards for Coke Oven Batteries, 40 CFR part 63, subpart L, on 10/17/2001 was withdrawn from OMB review.

Comment Filed

EPA ICR No. 1715.04; TSCA Sections 402 and 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities (Proposed Rule); OMB No. 2070–0155; on 10/12/2001 OMB filed comment.

EPA ICR No. 0783.01; Vehicle Emission Certification and Fuel Economy Compliance (Proposed Rule—Vehicle and Engine Service Information); OMB No. 2060–0104; on 10/12/2001 OMB filed comment.

EPA ICR No. 1805.02; NESHAP subpart S, Pulp and Paper Industry; OMB No. 2060–0377; on 10/12/2001 OMB filed comment.

Disapproved

EPA ICR No. 1956.01; Investigations into Possible Noncompliance of Stationary Sources with the Accidental Release Prevention Program Established in 40 CFR part 68; was disapproved by OMB on 10/17/2001.

EPA ICR No. 2019.01; Stakeholder Preferences Regarding Environmental Quality, Quality of Life, and Economic Development in Survey of Cape May County, New Jersey; was disapproved by OMB 10/26/2001.

Dated: January 29, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–2979 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Recordkeeping and Periodic Reporting of the Production Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-Depleting Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Recordkeeping and Periodic Reporting of the Production Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-Depleting Substances; OMB Control Number 2060–0170, expiration date January 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 11, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1432.21 and OMB Control No. 2060–0170, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.susan@epamail.epa.gov,* or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1432.21. For technical questions about the ICR contact Suzanne Bratis at EPA by phone at (202) 564–3515.

SUPPLEMENTARY INFORMATION:

Title: Recordkeeping and Periodic Reporting of the Production Import, Export, Recycling, Destruction, Transhipment and Feedstock Use of Ozone-Depleting Substances (OMB Control No. 2060–0170; EPA ICR No.1432.21) expiring, January 31, 2002. This is a request for extension of a currently approved collection.

Abstract: The information required satisfies statutory mandates for reporting and monitoring under section 603 of Title VI of CAA and will be used to generate reports to Congress as mandated under section 603(d) of title VI. The previously approved revisions to the reporting requirements changed the regulations so companies may produce and import for special exempted uses of methyl bromide for quarantine and pre-shipment applications during the interim period when production and consumption is capped at 50% of the 1991 baseline level. In order to monitor each company's production, import, export, destruction, and transformation, the reporting system continues to require information which can be used to check industry compliance with the stratospheric ozone protection regulations. Compliance during the reduction steps for methyl bromide mean that companies can produce and import 50% of 1991 baseline levels, except for the specific exemption created by this action for quarantine and pre-shipment applications.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on November 2, 2001 (66 FR 55658); no public comments were received.

Burden Statement: The burden hours shown below represent the hours for the information collection request (ICR). The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for collection of additional information associated with the reporting is estimated to average 865 hours. This estimate accounts for all responses provided by all effected entities per year. The following is a summary of the estimates taken from the ICR:

Respondents/Affected Entities: Import and export of Ozone-depleting substances.

Estimated Total Number of Potential respondents: 1617.

Frequency of Response: Quarterly.

Estimated Total Annual Hour Burden: 7,357.

Estimated Total Annualized Capital, O&M Costs Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1432.21 and OMB Control No. 2060–0170 in any correspondence.

Dated: January 31, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–2980 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Architectural Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Architectural Coatings; EPA ICR# 1750.03; OMB Control Number 2060–0393, expiration date January 31, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 11, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1750.03 and OMB Control No. 2060–0040, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *Auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1750.03. For technical questions about the ICR contact Linda Herring by phone at (919) 541–5358, by E-mail at *herring.linda@epa.gov*, or by mail at Coatings and Consumer Products Group, Mail Code C539–03, Emission Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTARY INFORMATION:

Title: Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Architectural Coatings; EPA ICR# 1750.03; OMB Control Number 2060–0393, expiration date January 31, 2002. This is a request for extension of a currently approved collection.

Abstract: Entities potentially affected by this action are those which manufacture or import architectural coatings for sale or distribution in the United States, including the District of Columbia and all United States territories. The information collection includes initial reports, annual reporting, and recordkeeping necessary for EPA to ensure compliance with Federal standards for volatile organic compounds in architectural coatings. Respondents are manufacturers and importers of architectural coatings. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on August 17, 2001 (66 FR 43253); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 47 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previous applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers and importers of architectural coatings.

Estimated Number of Respondents: 500.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 23,411 hours.

Estimated Total Annualized Capital, O&M Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1750.03 and OMB Control No. 2060–0393 in any correspondence.

Dated: January 29, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–2981 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI-100013; FRL-6723-6]

Workshop Schedules for EPCRA/TRI Training: Spring 2002

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will conduct EPCRA/TRI Training workshops across the country during the spring of 2002. These workshops are intended to assist persons preparing their annual reports on release and other waste management activities as required under sections 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). These reports must be submitted to EPA and designated state officials on or before July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Priscilla Evans, Workshop Coordinator

(202) 260-9124, evans.priscilla@epa.gov for specific information on this notice. Information concerning the EPCRA/TRI Training workshops is also available on EPA's web site at http://www.epa.gov/tri.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

You may find this notice applicable if you manufacture, process, or otherwise use any EPCRA section 313 listed toxic chemical. Potentially applicable categories and entities may include, but are not limited to:

Category	Examples of regulated entities
Industry	Metal mining, Coal mining, Manufacturing, Electricity generating facilities, Hazardous waste treatment/TSDF, Chemicals and allied products-wholesale, Petroleum bulk plants and terminals, and Solvent recovery services.
Federal Government	Federal facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to find this notice of training course offerings applicable. Other types of entities not listed in the table may also find this notice applicable. To determine whether your facility could find this notice applicable, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding ''FOR FURTHER INFORMATION CONTACT'' section. You may be able to take advantage of the training courses if:

your facility is a facility covered under section 313 of the Emergency Planning and Community Right-To-Know Act (EPCRA);

your facility is a federal facility that manufactures, processes, or otherwise uses section 313 listed toxic chemicals;

you prepare annual release and other waste management activity reports (i.e., Form R);

you are a consultant who assists in the preparation of these reports; or

you would like information on recent changes to EPCRA/TRI regulations

The EPA conducts annual training courses to assist you with your reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA) or Executive Order 13148 (for federal facilities). You must submit your annual release and other waste management activity reports (i.e., Form R) if your facility meets the descriptions for the following Standard Industrial Classification (SIC) codes and qualifiers, and meets other criteria specified in part 372 of Title 40 of the Code of Federal Regulations:

Metal Mining (SIC Code 10, except 1011, 1081, and 1094);

Coal Mining (SIC Code 12, except 1241);

Manufacturing (SIC Codes 20-39)

Electricity Generating Facilities (SIC Codes 4911, 4931, and 4939—limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce);

Hazardous Waste Treatment/TSDF (SIC Code 4953—limited to facilities regulated under RCRA subtitle C, 42 U.S.C. section 6921 *et seq.*);

Chemicals and Allied Products (SIC Code 5169);

Petroleum Bulk Plants and Terminals (SIC Code 5171);

Solvent Recovery (SIC Code 7389—limited to facilities primarily engaged in solvents recovery services on a contract or fee basis); and

Federal Facilities (by Executive Order 13148).

B. What is Presented at these Training Courses?

The training courses present reporting requirements of EPCRA section 313 and PPA section 6607. A variety of hands-on exercises using the reporting forms (i.e., Form R) along with supporting materials will be used to help you understand any reporting obligations you might have under EPCRA section 313. The training courses are scheduled in the spring so that you can prepare and submit your report(s) for the Reporting Year 2001, forms due on or before July 1, 2002.

C. How Much Time is Required for the Training?

The full training course runs two days and a schedule for the 2-day workshops is provided below (see Table 1). The course is divided into three modules. The first module encompasses the first day and is devoted to a general discussion of EPCRA section 313 and PPA section 6607 reporting requirements with exercises used to reinforce key concepts. The second module is given in the morning of the second day, and is designed to provide detailed information about the persistent, bioaccumulative, and toxic (PBT) chemicals reporting requirements and lead and lead compound reporting requirements within the TRI program. The third and final module is given in the afternoon of the second day, and this module is designed to provide an update to the TRI program and information about difficult policy topics. Interested persons may register for both days (persons with little or no background in EPCRA section 313 and PPA section 6607 reporting requirements) or just the second day (persons experienced in preparing either Form R or Form A). In addition, EPA is conducting abbreviated training courses. These courses are one day in duration and, in some cases, are focused for a particular industry sector(s) (see Table 2).

D. When are these Training Courses Offered and How Do I Register?

The schedules for training courses are provided in the tables below. You should note, however, that changes to the schedules may occur without further notice so it is important to check your registration materials and confirmation notice (see below). Also, you may access current training course schedule information via the TRI Home Page (http://www.epa.gov/tri) or via the TRI training course Home Page (http://www.epa.gov/tri/report/training/registration.htm).

You should direct your requests for training course registration materials, including schedules of dates and locations, to the designated contacts in Table 3 (if registration contact is other than Abt Associates, Inc.).

To register for any of the EPA training courses supported by Abt Associates, Inc., you can direct your requests to Abt Associates, Inc. (www.epa.gov/tri/report/training/registration.htm). If you do not have access to the internet, you may fax your request to: (301) 652-7530.

To register, you must provide all of the following information to the registration contact indicated: your

name, your company's name and SIC code, your postal address, your telephone number, your fax number, your email address, and your preferred training location(s). Requests should be directed to the indicated registration contact.

You will receive an acknowledgment of application receipt via fax or email. If your application is accepted, a confirmation notice will be sent to you that will contain important information regarding date, location, directions, etc. If the training course you applied for is filled or canceled, alternate training courses will be suggested. Since space is limited, you are encouraged to submit your registration application as early as possible but not less than one week before your preferred training course.

TABLE 1. EPCRA/TRI TRAINING: SPRING 2002 2-DAY WORKSHOP SCHEDULE[1].

Date	Location	Registration Contact
March 5-6	Dallas, TX	Abt Associates, Inc.
March 6-7[1]	Denver, CO	Jack Salter, US EPA Region 8
March 19-20	Roanoke, VA	Abt Associates, Inc.
March 20-21[1]	Denver, CO	Jack Salter, US EPA Region 8
March 20-21	Rockford, IL	Fran Guido, US EPA Region 5
April 2-3	Atlanta, GA	Abt Associates, Inc.
April 3-4	San Francisco, CA	Abt Associates, Inc.
April 3-4[2]	Denver, CO	Jack Salter, US EPA Region 8
April 9-10[1]	Salt Lake City, UT	Jack Salter, US EPA Region 8
April 15-16	Sayreville, NJ	Abt Associates, Inc.
April 17-18	Louisville, KY	Abt Associates, Inc.
April 18-19	Columbia, SC	Abt Associates, Inc.
May 1-2[3]	Denver, CO	Jack Salter, US EPA Region 8
May 1-2	Jackson, MS	Abt Associates, Inc.
May 6-7	Seattle, WA	Dave Somers, US EPA Region 10
May 8-9	Orlando, FL	Abt Associates, Inc.
May 9-10	Portland, OR	Dave Somers, US EPA Region 10
May 13-14	Sioux Falls, SD	Abt Associates, Inc.
May 14-15	Kansas City, MO	McKinzie Environmental
May 15-16[2]	Salt Lake City, UT	Jack Salter, US EPA Region 8

This schedule may change without further notice. A schedule reflecting any changes to this notice will be posted at http://www.epa.gov/tri.

[1] For manufacturing facilities, petroleum bulk storage facilities, chemical distributors, solvent recovery facilities, and Subtitle C TSD facilities.

[2] For metal mines, coal mines, and electricity generating Facilities only.

[3] For Federal Facilites.

TABLE 2. SCHEDULE FOR OTHER EPCRA/TRI WORKSHOPS[1]

Date	Location	Registration Contact
February 28[1]	Denver, CO	Jack Salter, US EPA Region 8
March 18	Beaumont/Port Arthur, TX	Abt Associates, Inc.
March 19	Lake Charles, LA	Abt Associates, Inc.
March 20	Lafayette, LA	Abt Associates, Inc.
March 22	Baton Rouge, LA	Abt Associates, Inc.
April 2	San Jose, CA	Abt Associates, Inc.

TABLE 2. SCHEDULE FOR OTHER EPCRA/TRI WORKSHOPS[1]—Continued

Date	Location	Registration Contact
April 3	Charleston, WV	National Institute for Chemical Studies
April 8	Sante Fe, NM	Abt Associates, Inc.
April 9	Richmond, VA	Mega-tech, Inc.
April 10	El Paso, TX	Abt Associates, Inc.
April 11[1]	Salt Lake City, UT	Jack Salter, US EPA Region 8
April 12	Corpus Christi, TX	Abt Associates, Inc.
April 16	Atlanta, GA	Abt Associates, Inc.
April 17	Cherry Hill, NJ	Abt Associates, Inc.
April 17	Salina, KS	McKinzie Environmental
April 18	Omaha, NE	McKinzie Environmental
April 22	Little Rock, AR	Abt Associates, Inc.
April 23	Towson, MD	Mega-tech, Inc.
April 24	Oklahoma City, OK	Abt Associates, Inc.
April 25	Troy, MI	Fran Guido, US EPA Region 5
April 26	Tulsa, OK	Abt Associates, Inc.
April 30	Atlanta, GA	Abt Associates, Inc.
April 30	St. Louis, MO	McKinzie Environmental
May 1	Anchorage, AK	Dave Somers, US EPA Region 10
May 1	Cedar Rapids, IA	McKinzie Environmental
May 1	San Juan, Puerto Rico	Abt Associates, Inc.
May 2	North Chelmsford, MA	Dwight Peavey, US EPA Region 1
May 2	Toledo, OH	Fran Guido, US EPA Region 5
May 3	Twin Falls, ID	Dave Somers, US EPA, Region 10
May 7	Buffalo, NY	Abt Associates, Inc.
May 7	Pittsburgh, PA	Mega-tech, Inc.
May 8	Garden City, NJ	Abt Associates, Inc.
May 9	Peoria, IL	Fran Guido, US EPA Region 5
May 10	Albany, NY	Abt Associates, Inc.
May 13	Los Angeles, CA	Abt Associates, Inc.
May 14	San Diego, CA	Abt Associates, Inc.
May 16	Green Bay, WI	Fran Guido, US EPA Region 5
May 16	Phoenix, AZ	Abt Associates, Inc.
May 17	Reno, NV	Abt Associates, Inc.
May 21	Philadelphia, PA	Mega-tech, Inc.
May 23	Columbus, OH	Fran Guido, US EPA, Region 5
May 29	Evansville, In	Fran Guido, US EPA, Region 5
May 30	Philadelphia, PA	Mega-tech, Inc.

TABLE 2. SCHEDULE FOR OTHER EPCRA/TRI WORKSHOPS[1]—Continued

Date	Location	Registration Contact
June 6	Minnetonka, MN	Fran Guido, US EPA, Region 5

This schedule may change without further notice. A schedule reflecting any changes from this notice will be posted at http://www.epa.gov/tri;

[1]Half day workshops on lead and lead compounds reporting requirements.

Contact	Telephone	Fax	Email/Web Site
Sherri Deck Abt Associates, Inc.	(301) 347-5311	(301) 652-7530	Sherri_ Deck@abtassoc.com
Dwight Peavey US EPA, Region 1	(617) 918-1829	(617) 918-1810	Peavy.Dwight@epa.gov
Fran Guido US EPA, Region 5	(312) 886-4348		Guido.Fran@epa.gov
Jack Salter US EPA Region 8	(303) 312-6026		Salter.Jack@epa.gov
Dave Somers US EPA Region 10	(206) 553-2571		Somers.David@epa.gov
Maggie Rodriguez Mega-tech, Inc.	1-888 534-1629		www.epaconference.com
McKinzie Environmental	(886) 844-4460	(913) 390-8884	www.mckinzie construction.com
National Institute of Chemical Studies	(304) 346-6264		

E. How Much Will the Training Course Cost?

There is no registration fee for the 2-Day EPCRA/TRI Training courses; however, there may be a registration fee for some of the 1-day EPCRA/TRI workshops (check with the registration contact for fees and further information). You may access information regarding registration fees via the TRI Home Page (http://www.epa.gov/tri) or by contacting the respective Registration Contact listed above (see Table 3). If there is insufficient interest at any of the training course locations, those courses may be canceled. The Agency bears no responsibility for your decision to purchase non-refundable transportation tickets or accommodation reservations.

List of Subjects

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxics Release Inventory.

Dated: February 1, 2002.

Elaine G. Stanley,

Director, Office of Information Analysis and Access.

[FR Doc. 02–2988 Filed 2–6–01; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7138–6]

Mr. T. Cozart Well Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with Inter-City Products Corporation, pursuant to 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, regarding the Mr. T. Cozart Superfund Site located in Lewisburg, Marshall County, Tennessee. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA Region 4 (WMD–CPSB), Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within thirty (30) calendar days of the date of this publication.

Dated: January 23, 2002.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–2982 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51982; FRL–6823–1]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and

5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 24, 2001 to January 9, 2002, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPTS–51982 and the specific PMN number, must be received on or before March 11, 2002.

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 OPPTS–51982 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the 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 Additional Information, Including Copies of This Document and Other Related Documents?

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

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51982. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, 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, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B– 607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51982 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51982 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

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 listed 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. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. 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. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from December 24, 2001 to January 9, 2002, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The ''S'' and ''G'' that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 12/24/01 TO 01/09/02

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0058	10/16/01	01/14/02	CBI	(S) Flocculant monomer	(G) N-substituted-2-methyl-2-propenamide
P–02–0058	10/16/01	01/14/02	CBI	(S) Flocculant monomer	(G) N-substituted-2-methyl-2-propenamide
P–02–0179	12/27/01	03/27/02	CBI	(G) Binder resin	(G) Acrylic polyol
P–02–0182	12/26/01	03/26/02	CBI	(G) Emulsifier	(G) Polyolefin carboxylate alcohol
P–02–0183	12/27/01	03/27/02	PRC-Desoto International, a PPG Industries Company	(G) Isocyanate base activator to cure polyester paint base	(G) Fluorinated aliphatic isocyanate polymer
P–02–0184	12/26/01	03/26/02	Image Polymers Company	(S) Toner binder	(S) 1,4-benzenedicarboxylic acid, polymer with 1,3-diisocyanatomethylbenzene, 1,2-ethanediol, 2,2′-[1,2-ethanediylbis (oxy)] bis [ethanol], 2-ethyl-2-(hydroxymethyl)-1,3-propanediol and alpha,alpha′-[(1-methylethylidene)di-4,1-phenylene] bis (omega-hydroxypoly [oxy(methyl-1,2-ethanediyl)]], benzoate (ester)
P–02–0187	12/27/01	03/27/02	Arch Chemicals, Inc.	(S) Used as an ingredient in 2-component polyurethane coatings.	(G) Aromatic polyisocyanate adduct
P–02–0188	12/27/01	03/27/02	Arch Chemicals, Inc.	(S) Used as an ingredient in 2-component polyurethane coatings	(G) Aliphatic polyisocyanate adduct
P–02–0189	12/27/01	03/27/02	Arch Chemicals, Inc.	(S) Use as an ingredient in waterborne urethane	(G) Carboxyl polyol triethylamine salt
P–02–0191	12/27/01	03/27/02	CBI	(G) Polymer for contained commercial/industrial use (incorporated into an article)	(G) 2-propenoic acid, polymer with butyl 2-propenoate, n-(1,1-dimethyl-3-oxobutyl)-2-propenamide, 2-methoxy-2-substituted-ethyl 2-propenoate, n-[(2-methylpropoxy)methyl]-2-propenamide and methyl 2-methyl-2-propenoate
P–02–0192	12/28/01	03/28/02	Hanse Chemie USA, Inc.	(S) Flexibilisation of epoxy resins	(S) Siloxanes and silicones, di-me, hydrogen-terminated, reaction products with bisphenol a diglycidyl ether and 10-undecenoic acid
P–02–0193	12/28/01	03/28/02	Lonza Inc.	(S) EPA pesticide active ingredient for: laundry detergents; toilet bowl sanitizer; water treatment; household industrial and institutional ingredient for: drain cleaner and similar oxidizer applications; laundry detergent additive without sanitizer claim	(S) 1-chloro-5,5-dimethyl hydantoin
P–02–0194	12/31/01	03/31/02	3M Company	(G) Protective treatment	(G) Aliphatic urethane
P–02–0195	12/31/01	03/31/02	3M Company	(G) Protective treatment	(G) Fluorochemical urethane

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 12/24/01 TO 01/09/02—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0196	12/28/01	03/28/02	CBI	(G) Open, non-dispersive use	(G) Aromatic alkanoate
P–02–0197	12/28/01	03/28/02	BASF Corporation	(G) Crosslinker	(G) Carboxylated amine
P–02–0198	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0199	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0200	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0201	12/27/01	03/27/02	E.I. Dupont de Nemours	(G) Binder	(G) Acrylic copolymer
P–02–0202	12/31/01	03/31/02	AOC L.L.C.	(S) Polyester component for laminating of reinforced plastic parts	(S) 2,5-furandione, polymer with 1,2-ethanediol and 2,2′-oxybis[ethanol], mixed 2-ethylhexyl and 3a,4,5,6,7,7a-hexahydro-4,7-methano-1h-inden-5 (or 6)-yl esters
P–02–0203	12/31/01	03/31/02	Dow Corning Corporation	(G) Coating	(G) Polyamic acid alkyl ester derivatives
P–02–0204	01/02/02	04/02/02	CBI	(G) Open, non-dispersive (pu dispersion)	(G) Polyurethane resin dispersion
P–02–0205	12/31/01	03/31/02	Dow Corning Corporation	(G) Coating initiator	(G) Naphthoquinone diazide sulfonate ester
P–02–0206	01/03/02	04/03/02	CBI	(G) Open, non-dispersive (pu dispersion)	(G) Polyurethane resin despersion
P–02–0207	12/31/01	03/31/02	CBI	(G) Manufacturing intermediate, ag product	(G) Quaternary salt
P–02–0208	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0209	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0210	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0211	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0212	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0213	01/03/02	04/03/02	CBI	(G) Component of coating with open use	(G) Siloxane polyol ester
P–02–0214	01/04/02	04/04/02	Itochu Specialty Chemicals, Inc.	(G) Physical characteristics modifier for industrial use in certain solid composite articles.	(S) Lithium potassium titanium oxide
P–02–0215	01/02/02	04/02/02	Nippon Kayaku America, Inc.	(S) Thermosetting resin modifier	(S) 1,3-benzenedicarboxylic acid, 5-hydroxy-, polymers with 3-(4-aminophenoxy) benzenamine, 3-carboxy-1-cyano-1-methylpropyl-terminated acrylonitrile-butadiene polymer and isophthalic acid
P–02–0216	01/04/02	04/04/02	CBI	(S) Polyester polyols for polyurethane resin diacrylate	(G) Diol
P–02–0217	01/04/02	04/04/02	CBI	(G) Pigment dispersant	(G) Fatty acid modified polyester
P–02–0218	01/04/02	04/04/02	Kowa American Corporation	(G) Adhesive intermediate	(G) Hydroxyalkyl ether
P–02–0219	01/04/02	04/04/02	CBI	(G) Raw material in solid phase chemistry	(G) Chloro trityl polystyrene
P–02–0220	01/07/02	04/07/02	CBI	(G) Chemical intermediate	(G) Chemical intermediate
P–02–0221	01/04/02	04/04/02	CBI	(G) Open, non-dispersive use	(G) Polyester/styrene-acrylic grafted resin
P–02–0222	01/04/02	04/04/02	CBI	(G) Ingredient in floor finisher	(G) Polyurethane prepolymer
P–02–0223	01/07/02	04/07/02	CBI	(G) Chemical intermediate	(G) Chemical intermediate
P–02–0224	01/07/02	04/07/02	CBI	(G) Plastics additive	(G) Poly(oxyalkylene) aromatic amine colorant
P–02–0225	01/07/02	04/07/02	CBI	(G) Plastics additive	(G) Poly(oxyalkylene) aromatic amine colorant
P–02–0226	01/09/02	04/09/02	CBI	(G) Chemical intermediate	(G) Substituted phenol derivative
P–02–0227	01/07/02	04/07/02	Solutia Inc.	(S) Grinding vehicle for electrodeposition primer	(G) Polyether
P–02–0228	01/09/02	04/09/02	Quest International Fragrances Co.	(S) Fragrance ingredient	(S) 3,3-dimethyl-4-isopropyl-1,5-dioxaspriro(4,5)-decane

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 12/24/01 TO 01/09/02—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0229	01/08/02	04/08/02	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrances for soaps, detergents, cleaners and other household products	(S) 2h-indeno[4,5-b]furan, decahydro-2,6,6,7,8,8-hexamethyl-
P–02–0230	01/09/02	04/09/02	Reichhold, Inc.	(G) Acrylic resin for coatings	(G) Acrylic resin
P–02–0231	01/07/02	04/07/02	Clariant LSM (America) Inc.	(G)Photographic Color Coupler	(G) Hydantoinyl m-anilide ester
P–02–0232	01/08/02	04/08/02	Na Industries, Inc.	(S) A binder resin for metal coating	(G) Dehydrated castor oil modified expoxyester
P–02–0233	01/08/02	04/08/02	Solutia Inc.	(S) Anti-settling agent for industrial coatings	(G) Modified alkyl ammonium salts
P–02–0234	01/08/02	04/08/02	CBI	(G) Colourant	(G) Sulphonated azo/hydrazo dye
P–02–0235	01/08/02	04/08/02	CBI	(G) Colourant	(G) Sulphonated azo/hydrazo dye
P–02–0236	01/08/02	04/08/02	Solutia Inc.	(S) Dispersant for industrial coatings	(G) Acrylic copolymer
P–02–0237	01/08/02	04/08/02	CBI	(G) Cleaner additive	(G) Acrylic polymer
P–02–0238	01/09/02	04/09/02	Shell Chemical Company	(S) Drilling fluid component; fuel	(S) Pentadecane, branched
P–02–0239	01/09/02	04/09/02	Shell Chemical Company	(S) Drilling fluid component; fuel	(S) Hexadecane, branched
P–02–0240	01/09/02	04/09/02	Amfine Chemical Corporation	(G) Thickening agent	(G) Polyalkylene glycol, alkyl ether, reaction products with diisocyanatoalkane and polyalkylene glycol
P–02–0241	01/08/02	04/08/02	The Dow Chemical Company	(G) The material performs as a flexibilizer for epoxy vinyl ester resins.	(S) Poly[oxy(methyl-1,2-ethanediyl)], alpha-hydro-omega-hydroxy-, polymer with 1,1′-methylenebis[isocyanatobenzene], 2-hydroxyethyl acrylate-blocked
P–02–0243	12/31/01	03/31/02	The Dow Chemical Company	(S) Polymer used in sealant manufacturing	(G) Isocyanate terminated urethane polymer
P–02–0244	01/08/02	04/08/02	Solutia Inc.	(S) Defoamer for water based paints	(G) Urea resin
P–02–0247	01/09/02	04/09/02	Solutia Inc.	(S) Binder for industrial coatings	(G) Modified polyurethane resin

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 16 NOTICES OF COMMENCEMENT FROM: 12/24/01 TO 01/09/02

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0105	01/03/02	06/08/01	(G) Silane terminated polymer
P–00–0346	01/09/02	10/24/01	(G) Alkylated phenol
P–00–0515	12/27/01	12/15/01	(G) Organoiodonium salt
P–01–0433	01/07/02	12/11/01	(G) Halogenated alkane
P–01–0528	01/09/02	11/09/01	(S) Benzenesulfonic acid, 2-amino-4,5-dichloro*
P–01–0577	12/28/01	12/05/01	(G) Alkyl methacrylate copolymer
P–01–0609	01/03/02	11/14/01	(G) Carboxylic acid, polymer with phenol and turpentine-oil alpha-pinene fraction terpenes
P–01–0643	01/03/02	11/06/01	(S) 1,4-cyclohexadiene-1,4-dicarboxylic acid, 2,5-bis[(4-chlorophenyl)amino]-, dimethyl ester
P–01–0687	01/04/02	11/20/01	(G) Alkyl aryl sulfonic acid
P–01–0721	01/03/02	11/26/01	(G) Toluene diisocyanate terminated polyether polyol
P–01–0753	12/31/01	11/27/01	(G) Methyl aluminoxanes
P–01–0796	01/03/02	12/08/01	(G) Substituted pyridinedicarboxylate
P–01–0798	01/03/02	12/08/01	(G) Substituted pyridinedicarboxylate
P–01–0799	01/03/02	12/08/01	(G) Substituted pyridinedicarboxylate
P–01–0809	12/27/01	12/07/01	(S) Propanoyl, fluoride, 2,3,3,3-tetrafluoro-2-[1,1,2,3,3,3-hexafluoro-2-(heptafluoropropoxy)propoxy]-, polymer with trifluoro(trifluoromethyl)oxirane, reaction products with 3-(ethenyldimethylsilyl)-n-methylbenzenamine
P–01–0905	01/09/02	12/20/01	(S) 1,3-naphthalenedisulfonic acid, 7-[[4-[[4,6-bis[(3-sulfopropyl)thio]-1,3,5-triazin-2-yl]amino]-3-methoxyphenyl]azo]-, tetrasodium salt

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: January 30, 2002.

Carolyn Thorton,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 02–2985 Filed 2–6–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, February 12, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, February 14, 2002 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Final Audit Report on the South Carolina Republican Party.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–3141 Filed 2–5–02; 2:52 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011441–005.

Title: NYK/WWL Joint Service Contract Agreement.

Parties: Wallenius Wilhelmsen Lines AS, Nippon Yusen Kaisha.

Synopsis: The proposed amendment transforms the agreement from a joint service arrangement to a cooperative working arrangement under which the parties may jointly negotiate, enter, and administer service contracts.

Agreement No.: 011689–003.

Title: Zim/CSCL Slot Charter Agreement.

Parties: Zim Israel Navigation Company Ltd., China Shipping Container Lines Co. Ltd.

Synopsis: The proposed agreement modification expands the geographic scope of the agreement to include U.S. Atlantic ports and Canadian ports, on the one hand, and generally ports in Southeast Asia, the Indian Subcontinent, and the Mediterranean, on the other hand; extends the termination date of the agreement; and revises the parties' slot allocations.

Agreement No.: 201127.

Title: Philadelphia/Pasha Pier 96–98 Agreement.

Parties: Philadelphia Regional Port Authority, The Pasha Group, t/a Pasha Auto Warehousing.

Synopsis: The agreement is a re-stated and amended lease of property at the Packer Avenue Marine Terminal.

By Order of the Federal Maritime Commission.

Dated: February 1, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–2889 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date reissued
4656NF	Barsan International, Inc., 136 Central Avenue, Clark, NJ 07066	October 24, 2001.
3326F	Modern Cargo Services Inc., 11265 NW 131st Street, Medley, FL 33178	November 1, 2001.
4592F	Natasha International Freight, Inc., 12912 SW 133 Court, Suite A, Miami, FL 33186.	December 8, 2001.
16400N	North American (U.K.) Limited, 7–8 Borrowdale Road, Workingham/Berk, England RG415UX.	November 4, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–2887 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 4106NF.

Name: AFS, Inc. dba Denali International.

Address: 80 Yesler Way, Seattle, WA 98104–2562.

Date Revoked: December 29, 2001.

Reason: Failed to maintain valid bonds.

License Number: 16964NF.
Name: General Express Group, Corp.
Address: 11455 NW 34th Street, Miami, FL 33178.
Date Revoked: December 7, 2001.
Reason: Failed to maintain valid bonds.
License Number: 15283N.
Name: Global Express Lines USA, Inc.
Address: 44 Old Higgins Road, Des Plaines, IL 60018.
Date Revoked: January 6, 2002.
Reason: Failed to maintain a valid bond.
License Number: 8319N.
Name: Hanmi Shipping, Inc.
Address: 80 Atlantic Street, Hackensack, NJ 07601.
Date Revoked: January 2, 2002.
Reason: Failed to maintain a valid bond.
License Number: 17007N.
Name: JHJ International Transportation Co., Ltd.
Address: Shartex Plaza No. 88, Ste. 2502, Zun Yi Nan, Shanghai, 200336, China.
Date Revoked: January 10, 2002.
Reason: Failed to maintain a valid bond.
License Number: 17601N.
Name: LN Navigation (USA) Inc.
Address: 1120 Walnut Street, San Gabriel, CA 91776.
Date Revoked: January 28, 2002.
Reason: Surrendered license voluntarily.
License Number: 4352F.
Name: Roldan Products Corporation.
Address: 13545 Barrett Parkway Drive, Ballwin, MO 63021.
Date Revoked: January 6, 2002.
Reason: Failed to maintain a valid bond.
License Number: 12895F.
Name: United Trans-Trade, Inc.
Address: 8 Hartland Commons Road, North Brunswick, NJ 08902.
Date Revoked: October 27, 2001.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–2888 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

International Logistics Inc.9902 S. 148th StreetOmaha, NE 68138
Officers:Michael T. Contreras, Vice President(Qualifying Individual)Thomas Hastings, President/CEO
Worldtrans Co. d/b/a Worldtrans Container Line 3300 North Barrington Rd., Ste. 400Hoffman Estates, IL 60195
Officer: Charles B. Ozburn, President(Qualifying Individual)
Trans-Nexus Logistics Ltd., Co.30 Montgomery Street, Ste. 240Jersey City, NJ 07302
Officers:Jeffrey Phu, President(Qualifying Individual)Michael D. Iorio, Vice President
Star Airfreight Co., Ltd.8901 S. La Cienega Blvd., Ste. 209Inglewood, CA 90301
Officers:Anthony Chan, President(Qualifying Individual)Eddie T.C. Yau, Chairman
Star Airfreight Co., Ltd.149–35 177th Street, 2/Fl.Jamaica, NY 11434
Officers:Anthony Chan, President(Qualifying Individual)Eddie T.C. Yau, Chairman
New Hope Logistics Inc.1080 N. ArgoniaWalnut, CA 91789
Officers:Joseph Chu, CEO(Qualifying Individual)Belinta Chu, CFO
LMD Logistics, Inc.1 Evertrust Plaza, 4th FloorJersey City, NJ 07302
Officer:Mitchel R. Scher, President(Qualifying Individual)

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Atallah Business Group 6911 NW 87th AvenueMiami, FL 33166
Officers:Betsy Delosangeles Perez-Diaz, Secretary(Qualifying Individual)Ramese Atallah, President
International Frontier Forwarders, Inc.471 West 38th StreetHouston, TX 77018
Officer:Jose Gregorio Diaz, President(Qualifying Individual)
Moog International, Inc.1223 Grove RoadPittsburgh, PA 15234–2397
Officers:James A. Frye, Vice President(Qualifying Individual)Ronald P. Moog, President

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Hayek Services, Inc.5513 NW 72nd AvenueMiami, FL 33166
Officer:Fransua, A. Hayek, Director(Qualifying Individual)
E S I Freight (USA) Inc.Ste. 250, Bldg. 9, JFK International AirportJamaica, NY 11430
Officer:Ying Wai Man, President(Qualifying Individual)

Dated: February 1, 2002.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 02–2890 Filed 2–6–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 4, 2002.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Regions Financial Corporation, Birmingham, Alabama; to merge with Brookhollow Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire 100 percent of the voting shares of Brookhollow National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, February 1, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2911 Filed 2–6–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Presidential Advisory Council on HIV/AIDS

January 29, 2002.

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Presidential Advisory Council on HIV/AIDS (Council) scheduled for March 14–15, 2002, at the White House Conference Center at 726 Jackson Place NW. The Council will meet both days from 9 am until 5 pm. The meetings will be open to the public, however space may be limited. Possible attendees are strongly encouraged to pre-register by calling Shellie Abramson at (202) 860–8863.

Patricia Ware, Executive Director, Presidential Advisory Council on HIV and AIDS, 200 Independence Avenue, SW., Room 733–E, Washington, DC., (Voice-mail: (202) 205–2982, Fax: (202) 690–7560) will furnish the meeting agenda and roster of committee members upon request. Once a draft agenda has been finalized, it may also be accessed through the Council's website: *www.pacha.gov.* Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mike Starkweather at (301) 628–3141 no later than March 1, 2001.

Patricia Ware,

Executive Director, Presidential Advisory Council on HIV and AIDS.

[FR Doc. 02–2910 Filed 2–6–02; 8:45 am]

BILLING CODE 3195–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Solicitation of Interested Persons To Serve as Special Consultants to the Community and Tribal Subcommittee (CTS) of the ATSDR Board of Scientific Counselors (BSC)

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces ATSDR's intent to fill 4 Special Consultant vacancies on the Community and Tribal Subcommittee of ATSDR's Board of Scientific Counselors.

BACKGROUND: The Community and Tribal Subcommittee is composed of four members of ATSDR's Board of Scientific Counselors (BSC). CTS provides BSC with a formal vehicle for citizens input.

In 1994, three community and tribal representatives were selected to serve as Special Consultants to CTS. At the end of their tenure, it was decided to increase the number of Special Consultants from three to eleven in order to bring a wider spectrum of representation from community and tribal members who live near hazardous waste sites, or are otherwise affected by hazardous substances in the community environment.

FOR FURTHER INFORMATION: To express interest in serving as a Special Consultant to CTS and obtain additional information, contact: Ruby Palmer, Designated Federal Official, CTS, ATSDR (E–54), 1600 Clifton Road, NE, Atlanta, GA 30033, Toll-free 1–888–422–8737.

SUPPLEMENTARY INFORMATION: ATSDR conducts public health-related activities at hazardous waste sites and releases, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*). ATSDR established a BSC which is chartered under the Federal Advisory Committee Act (5 U.S.C. app.).

In order to obtain input from communities and tribes located near superfund sites or hazardous waste sites, the Community and Tribal Subcommittee is recruiting three community and tribal representatives as consultants to the CTS.

The Community and Tribal Subcommittee's objective is to provide the BSC, ATSDR, with the views and recommendations of community and tribal representatives on ATSDR's community involvement programs, practices, policies, and other relevant issues impacting communities and tribes who live near Superfund and hazardous waste sites. The Subcommittee reviews ATSDR's community involvement programs and policies; provides advice, findings, and recommendations to the Board on these issues; and brings broad-based community and tribal involvement issues to the attention of the Board.

The Community and Tribal Subcommittee will present its findings, advice, and recommendations to the full Board. The BSC will discuss and review reports of the Subcommittee and may forward recommendations to the Agency for action. The Community and Tribal Subcommittee will periodically meet and/or hold conference calls.

A group consisting of Special Consultants, the CTS Chair and the Designated Federal Official will review the applications and develop a short list to be recommended to the Agency for consideration. The Agency, in consultation with the BSC chair will then select the three community representatives to fill the vacancies, with special consideration given to the recommended slate.

Accordingly, any person who lives in a community affected by a National Priority List or other hazardous waste site; who is a representative of a group that works at local, regional, or national locations within these communities; or who wishes to be considered for serving as a special consultant on this Subcommittee should write or call the ATSDR contact person listed above to obtain additional information.

Application: Please complete the following application and return it to the address listed by Sunday, March 31, 2002.

Application

Community and Tribal Subcommittee

Agency for Toxic Substances and Disease Registry (ATSDR)

January 25, 2002.

Please answer the following questions (as legibly as possible to ensure that photocopies of it are readable) by

Sunday, March 31, 2002. Please send to: Ruby Palmer, Designated Federal Official, CTS, ATSDR (E–54), 1600 Clifton Road, NE., Atlanta, GA 30033.

Phone: Toll-free 1–888–422–8737.

Fax: (404) 498–1744.

Name: _____

Street Address: _____

City, State, Zip: _____

Telephone: _____

Fax: _____

E-mail: _____

Employment and employer(s) for last five years: _____

Please check the corresponding box for your response to the following questions; please keep any written responses brief.

(1) Do you live in a community or on a reservation that contains a site contaminated with toxic substances or are you a member of an organization that works on environmental health/toxic substance issues with such affected communities/tribes? Check all that apply.

__ yes, live in such a community/ reservation

__ yes, member of such an organization

__ no

If you checked no, please skip to question #9.

(2) What type of site is it?

__ National Priorities List (Superfund NPL)

__ Department of Energy

__ Department of Defense

__ State

__ Not sure/don't know

__ Other

(3) What is the status of site cleanup?

__ Cleanup underway

__ Cleanup completed

__ No work done

__ Not sure/don't know

(4) How would you characterize your community/tribe?

__ Rural

__ Suburban

__ Urban

__ Tribal Lands

__ Not sure/ don't know

(5) How would you characterize the racial/ethnic makeup of your community/tribe?

__ White

__ African-American

__ Hispanic

__ Asian

__ Native American

__ Mixed/ no group predominate

__ Not sure/don't know

(6) How would you characterize the economic status of your community/tribe?

__ Lower income

__ Middle income

__ Upper income

__ Not sure/don't know

(7) Do you believe your personal/family health has been harmed due to exposure to toxic substances in the environment?

__ Yes __ Possibly __ No

(7a) *If you are a tribal member*, is contamination of traditional food supply thought to be a problem?

__ Yes __ Possibly __ No

(8) Are you a member of a community/ tribal organization focused on the site?

__ Yes __ No

(8a) If yes, please describe

_____

(9) Are you familiar with the Agency for Toxic Substances and Disease Registry (ATSDR)?

__ Yes __ No

(10) Have you either sought assistance from, or previously been involved with ATSDR?

__ Yes __ No

(11) Has ATSDR sponsored a health assessment or health study in your community?

__ Yes __ No __ Not sure/ don't know

(12) Have you attended other national or regional ATSDR meetings in the last 5 years?

__ Yes __ No

(13) Are you a member of an organization—other than the one you may have noted in question 8—focused on toxic substances/ environmental health?

__ Yes __ No

(13a) If yes, what is the scope of the organization?

__ Local __ Regional __ National

(13b) Please describe the organization

_____

(14) How many years have you been involved in toxic substance/ environmental health issues?

__ Years

(15) How many hours per month on average can you make available for telephone calls, periodic meetings, an review of materials?

__ Hour per month

(16) Have you in the past or are you now participating in an advisory group similar in structure to the Community and Tribal Subcommittee?

__ Yes __ No

(16a) If yes, please describe the group and your role

_____

(17) QUALIFICATIONS/ BACKGROUND: Please briefly note your knowledge of/ experience with toxic substance/environmental health issues. List relevant self-education/ research, workshops attended, and/or formal training.

_____

(18) CURRENT ISSUES: What are your views on ATSDR's current approach to working with communities/tribes?

_____

(19) EXPECTATIONS: What type of input, recommendations, and advice do you envision the Subcommittee providing, and what type of outreach would you do in order to formulate your recommendations to the Board of Scientific Counselors?

_____

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 31, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2938 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Community and Tribal Subcommittee of the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following subcommittee and committee meetings.

Name: Community and Tribal Subcommittee (CTS).

Time and Date: 8:30 a.m.–4:30 p.m., February 27, 2002.

Place: Sheraton Buckhead Hotel, 3405 Lenox Road NE, Atlanta, Georgia 30326.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 50 people.

Purpose: This subcommittee brings to the Board advice, citizen input, and recommendations on community and tribal programs, practices, and policies of the Agency.

Matters to be Discussed: Agenda items include a presentation on ATSDR's Disease Registry activities; a presentation on ATSDR's Strategic Plan; an overview on the Public Health Assessment Guidance Manual; a report on the meeting at the Pentagon addressing health issues at federal facility sites; and a report on the progress with the external review of the CTS.

Written comments are welcomed and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Ruby L. Palmer, Designated Federal Official, CTS/ATSDR contact, ATSDR, M/S E–54, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/498–1749.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 31, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2939 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02029]

Cooperative Agreement for the Support of a National Folic Acid Promotion Program Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of Fiscal Year (FY) 2002 funds for a cooperative agreement program for the support of a National Folic Acid Promotion Program. This program addresses the ''Healthy People 2010'' focus area of Maternal, Infant, and Child Health.

The purpose of this program is to support the development and implementation of a national program to promote the use of vitamin folic acid for the prevention of spina bifida and other neural tube defects. This program will improve the knowledge and awareness of health care providers, public and private health organizations, and women of reproductive age about reducing birth defects by promoting the use of folic acid.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

To be eligible, applicants must demonstrate involvement in a national organization which is actively participating in the promotion of folic acid to prevent birth defects. This should be demonstrated in the form of a letter from the identified National Organization's/Council's Executive Officer and should be placed immediately following the face page of the application.

Applications that do not include the above information will be determined as non-responsive and returned without review.

C. Availability of Funds

Approximately $200,000 will be available to fund one award. It is expected that this award will begin on or about June 1, 2002, and will be made for a 12-month budget period within a project period of up to five years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

To achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities) and CDC will be responsible for activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Provide at least one full-time manager and other staff support needed to carry out a national agenda.

b. Develop a national program to reach women of reproductive age and healthcare providers who serve them.

c. Provide a mechanism which allows the public to access the latest developments in research and practice related to the use of folic acid to prevent birth defects.

d. Provide a customized service whereby state and local programs, agencies, and professionals may receive packets, newsletters, bibliographies, policy papers, and fact sheets.

e. Convene meetings of council partners to share information about materials, strategies, and model programs to promote the use of folic acid to prevent birth defects.

f. Participate in national, state, or local meetings and conferences on behalf of the council.

g. Establish and implement methods for evaluating the impact of the programs and activities to increase consumption of folic acid.

2. CDC Activities

a. Provide scientific collaboration for appropriate aspects of the activities, including new scientific data on benefits of folic acid, information on rates of neural tube birth defects, and prevention strategies.

b. Assist in development and review of relevant information made available to federal, state, and local health agencies, health care providers, and volunteer organizations.

c. In conjunction with the recipient, evaluate the impact of the programs and activities to increase consumption of folic acid.

d. Participate in all meetings convened by the recipient.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The application should be no more than 20 double-spaced pages, printed on one side, with one-inch margins, and 12 point font, not including attachments.

1. Organization Profile

a. Provide a narrative, including background information and information on the applicant organization, evidence of relevant experience in coordinating activities among constituents, and a clear understanding of the purpose of the project.

b. Include details of past experiences working with the target populations.

Provide information on organizational capability to conduct proposed project activities.

c. Describe qualified and experienced personnel who are available to work on the project and provide evidence of the organizational structure that is proposed to meet the requirements of the project. Include an organizational chart of the applicant organization specifying the location and staffing plan for the proposed project.

2. Program Plan

a. Include goals and measurable impact and process objectives that are specific, realistic, measurable, and time-phased. Include an explanation of how the objectives contribute to the purposes of the request for assistance and evidence that demonstrates the potential effectiveness of the proposed objectives.

b. Detail an action plan, including a timeline of activities and personnel responsible for implementing each segment of the plan.

c. Prepare a plan to include impact and process evaluation utilizing both quantitative and qualitative measures for the achievement of program objectives to determine the impact of the program promoted by the awardee, and monitor the implementation of proposed activities. Indicate how the quality of services provided will be ensured.

d. Provide a plan for obtaining additional resources from non-Federal sources to supplement program activities and ensure continuation of the activities after the end of the project period.

3. Collaboration Activities

Provide evidence of collaborative efforts with organizations involved with promoting the health of children and/or preventing birth defects.

4. Budget Information

a. Provide a detailed budget with justification. The budget proposal should be consistent with the purpose and program plan of the proposed project.

b. Provide, if known at the time of application, the name of any contractor, method of selection, budget etc.

F. Submission and Deadline

Letter of Intent (LOI)

On or before February 28, 2002, submit the LOI to the official noted for program technical assistance identified in the ''Where to Obtain Additional Information'' of this announcement.

Application

Submit the original and two copies of the application PHS 5161–1, (OMB Number 0937–0189). Forms are in the application kit or at Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before March 29, 2002, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in 1. or 2. above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Background and Need (15 points)

The extent to which the applicant understands the importance of promoting the use of the vitamin folic acid for the prevention of neural tube birth defects and proposes a plan to address the issues of an educational campaign.

2. Capability (25 points)

The extent to which the applicant appears likely to succeed in implementing proposed activities as measured by relevant past experience, a sound management structure, and staff qualifications, including the appropriateness of their proposed roles and responsibilities and job descriptions.

3. Program Plan (30 points)

The feasibility and appropriateness of the applicant's action plan to provide staffing, convene meetings, facilitate communication, and evaluate impact of program.

4. Coordination and Collaboration (20 points)

The extent to which the applicant proposes to coordinate the activities of the National Council on Folic Acid with state and local folic acid programs, state and local coalitions, provider organizations, and other appropriate agencies.

5. Evaluation Plan (10 points)

The extent to which the applicant proposes to evaluate the impact of the proposed plan, including impact and process evaluation, as well as quantitative and qualitative measures for achievement of program objectives, determining the health effect on the population, and monitoring the implementation of proposed activities.

6. Budget and Justification (Not Scored)

The extent to which the proposed budget is adequately justified, reasonable, and consistent with proposed project activities and this program announcement.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Semi-annual reports should include:

a. A brief project description.

b. A comparison of the actual accomplishments to the goals and objectives established for the period.

c. In the case that established goals and objectives may not be accomplished or are delayed, documentation of both the reason for the deviation and the anticipated corrective action or a request for deletion of the activity from the project.

d. Other pertinent information, including preliminary findings from the analysis of available data.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Appendix I in the application kit.

AR–9 Paperwork Reduction Act
AR–10 Smoke-Free Workplace
AR–11 Healthy People 2010
AR–12 Lobbying Restriction

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 317(c) and 317(J) of the

Public Health Service Act, [42 U.S.C. 241] as amended. The Catalog of Federal Domestic Assistance number is 93.184.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov* Click on ''Funding'' then ''Grants and Cooperative Agreement''.

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the program announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sheryl Heard, Grants Management Specialist, Acquisition and Assistance Branch B, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Announcement 02029, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341–4146, Telephone (770) 488–2723, Email: *slh3@cdc.gov.*

For program technical assistance, contact: Charlotte Dickinson, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop F–34, Atlanta, Georgia 30341, Telephone: (770) 488–7155, Email: *cmd1@cdc.gov.*

Dated: February 1, 2002.

Robert L. Williams,

Chief, Acquisition and Assistance Branch, Procurement and Grants Office, Centers for Disease Control and Prevention—(CDC).

[FR Doc. 02–2937 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02026]

Cooperative Agreement for a National Professional Organization for Persons with Developmental Disabilities; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program entitled ''National Professional Organization for Persons with Developmental Disabilities.'' This program addresses the ''Healthy People 2010'' focus areas of Maternal, Infant and Child Health, and Disability and Secondary Conditions.

The purpose of the program is to strengthen the nation's capacity to carry out public health activities in the areas of birth defects and developmental disabilities. The objectives are to: (1) Facilitate state-based surveillance and research of birth defects and developmental disabilities, to assure time-sensitive services are provided and effective clinical and environmental interventions are made available; (2) increase access to social participation of children and adults with disabilities through advocacy and public policy development; and (3) train public health professionals to strengthen the nation's expertise in the fields of birth defects, developmental disabilities, and children and adults with disabilities.

B. Eligible Applicants

Assistance will only be provided to applicants that are national professional organizations, with a large and broad-based membership representing professionals working with state public health agencies and academic communities in the areas of birth defects and developmental disabilities as well as consumers of these services.

To be eligible, applicants must demonstrate that the mission of the organization is explicitly committed to improving and developing state and national health policy in birth defects and developmental disabilities throughout the United States, by focusing their efforts on helping to strengthen and build capacity and infrastructure of state agencies responsible for surveillance, applied research, and training. This may be demonstrated by submission of your Charter, or at least two letters of support from the membership representing professionals working with state public health agencies and academic communities in the areas of birth defects and developmental disabilities which documents your active commitment to the above mission and public health policies, or both.

This information should be placed directly behind the face page of the application. Applications that fail to submit the evidence requested above will be considered non-responsive and returned without review.

Note: Title 2 of the United States Code, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

C. Availability of Funds

Approximately $200,000 is available in FY 2002 to fund approximately one award. It is expected that the awards will begin on or about June 1, 2002, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Establish in the first year, the methods, guidance, and infrastructure for projects that may be conducted by the recipient, or by a sub-recipient; i.e. professional membership (Special Projects). The recipient will prepare and provide guidance documentation for soliciting applications, evaluation of applications and making funding decisions. Subsequent continuation applications will include any Special Projects which the organization determines should receive funding. All projects should be responsive to the public health mission of CDC by focusing on one or more of the activities ''b.'' through ''h.'' below; and all projects must meet the requirements of activity ''i.'' below.

b. Develop and implement projects in public health and disability services research regarding best practices for persons with birth defects, developmental disabilities, and special health care needs.

c. Collaborate with local and state agencies to develop and provide access to critical databases for health and disability services assessment; develop methods to analyze and interpret relevant data.

d. Collaborate with local and state agencies in a recruitment and training program to produce professionals to serve in public health at state and national levels.

e. Develop and participate in educational workshops, conferences, and other forums focusing on persons with birth defects, developmental disabilities, and special health care needs.

f. Design and implement training activities that will promote professional

development to support data-related activities in birth defects and developmental disabilities.

g. Convene an advisory panel of experts to assist in identifying the knowledge and practices in the areas related to birth defects and developmental disabilities and to provide expert opinions and advice on required research services and education.

h. Disseminate information on prevention of birth defects, developmental disabilities, and health promotion for persons with disabilities.

i. For each of the activities ''a. through h.'' above, develop and implement an evaluation plan.

2. CDC Activities

a. Provide assistance in the establishment and implementation of Special Project program operations, which include development of a process for solicitation of applications, establishment of application review procedures, participation on review committees, and development of evaluation guidance and processes for making funding decisions.

b. Provide assistance in the development of public health projects in the fields of birth defects, developmental disabilities, and health and disability services.

c. Assist in the evaluation of professional training and leadership in the fields of birth defects, developmental disabilities, and health and disability services.

d. Assist in the evaluation of state, local and national level forums on critical public health issues related to the fields of birth defects, developmental disabilities, and health and disability services.

e. Assist in monitoring of progress for the Special Projects.

f. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in any proposed research projects.

E. Application Content

Letter of Intent (LOI)

A non-binding LOI is requested for this program. The narrative should be no more than one, double-spaced page, printed on one side, with one inch margins, and unreduced font. It should identify the announcement number, name of the proposed project director and name of the organization.

Your letter of intent will be used to allow CDC to determine the level of interest in the announcement, to plan the review more efficiently, and to ensure that each applicant receives timely and relevant information prior to the application submission date.

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan.

F. Submission and Deadline

Letter of Intent (LOI)

On or before February 28, 2002, submit the LOI to the official noted for program technical assistance identified in the ''Where to Obtain Additional Information'' of this announcement.

Application

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before March 28, 2002, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

G. Evaluation Criteria

The applications will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Proposed Program (30 points)

The extent to which the proposal clearly demonstrates the applicants understanding of the issues. The proposal should describe project objectives that fit the activities in the application. The proposal demonstrates that applicant has a broad range of knowledge and expertise in the fields of birth defects, developmental disabilities, and adults and children living with disabilities. The proposal demonstrates that the applicant's membership is comprised of professionals practicing in a variety of specialties that contribute to the research, policy development, and training in the areas of birth defects, and developmental disabilities, and adults and children living with disabilities.

2. Technical Merit (30 points)

The extent to which the proposal demonstrates technical merit in the approaches to be used in accomplishing the activities.

3. Proposal Adequacy (30 points)

The extent to which the application demonstrates adequacy of the plan to address the activities and an appropriate time line to accomplish them. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of the study is adequate to measure differences when warranted; and (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

4. Program Personnel (10 points)

The extent to which the proposal describes qualifications of professional and support staff that are commensurate with necessary levels of expertise to successfully accomplish program activities.

5. Budget (not scored)

The extent to which the proposal demonstrates appropriateness and justification of the requested budget relative to the activities proposed.

6. Human Subjects (not scored)

Procedures adequate for the protection of human subjects must be documented. The application must adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects. Although this is not scored, an application can be disapproved if the research risks are sufficiently serious and protection against risks are so inadequate as to make the entire application unacceptable.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Semi-annual progress reports should include:

a. A brief project description

b. A comparison of the actual accomplishments to the goals and objectives established for the period

c. In the case that established goals and objectives may not be accomplished or are delayed, documentation of both the reason for the deviation and the anticipated corrective action or a request for deletion of the activity from the project

d. Other pertinent information, including preliminary findings from the analysis of available data

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301(a), 311, and 317 of the Public Health Service Act, [42 U.S.C. sections 241, 243, and 247b4], as amended. The Catalog of Federal Domestic Assistance number is 93.184.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Program Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sheryl Heard, Grants Management Specialist, Assistance and Acquisition Branch B, Procurement and Grants Office, Centers for Disease Control and Prevention.

[Announcement 02026]

2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146. *Telephone number:* 770–488–2723. *E-mail: slh3@cdc.gov.*

For program technical assistance, contact: Tom Horne, National Center on Birth Defects and Developmental Disabilities. 4770 Buford Highway, Mail Stop F–15 Atlanta, Georgia 30341. *Telephone number:* 770–488–7364. *E-mail:* tjh1@cdc.gov.

Robert L. Williams,

Chief, Assistance and Acquisition Branch B., Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2941 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Hearing Sensitivity and Exposure to Noise and/or Chemicals, RFA OH–02–003.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Hearing Sensitivity and Exposure to Noise and/or Chemicals, RFA OH–02–003.

Times and Dates: 8 a.m.–8:30 a.m., March 14, 2002 (Open) 8:30 a.m.–5 p.m., March 14, 2002 (Closed)

Place: Hilton Old Town, 1767 King Street, Alexandria, Virginia 22314.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Deputy Director for Program Management, CDC, pursuant to Pub. L. 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to RFA OH–02–003.

Contact Person for More Information: Price Connor, Ph.D., Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE, M/S E20, telephone (404) 498–2511.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 30, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–2942 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC): Meeting

ACTION: Location Change.

SUMMARY: Department of Health and Human Services, Centers for Disease Control and Prevention, Healthcare Infection Control Practices Advisory Committee published a document in the **Federal Register**.

Federal Register: January 22, 2002 (Volume 67, Number 14) (Page 2889–2890).

Name: Healthcare Infection Control Practices Advisory Committee.

Times and Dates: 8:30 a.m.–5 p.m., February 25, 2002, 8:30 a.m.–4 p.m., February 26, 2002.

Correction

Old Location: Radisson Buckhead/Emory Area Inn, 2061 North Druid Hills Road, Atlanta, Georgia 30329.

New Location: Atlanta Century Center Marriott, Meeting Room: Century West, 2000 Century Boulevard NE, Atlanta, Georgia 30345 Phone: 404–348–1110.

Status: Open to the public, limited only by the space available.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Michele L. Pearson, M.D., Executive Secretary, HICPAC, Division of Healthcare Quality Promotion, NCID, CDC, 1600 Clifton Road, NE., M/S A07, Atlanta, Georgia 30333, telephone 404/498–1182.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of

meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 31, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 02–2940 Filed 2–6–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0007]

Agency Information Collection Activities; Proposed Collection; Comment Request; CGMP Regulations for Finished Pharmaceuticals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's current good manufacturing practice (CGMP) regulations for finished pharmaceuticals.

DATES: Submit written or electronic comments on the collection of information by April 8, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

CGMP Regulations for Finished Pharmaceuticals—21 CFR Parts 210 and 211 (OMB Control No. 0910–0139)—Extension

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(a)(2)(B)), a drug is adulterated if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with the CGMP to ensure that such drug meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

FDA has the authority under section 701(a) of the act (21 U.S.C. 371(a)) to issue regulations for the efficient enforcement of the act regarding CGMP procedures for manufacturing, processing, and holding drugs and drug products. The CGMP regulations help ensure that drug products meet the statutory requirements for safety and have their purported or represented identity, strength, quality, and purity characteristics. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to protect public health and safety. CGMP requirements establish accountability in the manufacturing and processing of drug products, provide for meaningful FDA inspections, and enable manufacturers to improve the quality of drug products over time. The CGMP recordkeeping requirements also serve preventive and remedial purposes and provide crucial information if it is necessary to recall a drug product.

The general requirements for recordkeeping under part 211 (21 CFR part 211) are set forth in § 211.180. Any production, control, or distribution record associated with a batch and required to be maintained in compliance with part 211 must be retained for at least 1 year after the expiration date of the batch and, for certain over-the-counter (OTC) drugs, 3 years after distribution of the batch (§ 211.180(a)). Records for all components, drug product containers, closures, and labeling are required to be maintained for at least 1 year after the expiration date and 3 years for certain OTC products (§ 211.180(b)).

All part 211 records must be readily available for authorized inspections during the retention period (§ 211.180(c)), and such records may be retained either as original records or as true copies (§ 211.180(d)). In addition, 21 CFR 11.2(a) provides that ''for records required to be maintained but not submitted to the agency, persons may use electronic records in lieu of paper records or electronic signatures in lieu of traditional signatures, in whole or in part, provided that the requirements of this part are met.'' To the extent this electronic option is used, the burden of maintaining paper records should be substantially reduced, as should any review of such records.

In order to facilitate improvements and corrective actions, records must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures (§ 211.180(e)). Written procedures for these evaluations are to be established and include provisions for a review of a representative number of batches and, where applicable, records associated

with the batch, and provisions for a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

The specific recordkeeping requirements provided in table 1 of this document are as follows:

Section 211.34—Consultants advising on the manufacture, processing, packing, or holding of drug products must have sufficient education, training, and experience to advise on the subject for which they are retained. Records must be maintained stating the name, address, and qualifications of any consultants and the type of service they provide.

Section 211.67(c)—Records must be kept of maintenance, cleaning, sanitizing, and inspection as specified in §§ 211.180 and 211.182.

Section 211.68—Appropriate controls must be exercised over computer or related systems to assure that changes in master production and control records or other records are instituted only by authorized personnel.

Section 211.68(a)—Records must be maintained of calibration checks, inspections, and computer or related system programs for automatic, mechanical, and electronic equipment.

Section 211.68(b)—All appropriate controls must be exercised over all computers or related systems and control data systems to assure that changes in master production and controls records or other records are instituted only by authorized persons.

Section 211.72—Filters for liquid filtration used in the manufacture, processing, or packing of injectable drug products intended for human use must not release fibers into such products.

Section 211.80(d)—Each container or grouping of containers for components or drug product containers or closures must be identified with a distinctive code for each lot in each shipment received. This code must be used in recording the disposition of each lot. Each lot must be appropriately identified as to its status.

Section 211.100(b)—Written production and process control procedures must be followed in the execution of the various production and process control functions and must be documented at the time of performance. Any deviation from the written procedures must be recorded and justified.

Section 211.105(b)—Major equipment must be identified by a distinctive identification number or code that must be recorded in the batch production record to show the specific equipment used in the manufacture of each batch of a drug product. In cases where only one of a particular type of equipment exists in a manufacturing facility, the name of the equipment may be used in lieu of a distinctive identification number or code.

Section 211.122(c)—Records must be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination, or testing.

Section 211.130(e)—Inspection of packaging and labeling facilities must be made immediately before use to assure that all drug products have been removed from previous operations. Inspection must also be made to assure that packaging and labeling materials not suitable for subsequent operations have been removed. Results of inspection must be documented in the batch production records.

Section 211.132(c)—Certain retail packages of OTC drug products must bear a statement that is prominently placed so consumers are alerted to the specific tamper-evident feature of the package. The labeling statement is required to be so placed that it will be unaffected if the tamper-resistant feature of the package is breached or missing. If the tamper-evident feature chosen is one that uses an identifying characteristic, that characteristic is required to be referred to in the labeling statement.

Section 211.132(d)—A request for an exemption from packaging and labeling requirements by a manufacturer or packer is required to be submitted in the form of a citizen petition under 21 CFR 10.30.

Section 211.137—Requirements regarding product expiration dating and compliance with 21 CFR 201.17 are set forth.

Section 211.160(a)—The establishment of any specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms, including any change in such specifications, standards, sampling plans, test procedures, or other laboratory control mechanism, must be drafted by the appropriate organizational unit and reviewed and approved by the quality control unit. These requirements must be followed and documented at the time of performance. Any deviation from the written specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms must be recorded and justified.

Section 211.165(e)—The accuracy, sensitivity, specificity, and reproducibility of test methods employed by a firm must be established and documented. Such validation and documentation may be accomplished in accordance with § 211.194(a)(2).

Section 211.166(c)—Homeopathic drug product requirements are set forth.

Section 211.173—Animals used in testing components, in-process materials, or drug products for compliance with established specifications must be maintained and controlled in a manner that assures their suitability for their intended use. They must be identified, and adequate records must be maintained showing the history of their use.

Section 211.180(e)—Written records required by part 211 must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures. Written procedures must be established and followed for such evaluations and must include provisions for a representative number of batches, whether approved or unapproved or rejected, and a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

Section 211.180(f)—Procedures must be established to assure that the responsible officials of the firm, if they are not personally involved in or immediately aware of such actions, are notified in writing of any investigations, conducted under § 211.198, 211.204, or 211.208, any recalls, reports of inspectional observations issued, or any regulatory actions relating to good manufacturing practices brought by FDA.

Section 211.182—This section specificies requirements for equipment cleaning records and the use log.

Section 211.184—This section specifies requirements for component, drug product container, closure, and labeling records.

Section 211.186—This section specifies master production and control records requirements.

Section 211.188—This section specifies batch production and control records requirements.

Section 211.192—This section specifies the information that must be maintained on the investigation of discrepancies found in the review of all drug product production and control records by the quality control staff.

Section 211.194—This section explains and describes laboratory records that must be retained.

Section 211.196—This section specifies the information that must be included in records on the distribution of the drug.

Section 211.198—This section specifies and describes the handling of all complaint files received by the applicant.

Section 211.204—This section specifies that records be maintained of returned and salvaged drug products and describes the procedures involved.

Written procedures, referred to here as standard operating procedures (SOPs), are required for many part 211 records. The current SOP requirements were initially provided in a final rule published in the **Federal Register** of September 29, 1978 (43 FR 45014), and are now an integral and familiar part of the drug manufacturing process. The major information collection impact of SOPs results from their creation. Thereafter, SOPs need to be periodically updated. A combined estimate for routine maintenance of SOPs is provided in table 1 of this document. The 25 SOP provisions under part 211 in the combined maintenance estimate include:

1. Section 211.22(d)—Responsibilities and procedures of the quality control unit;
2. Section 211.56(b)—Sanitation procedures;
3. Section 211.56(c)—Use of suitable rodenticides, insecticides, fungicides, fumigating agents, and cleaning and sanitizing agents;
4. Section 211.67(b)—Cleaning and maintenance of equipment;
5. Section 211.68(a)—Proper performance of automatic, mechanical, and electronic equipment;
6. Section 211.80(a)—Receipt, identification, storage, handling, sampling, testing, and approval or rejection of components and drug product containers or closures;
7. Section 211.94(d)—Standards or specifications, methods of testing, and methods of cleaning, sterilizing, and processing to remove pyrogenic properties for drug product containers and closures;
8. Section 211.100(a)—Production and process control;
9. Section 211.110(a)—Sampling and testing of in-process materials and drug products;
10. Section 211.113(a)—Prevention of objectionable microorganisms in drug products not required to be sterile;
11. Section 211.113(b)—Prevention of microbiological contamination of drug products purporting to be sterile, including validation of any sterilization process;
12. Section 211.115(a)—System for reprocessing batches that do not conform to standards or specifications, to insure that reprocessed batches conform with all established standards, specifications, and characteristics;
13. Section 211.122(a)—Receipt, identification, storage, handling, sampling, examination and/or testing of labeling and packaging materials;
14. Section 211.125(f)—Control procedures for the issuance of labeling;
15. Section 211.130—Packaging and label operations, prevention of mixup and cross contamination, identification and handling of filed drug product containers that are set aside and held in unlabeled condition, identification of the drug product with a lot or control number that permits determination of the history of the manufacture and control of the batch;
16. Section 211.142—Warehousing;
17. Section 211.150—Distribution of drug products;
18. Section 211.160—Laboratory controls;
19. Section 211.165(c)—Testing and release for distribution;
20. Section 211.166(a)—Stability testing;
21. Section 211.167—Special testing requirements;
22. Section 211.180(f)—Notification of responsible officials of investigations, recalls, reports of inspectional observations, and any regulatory actions relating to good manufacturing practice;
23. Section 211.198(a)—Written and oral complaint procedures, including quality control unit review of any complaint involving specifications failures, and serious and unexpected adverse drug experiences;
24. Section 211.204—Holding, testing, and reprocessing of returned drug products; and
25. Section 211.208—Drug product salvaging.

Although most of the CGMP provisions covered in this document were created many years ago, there will be some existing firms expanding into new manufacturing areas and startup firms that will need to create SOPs. As provided in table 1 of this document, FDA is assuming that approximately 100 firms will have to create up to 25 SOPs for a total of 2,500 records, and the agency estimates that it will take 20 hours per recordkeeper to create 25 new SOPs for a total of 50,000 hours.

The burden estimates for the recordkeeping requirements in table 1 of this document are based on: (1) FDA's institutional experience regarding creation and review of such procedures and similar recordkeeping requirements and (2) data provided to FDA to prepare an economic analysis of the potential economic impact of the May 3, 1996, proposed rule entitled ''Current Good Manufacturing Practice: Proposed Amendment of Certain Requirements for Finished Pharmaceuticals'' (61 FR 20104). Annual SOP maintenance is estimated to involve 1 hour annually per SOP, totaling 25 hours annually per recordkeeper.

The May 3, 1996, proposed rule revising part 211 CGMP requirements would require additional SOPs. Cost estimates for those additional SOPs were included in the proposed rule, but are not included here. Any comments on those estimates will be evaluated in any final rule based on that proposal

FDA estimates the total burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
SOP Maintenance (See previous list of 25 SOPs)	4,184	1	4,184	25	104,600
New startup SOPs	100	25	2,500	20	50,000
211.34	4,184	.25	1,046	.5	523
211.67(c)	4,184	50	209,200	.25	52,300
211.68	4,184	2	8,368	1	8,368
211.68(a)	4,184	10	41,840	.5	20,920
211.68(b)	4,184	5	20,920	.25	5,230
211.72	4,184	.25	1,046	1	1,046
211.80(d)	4,184	.25	1,046	.1	105
211.100(b)	4,184	3	12,552	2	25,104
211.105(b)	4,184	.25	1,046	.25	262

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record-keeper	Total Hours
211.122(c)	4,184	50	209,200	.25	52,300
211.130(e)	4,184	50	209,200	.25	52,300
211.132(c)	1,698	20	33,960	.5	16,980
211.132(d)	1,698	.2	340	.5	170
211.137	4,184	5	20,920	.5	10,460
211.160(a)	4,184	2	8,368	1	8,368
211.165(e)	4,184	1	4,184	1	4,184
211.166(c)	4,184	2	8,368	.5	4,184
211.173	1,077	1	1,077	.25	269
211.180(e)	4,184	.2	837	.25	209
211.180(f)	4,184	.2	837	1	837
211.182	4,184	2	8,368	.25	2,092
211.184	4,184	3	12,552	.5	6,276
211.186	4,184	10	41,840	2	83,680
211.188	4,184	25	104,600	2	209,200
211.192	4,184	2	8,368	1	8,368
211.194	4,184	25	104,600	.5	52,300
211.196	4,184	25	104,600	.25	26,150
211.198	4,184	5	20,920	1	20,920
211.204	4,184	10	41,840	.5	20,920
Total					848,625

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 31, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3023 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0459]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Food Labeling; Notification Procedures for Statements on Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by March 11, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Labeling; Notification Procedures for Statements on Dietary Supplements—21 CFR Part 101.93 (OMB Control No. 0910–0331)—Extension

Description: Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(6)) requires that the agency be notified by manufacturers, packers, and distributors of dietary supplements that they are marketing a dietary supplement product that bears on its label or in its labeling a statement provided for in section 403(r)(6) of the act. Section 403(r)(6) of the act requires that the agency be notified, with a submission about such statements, no later than 30 days after the first marketing of the dietary supplement. Information that is required in the submission includes: (1) The name and address of the manufacturer, packer, or distributor of the dietary supplement product; (2) the text of the statement that is being made; (3) the name of the dietary ingredient or supplement that is the subject of the statement; (4) the name of the dietary supplement (including the brand name); and (5) a signature of a responsible individual who can certify the accuracy of the information presented.

The agency established § 101.93 (21 CFR 101.93) as the procedural regulation for this program. Section 101.93 provides details of the procedures associated with the submission and identifies the information that must be included in order to meet the requirements of section 403 of the act.

Description of Respondents: Businesses or other for-profit organizations.

In the **Federal Register** of October 25, 2001 (66 FR 54017), the agency requested comments on the proposed collection of information. Several comments were received that were not the subject of this information collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
101.93	2,500	1	2,500	.75	1,875

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that there will be minimal burden on the industry to generate information to meet the requirements of section 403 of the act in submitting information regarding section 403(r)(6) of the act statements on labels or labeling of dietary supplements. The agency is requesting only information that is immediately available to the manufacturer, packer, or distributor of the dietary supplement that bears such a statement on its labeling or in its labeling. This estimate is based on the average number of notification submissions received by the agency in the preceding 18 months.

Dated: January 31, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3022 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0785]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Revised Draft Guidance for Industry on Developing Medical Imaging Drugs and Biologics

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by March 11, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Revised Draft Guidance for Industry on Developing Medical Imaging Drugs and Biologics

In the **Federal Register** of October 14, 1998 (63 FR 55067), FDA published a notice announcing the availability of a draft guidance for industry entitled ''Developing Medical Imaging Drugs and Biological Products.'' In response to comments and on its own initiative, FDA made several revisions to the draft guidance. The agency announced the availability of a revised draft guidance in the **Federal Register** of July 31, 2000 (65 FR 46674).

The draft guidance is intended to assist developers of drug and biological products used for medical imaging in planning and coordinating the clinical investigations of and submitting various types of applications for, such products.

The draft guidance also provides information on how the agency will interpret and apply provisions in the final rule, published in the **Federal Register** of May 17, 1999 (64 FR 26657), on the evaluation and approval of in vivo radiopharmaceuticals used in the diagnosis and monitoring of diseases. The final rule describes certain types of indications for which FDA will approve diagnostic radiopharmaceuticals and lists factors that the agency will consider in evaluating the safety and effectiveness of a diagnostic radiopharmaceutical drug or biological product under the Federal Food, Drug, and Cosmetic Act (the act) or the Public Health Service Act (the PHS Act), respectively.

The draft guidance applies to medical imaging agents that are used for diagnosis and monitoring and that are administered in vivo. Such agents include contrast agents used with medical imaging techniques such as radiography, computed tomography, ultrasonography, and magnetic resonance imaging, as well as radiopharmaceuticals used with imaging procedures such as single-photon emission computed tomography and positron emission tomography. The draft guidance is not intended to apply to possible therapeutic uses of these agents or to in vitro diagnostic products.

Description: The draft guidance is intended to assist developers of drug and biological products used for medical imaging in planning and coordinating the clinical investigations of, and submitting various types of applications for, such products. The draft guidance provides information on how the agency will interpret and apply provisions of the existing regulations regarding the content and format of an application for approval of a new drug (21 CFR 314.50) and the content of a biological product application (21 CFR 601.25). The draft guidance also provides information on how the agency will interpret and apply the final rule on the evaluation and approval of in vivo radiopharmaceuticals used for diagnosis and monitoring (64 FR 26657). The final rule, by adding part 315 (21 CFR part 315), clarifies requirements for the evaluation and approval of drug and biological radiopharmaceuticals under the authority of the act and the PHS Act.

Existing regulations, which appear primarily in parts 314 and 601 (21 CFR parts 314 and 601), specify the information that manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of new drugs and biological products. This information is usually submitted as part of a new drug application (NDA) or a biological license application, or as a supplement to an approved application. Part 315 contains regulations that clarify what information is relevant for diagnostic radiopharmaceuticals. This revised draft guidance supplements these regulations. Under part 315 and the revised draft guidance, information required under the act and the PHS Act to establish safety and effectiveness would still have to be reported.

Description of Respondents: Developers of medical imaging drugs and biological products, including contrast drug products and diagnostic radiopharmaceuticals.

Burden Estimate: The final rule on in vivo radiopharmaceuticals used for

diagnosis and monitoring set forth an estimated annual reporting burden on the industry that would result from that rulemaking (64 FR 26657). OMB has approved this collection of information until July 31, 2002, under OMB control number 0910–0409. This revised draft guidance on the development of medical imaging drugs and biological products is in part intended to explain how FDA will interpret and apply the final rule. Thus, the estimated annual reporting burden of the draft guidance is the same as that of the final rule, with one change. In addition to the diagnostic radiopharmaceuticals that are the subject of the final rule, the revised draft guidance also addresses the development of contrast drug products, which FDA evaluates and approves under part 314, but which are not affected by the final rule.

Table 1 in this document provides an estimate of the annual reporting burden for contrast drug products. FDA estimates that the potential number of respondents who would submit applications or supplements for contrast drug products would be one. Although FDA did not approve any NDA's for contrast drugs (there are no biological contrast drug products) in fiscal year 1999, for purposes of estimating the annual reporting burden, the agency assumes that it will approve one contrast drug each fiscal year. The annual frequency of responses for contrast drugs is estimated to be one response per application or supplement. The hours per response, which is the estimated number of hours that an applicant would spend preparing the information to be submitted for a contrast drug in accordance with this draft guidance, is estimated to be approximately 2,000 hours.

The revised draft guidance would not impose any additional reporting burden because safety and effectiveness information is already required by existing regulations. In fact, clarification by the guidance of FDA's standards for evaluation of medical imaging drugs and biological products is expected to reduce the overall burden of the information collection.FDA received no comments on the analysis of information collection burdens stated in the notice of availability of the draft guidance published on October 14, 1998. In the **Federal Register** of July 31, 2000 (65 FR 46674), FDA requested comments on the revised proposed collection of information. The agency received no comments.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Contrast Drugs	1	1	1	2,000	2,000
Total					2,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 31, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3024 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastrointestinal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastrointestinal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 19, 2002, from 8 a.m. to 5:30 p.m.

Location: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact Person: Thomas H. Perez, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6758, e-mail: PerezT@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12538. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss standards in study designs of clinical trials testing the efficacy and safety of chemopreventive agents that are being developed to gain FDA approval in reducing the risk of sporadic colorectal adenomatous polyps and sporadic colorectal cancer.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 11, 2002. Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 11, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Thomas H. Perez at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 31, 2002.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 02–2951 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on March 12, 2002, from 8 a.m. to 5 p.m.

Location: CDER Advisory Committee Conference Room, Rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Thomas H. Perez or Kimberly Littleton Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, by phone at 301–827–7001, or by e-mail at PerezT@cder.fda.gov or TopperK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss potential conflicts of interest in pediatric oncology clinical trials, off-protocol patient access to investigational drugs, and access to investigational drugs for nonclinical studies.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the subcommittee. Written submissions may be made to the contact person by March 4, 2002. Oral presentations from the public will be scheduled between approximately 8:15 a.m. and 12:45 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 4, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Thomas H. Perez or Kimberly Littleton Topper at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 31, 2002.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 02–2950 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

2002 FDA Science Forum

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting: 2002 FDA Science Forum. The topic to be discussed is ''FDA: Building a Multidisciplinary Foundation.''

Date and Time: The science forum will be held on February 20 and 21, 2002, from 8:30 a.m. to 4:30 p.m.

Location: The science forum will be held at the Washington Convention Center, 900 Ninth St. NW., Washington, DC 20001.

Contact: AOAC International, Fulfillment Department, 301–924–7077, e-mail: fulfillment@aoac.org, or Donna L. Mentch, Food and Drug Administration, Office of Science (HF–33), 5600 Fishers Lane, Rockville, MD 20857, 301–827–3038, e-mail: dmentch@oc.fda.gov.

Registration: Attendees may register onsite on February 20 and 21, 2002. Registration and program information are also available at http://www/aoac.org/science.htm. Attendance will be limited; therefore, interested parties are encouraged to register early.

SUPPLEMENTARY INFORMATION: The 2002 FDA Science Forum will focus on the importance of FDA's many scientific and regulatory disciplines to the agency's decisionmaking process. On the first day speakers and participants will address the role of research and review in the formulation of FDA's public health policies. The second day will feature the principles of public health surveillance and the relation of surveillance to current scientific issues, from both domestic and global perspectives.

If you need special accommodations due to a disability, please contact AOAC International at least 7 days in advance.

Dated: February 1, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3021 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0582]

Draft Guidance for Industry on Available Therapy; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Available Therapy.'' The document is intended to provide guidance to industry on the meaning of the term available therapy, as used by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER).

DATES: Submit written or electronic comments on the draft guidance by April 8, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: For information regarding human drug products: Janet Jones, Center for Drug Evaluation and Research (HFD–

040), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5445.

For information regarding biological products: Karen Weiss, Center for Biologics Evaluation and Research (HFM–570), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1148, 301–827–5093.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Available Therapy.'' Available therapy and related terms, such as existing treatments and existing therapy, appear in a number of regulations and policy statements issued by CDER and CBER, but these terms have never been formally defined by the agency. Some confusion has arisen regarding whether available therapy refers only to products approved by FDA for the use in question, or whether it could also refer to products used off-label or to treatments not regulated by FDA, such as surgery. The draft guidance document is intended to inform the public of the agency's interpretation of available therapy.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). It represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/ohrms/dockets/default.htm, http://www.fda.gov/cder/guidance/index.htm, or http://www.fda.gov/cber/guidelines.htm.

Dated: January 25, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–2948 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91D–0407]

Draft Guidance for Industry and FDA on Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device.'' This draft guidance is intended to support the classification of the resorbable calcium salt bone void filler device. Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed rule to classify the resorbable calcium salt bone void filler device into class II. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on the draft guidance by May 8, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device'' to the Division of Small Manufacturers, International and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Nadine Y. Sloan, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1296.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance was developed as a special control guidance to support the classification of the resorbable calcium salt bone void filler device into class II. FDA is proposing to classify this device elsewhere in this issue of the **Federal Register**. This guidance may not be implemented until the agency completes notice and comment rulemaking to classify the device. If a final rule to classify this device type is not issued, this guidance document will not be issued as a special control.

FDA believes that special controls, when combined with the general controls, will be sufficient to provide reasonable assurance of the safety and effectiveness of the resorbable calcium salt bone void filler device. If the device is classified into class II, a manufacturer who intends to market a device of this generic type must: (1) Conform with the general controls of the Federal Food, Drug, and Cosmetic Act, including the section 510(k) requirements (21 U.S.C. 360(k)) described in 21 CFR 807.81; (2) address the specific risks to health associated with use of the device; and (3) receive a substantial equivalence determination from FDA prior to marketing the device.

The draft guidance identifies the risks to health and serves as a special control that, when followed and combined with the general controls, will generally address the risks associated with this type of generic device.

II. Significance of Guidance

This draft guidance represents the agency's current thinking about the resorbable calcium salt bone void filler device. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115). This draft guidance is issued as a level 1 draft guidance consistent with the GGP regulations.

III. Electronic Access

In order to receive ''Class II Special Controls Guidance Document: Resorbable Calcium Salt Bone Void Filler Device'' via your fax machine, call

the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number 855 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information, including the text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidances document package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance by May 8, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 5, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3018 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0729]

Medical Devices; Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revision to the draft guidance entitled ''Guidance on the Content and Format of Premarket Notification (510(k)) Submission of Washers and Washer-Disinfectors.'' (63 FR 59794). The revised guidance renamed ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' will serve as a special control for medical washers and medical washer-disinfectors if they are classified into class II. Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed rule to classify medical washers as class II (special controls).

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' to the Division of Small Manufacturers, International and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Chiu Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION:

I. Background

The intent of this guidance document for class II medical washers and medical washer-disinfectors is: (1) To provide applicants specific directions regarding information and data that should be submitted to FDA in a 510(k) submission for medical washer-disinfectors intended to clean and provide high level disinfection, and (2) to provide recommendations on information and data to be held as part of the design control record for a medical washer intended to clean medical devices or a medical washer-disinfector intended to clean and provide either a low or intermediate level of disinfection for medical devices. The General Hospital and Personal Use Devices Advisory Panel met on September 14, 1998, and unanimously recommended that the medical washer and washer-disinfector be classified into class II.

FDA made the draft guidance entitled ''Guidance on the Content and Format of Premarket Notification (510(k)) Submissions of Washers and Washer-Disinfectors'' available for comment on November 5, 1998 (63 FR 59794). The public comment period closed February 3, 1999. FDA reviewed the comments and revised the draft guidance as appropriate. The final guidance renamed ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' replaces the November 5, 1998, draft.

II. Significance of Guidance

This guidance document represents the agency's current thinking on medical washers and medical washer-disinfectors. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), and published the final rule, which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115). This guidance document is issued as level 1 guidance in accordance with the GGP regulations.

III. Electronic Access

In order to receive ''Class II Special Controls Guidance Document: Medical Washers and Medical Washer-Disinfectors'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter

the system. At the second voice prompt press 1 to order a document. Enter the document number 1252 followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes the civil money penalty guidance documents package, device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. Guidance documents are also available on the Dockets Management Branch Web site at http://www.fda.gov/ohrms/dockets/default.htm.

IV. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this guidance at any time. Submit two copies of any comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 24, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02–3020 Filed 2–6–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Prostate, Lung, Colorectal and Ovarian Cancer Screening Trial. *Type of Information Collection Request:* EXTENSION, OMB control number 0925–0407, expiration date October 31, 2002. *Need and Use of Information Collection:* This trial is designed to determine if screening for prostate, lung, colorectal and ovarian cancer can reduce mortality from these cancers which currently cause an estimated 251,000 deaths annually in the U.S. The design is a two-armed randomized trial of men and women aged 55 to 74 at entry. The total sample size after more than 8 years of recruitment is 154,956. The primary endpoint of the trial is cancer-specific mortality for each of the four cancer sites (prostate, lung, colorectal, and ovary). In addition, cancer incidence, stage shift, and case survival are to be monitored to help understand and explain results. Biologic prognostic characteristics of the cancers will be measured and correlated with mortality to determine the mortality predictive value of these intermediate endpoints. Basic demographic data, risk factor data for the four cancer sites and screening history data, as collected from all subjects at baseline, will be used to assure comparability between the screening and control groups and make appropriate adjustments in analysis. Further, demographic and risk factor information will be used to analyze the differential effectiveness of screening in high versus low risk individuals. *Frequency of Response:* On occasion. *Affected Public:* Individuals or households. *Type of Respondents:* Adult men and women. The annual reporting burden is as follows: *Estimated Number of Respondents:* 150,598; *Estimated Number of Responses Per Respondent:* 1.38; *Average Burden Hours Per Response:* 0.19; and *Estimated Total Annual Burden Hours Requested:* 39,597. The annualized cost to respondents is estimated at: $395,970. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. John Gohagan, Chief, Early Detection Branch, EDCOP, National Cancer institute, NIH, EPN Building, Room 3100, 6130 Executive Boulevard, Bethesda, MD 20892–7346, or call non-toll-free number (301) 496–3982 or e-mail your request, including your address to: *jg72p@mail.nih.gov*.

Comments Due Date: Comments regarding this information collections are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: January 28, 2002.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–2904 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent application listed below may be obtained by contacting Catherine Joyce, Ph.D., J.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7056 ext. 258; fax:

301/402–0220; e-mail: *joycec@od.nih.gov.* A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

Thymidylate Synthase Peptides that Bind to Thymidylate Synthase Messenger RNA

Drs. Carmen Allegra and Donna Voeller (NCI).
DHHS Reference No. E–311–00/0 filed Mar 07 2001.

Thymidylate synthase (TS) is a folate-dependent enzyme that catalyzes the reductive methylation of 2'-deoxyuridine-5'monphosphate (dUMP) by the reduced folate-5,10-methylene tetrahydrofolate to deoxythymidine 5'-monophosphate (dTMP, thymidylate). Once synthesized, dTMP is phosphorylated to dTDP and then to dTTP, which is the direct precursor for DNA synthesis. Given the direct role of TS in the biosynthesis of dTMP and the finding that inhibition of dTMP synthesis results in prompt cessation of cellular proliferation and growth, TS represents an important target for cancer chemotherapy.

Specific TS peptides have been discovered which bind to TS mRNA. These peptides may be of use in screening assays to identify agents that bind TS mRNA or that inhibit the binding of TS protein to TS mRNA. These peptides are also of use in treating subjects in conjunction with other chemotherapeutic agents, and in identifying molecules and mimetics that bind TS mRNA or bind the bimolecular complex of TS protein and TS mRNA.

The above-mentioned invention is available for licensing on an exclusive or non-exclusive basis.

Dated: January 28, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–2908 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Four Chimpanzee Monoclonal Antibodies that Neutralize Hepatitis A Virus

Darren Schofield, Suzanne Emerson, Robert Purcell (NIAID).
DHHS Reference No. E–356–01/0 filed Nov 07 2001.
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

This invention claims antibodies and/or fragments thereof specific for hepatitis A virus (HAV) and the use of the antibodies in the diagnosis, prevention, and treatment of hepatitis A. Hepatitis A is the most common type of hepatitis reported in the United States, which reports an estimated 134,000 cases annually, and infects at least 1.4 million people worldwide each year. HAV is a positive sense RNA virus that is transmitted via the fecal-oral route, mainly through contaminated water supplies and food sources. HAV is thought to replicate in the oropharynx and epithelial lining of the intestines, where it initiates a transient viremia and subsequently infects the liver. Humoral immunity has been shown to provide an effective defense against Hepatitis A. Prior to the availability of the current inactivated virus vaccines, pooled human immune globulin preparations were routinely used to protect individuals traveling to areas of the world where HAV is endemic. Chimpanzees are susceptible to infection with HAV and can produce antibodies that neutralize the virus. Chimpanzee immunoglobulins are virtually identical to those of humans; thus, they have the same potential as human antibodies for clinical applications. The inventors have shown that the four chimpanzee monoclonal antibodies described in the patent application neutralized HAV strains HM–175, AGM–27, and the HM–175 VP3–070 mutant. Since only a single serotype of HAV has been identified, these antibodies are predicted to neutralize most, if not all, isolates of HAV.

N-Formyl Peptide Receptor Mediation of Platelet Chemotaxis Toward Injured Cells and Activation of Immune Response

Julie Lekstrom-Himes (NIAID), Allan Kirk (NIDDK), David Kleiner (NIAID), Meggan Czapiga (NIAID).
DHHS Reference No. E–282–01/0 filed Oct 05 2001.
Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

Formyl peptides are short peptides generated by bacterial or mitochondrial endopepdidase cleavage of the first few amino acids including the N-formyl-modified methionine group of proteins. They bind to specific receptors on phagocytic cells and platelets, and induce directed migration or chemotaxis. Human phagocytes express two N-formyl peptide receptors, FPR (N-formyl peptide receptor) and FPRL–1 (FPR-like 1), both of which couple to pertussis toxin-sensitive G proteins. FPR binds N-formyl peptides at a 1000 fold higher affinity than FPRL 1 and is attributed with inducing chemotaxis. Based on their chemotactic actions, it has been hypothesized that N-formyl peptides attract phagocytes and platelets to sites of infection and injury and therefore play an important role in microbicidal and other host defense activities. In particular, platelets carry CD154 or CD40 ligand on their surface and can provide induction of dendritic cell maturation and co-stimulatory molecule expression, thus regulating immune versus tolerance responses.

Claimed in the invention are compositions of N-formyl peptides and derivatives of N-formal peptides, use of N-formyl peptides to stimulate an immune or inflammatory response, and methods of using N-formal peptide receptor inhibitors, such as blocking antibodies or other receptor antagonists, for inhibiting inflammation. Also claimed in the invention are methods of mobilizing platelets at an injury site and methods of wound healing at an injury site comprising administering N-formal peptides to the site.

Vaccination Strategies To Provide Protection Against the Ebola Virus

Gary Nabel et al. (VRC/NIAID).
DHHS Reference No. E–241–01/0 filed Oct 01 2001.

Licensing Contact: Carol Salata; 301/496–7735 ext. 232; *salatac@od.nih.gov.*

This invention describes a method for vaccination against Ebola virus. Outbreaks of hemorrhagic fever caused by the Ebola virus, particularly the Zaire subtype, are associated with high mortality rates. The virus is very contagious, and during an outbreak, presents a threat to anybody who comes into contact with an infected person. Because the virus progresses so rapidly and the mortality rate is so high, there is little opportunity to develop natural immunity, making vaccination a promising intervention. This invention relates to a vaccine strategy employing DNA and adenoviral vectors expressing proteins associated with the Ebola virus. This vaccine strategy, a DNA prime with an adenoviral boost, elicits a protective immune response in primates. A vaccine was designed to optimize expression by incorporating genes for two subtypes of the glycoprotein (Zaire and Sudan) and minimizes toxicity by eliminating the trans-membrane region. The specific genes identified may be used for gene-based or protein-based vaccines that will prevent Ebola infection.

Novel Method for Rapidly Generating Mature Dendritic Cells from Peripheral Blood Monocytes and Myeloid Precursors

Dennis Klinman, Mayda Gursel, Daniela Verthelyi (FDA).

DHHS Reference No. E–214–01/0 filed Aug 14 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

This application claims use of CpG oligodeoxynucleotides (ODN) to generate mature dendritic cells (DC). Also claimed in the application are synergistic use of CpG ODNs with cytokines, chemokines, or other factors to induce the maturation of monocytes to dendritic cells. Dendritic cells play a critical role in the generation of adaptive immune responses. Dendritic cells excel at presenting antigen to naive T lymphocytes. Large numbers of highly active DC are necessary for prevention and/or treatment of cancer and infectious diseases. Current processes for generating mature DC from peripheral blood mononuclear cells (PBMC) involve incubating PBMC with GM-CSF plus IL–4 for one week followed by monocyte-conditioned medium for two to seven days. These processes are inefficient, expensive and do not uniformly generate DC with full functional activity. The current invention is based on the observation that bacterial DNA and synthetic ODNs containing unmethylated ''CpG motifs'' promote the maturation of murine antigen presenting cells (APC) *in vitro*. The invention is further described in Ishii KJ et al., ''Genomic DNA released by dying cells induces the maturation of APCs,'' *J. Immunol.* 2001 Sep 1;167(5):2602–7.

Use of Sterically Stabilized Cationic Liposomes To Efficiently Deliver CpG Oligonucleotides *in vivo*

Dennis Klinman, Ihsan Gursel (FDA).

DHHS Reference No. E–215–01/0 filed Jul 27 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

Immunostimulatory CpG oligonucleotides (ODN) show promise as immune adjuvants, anti-allergens, and immunoprotective agents. Increasing the bioavailability and duration of action of CpG ODN should improve their therapeutic utility. This invention claims use of Sterically Stabilized Cationic Liposomes (SSCL) to deliver CpG ODNs. In addition to use of SSCL to deliver CpG ODNs, SSCL-CpG compositions are also claimed in the patent application. The claimed SSCL comprise three distinct phospholipid elements, DC–CHOL (which increases liposome membrane stability while improving the uptake and encapsulation of DNA), DOPE (a pH-sensitive neutral lipid that improves the cytosolic delivery of CpG ODNs following internalization), and PEG–PE (which stabilizes the liposome and also facilitates cellular uptake). The inventors have conducted both *in vivo* and *in vitro* studies using the SSCL-CpG compositions, showing that *in vitro*, liposome-encapsulated CpG ODNs stimulated significantly more interferon-gamma (IFN-γ) production than free CpG ODNs. The *in vivo* testing the inventors completed show that SSCL encapsulation of CpG ODNs increase the magnitude and duration of the activity of the CpG ODNs *in vivo*; when CpG-SSCLs were administered to mice infected with *L. monocytogenes* (listeria), one hundred percent of the infected mice survived four weeks post-treatment. The invention is further described in Gursel I et al., ''Sterically stabilized cationic liposomes improve the uptake and immunostimulatory activity of cpg oligonucleotides,'' *J. Immunol.* 2001 Sep 15; 167(6):3324–8.

Identification of DNA Sequence Motifs That Suppress the Immune Response to CpG DNA

Dennis Klinman, Mayda Gursel, Ihsan Gursel (FDA).

DHHS Reference No. E–218–01/0 filed Sep 24, 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

This invention claims compositions and methods for suppressing CpG oligonucleotide immunostimulatory action with suppressive motifs comprising mammalian DNA. The sequences of the suppressive motifs claimed in the application comprise multimeric repeats, which have a tendency to form ''G-tetrads,'' which suppress CpG induced immune activation. The inventors have found through *in vivo* and *in vitro* experimentation that these suppressive motifs inhibited CpG DNA induced proliferation and cytokine production. Further experimentation by the inventors has shown that ODNs containing the most said repeats were the most suppressive. There are multiple therapeutic uses for the suppressive oligodeoxynucleotides (ODNs) of the invention, such as use in the prevention or treatment of septic shock, adult respiratory distress syndrome (ARDS), or autoimmune disease. Furthermore, the inventors disclose that eliminating suppressive motifs from the plasmid backbone of DNA vaccines may improve vaccine immunogenicity by maximizing the effect of CpG motifs present in such vectors. The advantages associated with use of suppressive motifs is that therapeutics based on this technology would avoid many of the unwanted side effects associated with current immunosuppressive therapeutics.

Anti-Arthropod Vector Vaccines, Methods of Selecting, and Uses Thereof

Jesus Valenzuela, Yasmine Belkaid, Shaden Kamhawi, David Sacks, Jose Ribeiro (NIAID).

DHHS Reference No. E–122–01/0 filed Jun 19, 2001.

Licensing Contact: Peter Soukas; 301/496–7056 ext. 268; *soukasp@od.nih.gov.*

Leishmania parasites are transmitted to their vertebrate hosts by infected phlebotomine sand fly bites. Sand fly saliva is known to enhance *Leishmania* infection, while immunity to the saliva protects against infection. This invention claims nine major salivary proteins from the sand fly vector of *Leishmania major, Phlebotomus papatasi,* nucleic acids encoding the proteins, vaccines comprising the proteins and/or nucleic acids, and methods of producing an immune response to prevent *Leshmaniasis.* The inventors have shown that one of these salivary proteins, was able to protect vaccinated mice challenged with parasites plus salivary gland

homogenates (SGH). A DNA vaccine containing the cDNA for the same protein provided this same protection. Protection lasted at least 3 months after immunization. The vaccine produced both intense humoral and delayed-type hypersensitivity (DTH) reactions. B cell-deficient mice immunized with the plasmid vaccine successfully controlled *Leishmania* infection when injected with *Leishmania* plus SGH. The invention is further described in Valenzuela JG et al., ''Toward a defined anti-*Leishmania* vaccine targeting vector antigens: characterization of a protective salivary protein,'' *J. Exp. Med.* 2001 Aug 6; 194(3):331–42.

Dated: January 28, 2002.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 02–2909 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Program Project Review Committee, Program Project Review Committee.

Date: March 21, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Jeffrey H. Hurst, PhD, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0303, *hurstj@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2895 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amend. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Ancillary Studies in Heart, Lung, and Blood, Disease Trials.

Date: March 8, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Rockledge II, Bethesda, MD 20892.

Contact Person: Joyce A. Hunter, PhD, Review Branch, Room 7194, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20872.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2896 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Multicenter Study of Hydroxyurea (MSH), Patients Follow Up Extension 1.

Date: February 20, 2002.

Time: 1:00 PM to 3:30 PM.

Agenda: To review and evaluate contract proposals.

Place: Rockledge II, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert B. Moore, PHD, Scientific Review Administrator, Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892, 301–435–0287.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2897 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: February 13, 2002.

Time: 12:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priti Mehrotra, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Bethesda, MD 20892, 301–496–2550, *pm158b@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2898 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: February 26, 2002.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn on the Hill, 415 New Jersey Avenue, NW, Washington, DC 20001.

Contact Person: Michael J. Kozak, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9608, Bethesda, MD 20892–9608, 301–443–6471, kozakm@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: March 8, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, dsommers@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2900 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: February 20–21, 2002.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Georgetown, 2101 Wisconsin Ave., Washington, DC 20007.

Contact Person: Martha Ann Carey, PHD, RN; Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, mcarey@mail.nih.gov.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: February 22, 2002.

Time: 1 PM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, psherida@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2901 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: February 25, 2002.
Time: 2 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: February 27, 2002.
Time: 3:30 pm to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 12, 2002.
Time: 1:30 pm to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 18, 2002.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: March 19, 2002.
Time: 2 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David I. Sommers, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2903 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential traded secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Acquired Immunodeficiency Syndrome Research Review Committee.
Date: March 7–8, 2002.
Time: 8:30 AM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Ave., NW., Washington, DC 20007.
Contact Person: Roberta Binder, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2209, 6700B Rockledge Drive, Bethesda, MD 20892–7616, 301–496–2550, rb169n@nih.gov.
(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield.

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3011 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6). Title 5 U.S.C. as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Millennium Vaccine Initiative-Novel Vaccines for Tuberculosis.
Date: February 27–28, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate contract proposals.
Place: Holiday Inn-Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Paula S. Strickland, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID; NIH, Solar Building, Room 4C02, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–402–0643.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health HHS)

Dated: January 30, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3012 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 12, 2002.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Boulevard, 5th Floor Conference Room, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rita Anand, PHD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5E01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3013 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: February 25, 2002.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Boulevard, 5th Floor Conference Room, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rita Anand, PHD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, room 5E01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3014 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: February 4, 2002.

Time: 10:00 AM to 12:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Phillip F. Wethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS. Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 31, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3015 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute of clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, ZLM1 MMR P M3 (Publication Grants).
Date: February 25, 2002.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Merlyn M. Rodrigues, Medical Officer/SRA, National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2902 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 5, 2002.
Time: 12:00 PM to 1:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Carole L. Jelsema, PHD, Scientific Review Administrator, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Visual Sciences A Study Section.
Date: February 10–12, 2002.
Time: 7:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Mary Custer, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5102, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 11, 2002.
Time: 5:30 PM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sooja K. Kim, PHD, RD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7892, Bethesda, MD 20892, (301) 435–1780.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 13, 2002.
Time: 1:00 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Victor A. Fung, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *fungv@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 14, 2002.
Time: 1:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John L. Bowers, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Cardiovascular and Renal Study Section.
Date: February 18–19, 2002.
Time: 8:00 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: The Latham Hotel, 3000 M Street, NW, Washington, DC 20007.
Contact Person: Russell T. Dowell, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Rm. 4128, MSC 7814, Bethesda, MD 20892, (301) 435–1850, *dowellr@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Review Group, Radiation Study Section.
Date: February 18–20, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: The Watergate Hotel, 2650 Virginia Ave, NW, Washington, DC 20037.
Contact Person: Paul K. Strudler, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7816, Bethesda, MD 20892, (301) 435–1716, *strudlep@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 18, 2002.
Time: 4:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Weijia Ni, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507, *niw@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 19–20, 2002.
Time: 8:00 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Michael H. Chaitin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 19–20, 2002.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael Micklin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 19–20, 2002.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.

Place: The George Washington University Inn, 824 New Hampshire Ave., NW, Washington, DC 20037.

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 5.

Date: February 19–20, 2002.

Time: 8:30 AM to 10:30 AM.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW, Washington, DC 20036.

Contact Person: John Bishop, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 4.

Date: February 20–21, 2002.

Time: 8:00 AM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street NW, Washington, DC 20005–2750.

Contact Person: Dan Kenshalo, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 8:00 AM to 10:00 AM.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave. NW, Washington, DC 20007.

Contact Person: Dharam S. Dhindsa, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 5.

Date: February 20–21, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Jurys Washington Hotel, Westbury Conference Room, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Syed Husain, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892, (301) 435–1224.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Bacteriology and Mycology Subcommittee 2.

Date: February 20–21, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Lawrence N. Yager, PHD, Scientific Review Administrator, Center For Scientific Review, National Institutes for Health, 6701 Rockledge Drive MSC 7808, Room 4190, Bethesda, MD 20892, 301–435–0903, *yagerl@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 1.

Date: February 20–21, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street NW., Washington, DC 20005–2750.

Contact Person: Gamil C. Debbas, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Medicinal Chemistry Study Section.

Date: February 20–21, 2002.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ronald J. Dubois, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, kaleidoscope Room, 2101 Wisconsin Ave. NW., Washington, DC 20007.

Contact Person: Dharam S. Dhindsa. DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel

Date: February 20, 2002.

Time: 11:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Governor's House Hotel, 17th & Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: John Bishop, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 2:00 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Zakir Bengali, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435–1742.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 7:00 PM to 10:00 PM.

Agenda: To review and evaluate grant applications.

Place: La Jolla Coves Suites, 1155 Coast Blvd., La Jolla, CA 92037.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, (301) 435–1179, bradleye@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 20, 2002.

Time: 7:00 PM to 10:00 PM.

Agenda: To review and evaluate grant applications.

Place: La Jolla Coves Suites, 1155 Coast Blvd., La Jolla, CA 92037.

Contact Person: Lee Rosen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 29, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–2899 Filed 1–30–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP); Report on the Revised Up-and-Down Procedure: A Test Method for Determining the Acute Oral Toxicity of Chemicals; Notice of Availability and Request for Public Comments

SUMMARY: Notice is hereby given of the availability of the report entitled, ''The Revised Up-and-Down Procedure: A

Test Method for Determining the Acute Oral Toxicity of Chemicals,'' NIH Publication 02–4501. The report contains the final test recommendations on the '' Revised Up-and-Down Procedure'' (Revised UDP) by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), the results of an independent scientific peer review evaluation of the Revised UDP, and the final test guideline for the Revised UDP. The NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) is seeking public comment on this report on behalf of the ICCVAM prior to transmittal to US Federal agencies in accordance with Pub. L. 106–545. The report and public comments will be transmitted to appropriate Federal agencies following this public comment period.

Availability of the Report

The report is available electronically (PDF and HTML) on the ICCVAM/NICEATM Web site, *http://iccvam.niehs.nih.gov.* A limited number of printed reports are available. To receive a printed copy, please contact NICEATM at PO Box 12233, MD EC–17, Research Triangle Park, NC 27709 (mail), 919–541–2384 (phone), 919–541–0947 (fax), or *niceatm@niehs.nih.gov* (e-mail).

Request for Public Comments

NICEATM invites written public comments on the report. Comments should be sent to NICEATM no later than March 25, 2002. Comments submitted via e-mail are preferred; the acceptable file formats are MS Word (Office 98 or older), plain text, or PDF. Comments should be sent to Dr. William S. Stokes, Director, NICEATM, at PO Box 12233, MD EC–17, Research Triangle Park, NC 27709 (mail), 919–541–0947 (fax), or *niceatmcomments@niehs.nih.gov* (e-mail). Persons submitting written comments should include their contact information (name, affiliation, address, telephone and fax numbers, and e-mail) and sponsoring organization, if any. Public comments received by the above deadline will be posted on the ICCVAM/NICEATM Web site, *http://iccvam.niehs.nih.gov*, and forwarded to the appropriate Federal agencies with the report.

Background

The Organisation for Economic Cooperation and Development (OECD) Test Guidelines Program (TG 425; OECD 1998) adopted the UDP in 1998. The U.S. Environmental Protection Agency (EPA) subsequently determined it was necessary to revise the UDP to: (1) Conform to a newly harmonized global hazard classification scheme for acute toxicity (OECD, 2001) and (2) ensure that regulatory and testing needs would be met with the Revised UDP prior to OECD's proposed deletion of the conventional acute oral toxicity test (OECD, 1987). In August 1999, the EPA asked ICCVAM to evaluate the validation status of the Revised UDP as a substitute for the existing conventional LD50 test (U.S. EPA 870.1100, 1998; OECD Test Guideline (TG) 401, 1987).

The Revised UDP test method submitted to ICCVAM for evaluation included three components:

- A Primary Test for estimating the median lethal dose using sequential testing.
- A Limit Test for evaluating substances anticipated to have minimal or no toxicity.
- A Supplemental Test to determine the slope and confidence interval (CI) for the dose-response curve.

An initial **Federal Register** notice (Vol. 65, No. 34, pp. 8385–8386, February 18, 2000) requested data and the nomination of expert scientists to participate in the independent scientific peer review evaluation of the Revised UDP. A second **Federal Register** notice (Vol. 65, No. 106, pp. 35109–35110, June 1, 2000) announced the peer review panel meeting, availability of a background review document on the Revised UDP, and requested public comments.

The first meeting of the Panel to evaluate the Revised UDP was held on July 25, 2000. The public meeting was organized by the ICCVAM and NICEATM and was sponsored by the NIEHS, NTP, and EPA. The Panel evaluated the extent to which the Revised UDP addresses established validation and acceptance criteria (ICCVAM, 1997) and developes conclusions regarding the usefulness and limitations of the Revised UDP.

The Panel agreed that the Primary and Limit tests would perform as good or better than the respective existing conventional LD50 and limit tests. They also agreed that the revised test methods would reduce animal use compared to the current test methods. The Panel provided other recommendations for revision of the Revised UDP test guideline and did not recommend the UDP Supplemental Test.

Based on the Panel's July 25, 2000 conclusions and recommendations, the EPA UDP Technical Task Force modified the UDP Primary and Limit Tests and removed the UDP Supplemental Test. A computational procedure was added to calculate the confidence interval (CI) for the estimated LD50. The EPA also developed a software program that would calculate subsequent test doses, determine when to stop the test, estimate the LD50, and calculate a CI for the LD50. The publicly available software was developed to mitigate complexity for the user and to facilitate correct performance of the Revised UDP.

A **Federal Register** notice (Vol. 66, No. 121, pp. 33550–33552, June 22, 2001) requested public comment and announced availability of the revised draft test guideline for the Revised UDP, the procedure for calculating the confidence interval for the estimated LD50, and the software program. A subsequent **Federal Register** notice (Vol. 66, No. 133, pp. 36294–36295, July 11, 2001) announced a second public meeting of the UDP Panel.

The second meeting of the UDP Panel was held by teleconference on August 21, 2001. The Panel reviewed and endorsed modifications to the Revised UDP, the CI procedure, and the software program. The Panel recommended additional clarifications to the Revised UDP. Written reports of the Panel meetings are included in the final report.

Following the August 21st meeting, the EPA UDP Technical Task Force revised the UDP Guideline in response to the Panel's recommendations. A discussion of software program limitations and information about using *in vitro* cytotoxicity data to estimate starting doses for *in vivo* studies were added. An ICCVAM Acute Toxicity Working Group and the ICCVAM reviewed and endorsed the final Revised UDP Test Guideline, and developed and adopted ICCVAM test method recommendations for the Revised UDP. In accordance with P.L. 106–545, the ICCVAM test recommendations will be forwarded to appropriate Federal agencies for acceptance consideration.

The final report comprises two volumes. The first volume (143 pages) includes the final ICCVAM test method recommendations on the Revised UDP procedure, the final Revised UDP Test Guideline, and the two peer review panel meeting reports. Volume 2 (291 pages) contains an updated background review document and other information considered by the Panel for the July 2000 meeting. Following receipt of public comments, the report will be forwarded to Federal agencies in accordance with Pub. L. 106–545.

Additional Information About ICCVAM and NICEATM

The NICEATM and ICCVAM were established to facilitate development, validation, and regulatory acceptance of improved toxicological methods that predict human health risks while reducing, refining, and/or replacing animal tests and to promote communication with stakeholders. The NICEATM coordinates activities for the ICCVAM and is located at the NIEHS, Research Triangle Park, NC. ICCVAM, with 15 participating Federal agencies, originally established in 1997, was formally authorized and designated as a permanent interagency coordinating committee by the ICCVAM Authorization Act of 2000 (Pub. L. 106–545). ICCVAM's duties include the technical evaluation of new and alternative testing methods, the development of test recommendations based on those technical evaluations, and the forwarding of its test recommendations to Federal agencies for their consideration. The ICCVAM also coordinates interagency issues on toxicological test method development, validation, regulatory acceptance, and national and international harmonization. Additional information about ICCVAM and NICEATM can be found on the ICCVAM/NICEATM Web site at *http://iccvam.niehs.nih.gov.*

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Dated: January 11, 2002.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 02–2905 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP); The NTP Annual Plan for Fiscal Year 2001; Notice of Availability and Request for Public Comments

SUMMARY: The *NTP Annual Plan for Fiscal Year 2001* outlines the NTP research program for studying the toxicity of physical and chemical agents and for developing methods for toxicological evaluations. The Report also provides information about efforts to develop and validate alternative and improved methods and identifies NTP resource allocations.

Background

The NTP was established within the Public Health Service of the Department of Health and Human Services (DHHS) in November 1978. The NTP is an interagency program whose mission is to evaluate agents of public health concern by developing and applying the tools of modern toxicology and molecular biology. In carrying out its mission, the NTP has several goals to:

- Broaden the spectrum of toxicological information obtained on selected chemicals;
- Develop and validate more sensitive and specific test methods;
- Develop improved strategies for generating scientific data that strengthen the scientific foundation for risk assessments; and
- Communicate NTP plans and results to government agencies, the medical and scientific communities, and the public.

A balanced program was created that uses chronic exposure studies, short-term exposure studies, the collection and application of mechanistic information, model development, alternative methods, and human studies. Scientific activities are divided into several major program areas: Carcinogenesis, risk assessment research, alternative test systems, and toxicology. Toxicology covers activities in immunotoxicology, neurobehavioral toxicology, reproductive and developmental toxicology, respiratory toxicology and phototoxicology. Program and project leaders along with contact information are provided in the plan.

The NTP is an interagency program headquartered at the National Institute of Environmental Health Sciences (NIEHS) of the National Institutes of Health. The NIEHS along with the National Center for Toxicological Research of the Food and Drug Administration and the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention are NTP core agencies. The Director of the NIEHS is also the NTP Director.

The NTP receives advice from two primary external advisory groups. The NTP Executive Committee provides primary program oversight and links DHHS health research institutes and centers with Federal health regulatory agencies. This effort helps to ensure that the NTP's basic and applied toxicology research and development activities are responsive to regulatory and public health needs.

The NTP Board of Scientific Counselors provides scientific oversight

by advising the NTP Director on scientific content and evaluating the merit and overall quality of NTP science. The Board has two standing subcommittees, the Report on Carcinogens Subcommittee and the Technical Reports Review Subcommittee. The Secretary, DHHS, appoints the members.

Availability of the NTP Annual Plan

The *NTP Annual Plan for Fiscal Year 2001* is available electronically on the NTP Web site, *http://ntp-server.niehs.nih.gov.* The report is also in the process of being printed and hard copies will be available from NTP Central Data Management (NIEHS, PO Box 12233, MD E1–02, Research Triangle Park, NC 27709; telephone 919–431–3419; fax 919–541–3687; *cdm@niehs.nih.gov*).

Solicitation of Public Comments

The NTP welcomes comments on the *NTP Annual Plan for Fiscal Year 2001.* Written comments should be submitted to Dr. Mary S. Wolfe, NTP Executive Secretary (NIEHS, PO Box 12233, MD A3–07, Research Triangle Park, NC 27709; fax 919–541–0295; *liaison@starbase.niehs.nih.gov*). Persons submitting comments are asked to provide their name, contact information, and sponsoring organization, if any.

Dated: January 11, 2002.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 02–2906 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences (NIEHS); National Toxicology Program (NTP); Annual Progress Report of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM): Notice of Availability

SUMMARY: Notice is hereby given of the availability of the report entitled, ''Annual Progress Report of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM).'' In accordance with requirements of the ICCVAM Authorization Act of 2000 (Pub. L. 106–545), this report provides a description of the activities that have been carried out during the past year by the ICCVAM and the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM).

Availability of the Report

To receive a copy of the report, please contact NICEATM at P.O. Box 12233, MD EC–17, Research Triangle Park, NC 27709; 919–541–2384 (phone); 919–541–0947 (fax); or *niceatm@niehs.nih.gov.* The report is also available on the ICCVAM/NICEATM Web site at: *http://iccvam.niehs.nih.gov.*

Background

The ICCVAM was formally authorized and designated as a permanent interagency coordinating committee by the ICCVAM Authorization Act of 2000, which was signed into law by the President on December 19, 2000. ICCVAM's duties include the technical evaluation of new and alternative testing methods, the development of test recommendations based on the technical evaluations, and subsequent recommendations to Federal agencies for their consideration. The ICCVAM also coordinates interagency issues on toxicological test method development, validation, regulatory acceptance, and national and international harmonization. The ICCVAM Authorization Act of 2000 directs ICCVAM to prepare reports on its progress and to make them available to the public. This annual report complies with the requirement for an initial progress report. Future reports will be prepared in accordance with the Act. Information about ICCVAM can be found on the Internet at: *http://iccvam.niehs.nih.gov.*

Dated: January 16, 2002.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences.

[FR Doc. 02–2907 Filed 2–6–02; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4732–C–02]

Statutory and Regulatory Waivers Granted to New York State for Recovery from the September 11, 2001 Terrorist Attacks: Technical Correction

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice; correction.

SUMMARY: On January 28, 2002, HUD published a notice that advised the public of waivers of regulations and statutory provisions granted to the State of New York for the purpose of assisting in the recovery from the September 11, 2001, terrorist attacks on New York City, in accordance with statutory authorization to grant such waivers. This notice advises that two of the items listed in the January 28, 2002 publication (items 10 and 11) were incorrectly described as waivers or only waivers. The items, as further discussed in the Supplementary Information section of this notice, should have been described as a ''waiver and alternative requirement,'' and ''alternative requirement,'' respectively. The effective date of the waivers is February 2, 2002.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Opper at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On January 28, 2002 (67 FR 4164), HUD published a notice that advised the public of waivers of regulations and statutory provisions granted to the State of New York for the purpose of assisting in the recovery from the September 11, 2001, terrorist attacks on New York City, in accordance with statutory authorization to grant such waivers. The January 28, 2002, notice discusses the statutory authority to grant such waivers and lists all of the waivers granted and specifies alternative requirements where appropriate. The January 28, 2002 notice also advised that the waivers are effective on February 2, 2002. Accordingly, FR Doc. 02–1936, is corrected to advise that items 10 and 11 listed in the January 28, 2002 notice on page 4165, middle column, were incorrectly described as waivers or waivers only and should have been described as ''waiver and alternative requirement'' and ''alternative requirement,'' respectively. The corrected description for items 10 and 11 are set out below.

10. Waiver and Alternative Requirement—Public Benefit Standards for Economic Development Activities. Currently, grantees are limited in the amount of CDBG assistance per job retained or created, or amount of CDBG assistance per low- and moderate-income person to which goods or services are provided by the activity, that will be considered to meet public benefit standards. Public benefit standards at 42 U.S.C. 5305(e)(3) and 24

CFR 570.482(f)(1), (2), (3), (4)(i), (5), (6) are waived, except that the grantee shall report and maintain documentation on the creation and retention of (a) total jobs, (b) number of jobs within certain salary ranges, and (c) types of jobs. Paragraph (g) of 24 CFR 570.482 is also waived to the extent its provisions are related to public benefit.

11. Alternative Requirement—Duplication of Benefits. The CDBG funds appropriated under the Emergency Response Fund may not be used to provide funds for the same specific uses as disaster loans made available by the Small Business Administration (SBA), in compliance with 15 U.S.C. 636(b)(1)(A). If the needs for assistance are more than the SBA disaster loan amount, CDBG disaster assistance may be used to fund such additional need. New York State should encourage the use of SBA physical damage and economic injury disaster loans; they offer low interest rates and favorable terms. Additionally, CDBG disaster assistance may not be used for the same specific uses as disaster assistance made available by the Federal Emergency Management Agency, e.g., for public works and facilities, in compliance with duplication of benefits prohibitions of 42 U.S.C. 5155 (section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended).

Dated: January 31, 2002.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 02–2886 Filed 2–6–02; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The U.S. Fish and Wildlife Service solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests.

Permit No. TE–050450

Applicant: Lisa D. Allen, Irvin, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with demographic studies throughout the range of the species for the purpose of enhancing its survival.

Permit No. TE–840619

Applicant: Jeff Priest, San Diego, California.

The permittee requests a permit amendment to take (harass by survey) the southwestern willow flycatcher (*Empidonax trailii extimus*) in conjunction with surveys in Riverside, San Diego, San Bernardino, and Orange Counties, California for the purpose of enhancing its survival.

Permit No. TE–051529

Applicant: Brenda L. McMillan, La Mesa, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (harass by survey, collect, and sacrifice) the San Diego fairy shrimp (*Branchinecta sandiegonensis*) and Riverside fairy shrimp (*Streptocephalus wootoni*) in conjunction with surveys in San Diego, Orange, Riverside, and Los Angeles Counties, California for the purpose of enhancing their survival.

Permit No. TE–796271

Applicant: Shana Dodd, San Diego, California.

The permittee requests a permit amendment to take (capture) the San Bernardino kangaroo rat (*Dipodomys merriami parvus*) in conjunction with surveys throughout the range of the species for the purpose of enhancing its survival.

Permit No. TE–052073

Applicant: Don Houston, Encinitas, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys in San Diego, Orange, Riverside, and Imperial Counties, California for the purpose of enhancing its survival.

Permit No. TE–051526

Applicant: Technology Associates International Corporation, San Diego, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*), to take (harass by survey and locate and monitor nests) the southwestern willow flycatcher (*Empidonax trailii extimus*), and to take (locate and monitor nests) least Bell's vireo (*Vireo bellii pusillus*) in conjunction with demographic studies in Riverside, San Diego, Imperial, San Bernardino, Orange, Los Angeles, Santa Barbara, and Ventura Counties, California for the purpose of enhancing their survival.

Permit No. TE–050241

Applicant: Carothers Environmental, LLC, Sedona, Arizona.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax trailii extimus*) in conjunction with surveys in Riverside, San Diego, Imperial, San Bernardino, Orange, Los Angeles, and Ventura Counties, California for the purpose of enhancing its survival.

Permit No. TE–836517

Applicant: Chet McGaugh, Riverside, California.

The permittee requests a permit amendment to take (harass by survey) the Yuma Clapper Rail (*Rallus longirostris yumanensis*) in conjunction with surveys in Riverside, Imperial, and San Bernardino Counties, California and Yuma, La Paz, Mohave Counties, Arizona for the purpose of enhancing its survival.

Permit No. TE–051722

Applicant: C. Barry Knisley, Mechanicsville, Virginia.

The applicant requests a permit to take (harass by survey, collect, and sacrifice) the Ohlone tiger beetle (*Cicindela ohlone*) in conjunction with surveys in Santa Cruz County, California for the purpose of enhancing its survival.

Permit No. TE–052070

Applicant: Nancy H. Sandburg, Santa Barbara, California.

The applicant requests a permit to take (harass by survey and attach transmitters) the Arroyo toad (*Bufo califonicus*) in conjunction with surveys in Monterey County, California for the purpose of enhancing its survival.

Permit No. TE–052197

Applicant: Anne Elizabeth Fetscher, Irvin, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–026092

Applicant: Paul Kephart, Monterey, California.

The applicant requests a permit to take (maintain and collect seed from nursery-grown plants) the Erysimum menziesii (*Menzie's wallflower*) in conjunction with propagation efforts in Monterey County, California for the purpose of enhancing its survival.

DATES: Written comments on these permit applications must be received within 30 days of the date of publication of this notice.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: January 25, 2002.

David J. Wesley,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 02–2932 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notification of emergency clearance and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Office of Management and Budget (OMB) approved an information collection request for emergency clearance under 5 CFR 1320.13. The information collection, Data Elements for Student Enrollment in Bureau-funded Schools, is cleared under OMB Control Number 1076–0122 through June 30, 2002. We are now seeking comments from interested parties to renew the clearance.

DATES: Written comments must be received by April 8, 2002.

ADDRESSES: Written comments should be sent to: William Mehojah, Director, Office of Indian Education Programs, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 3512–MIB, Washington, DC 20240. You may send requests by facsimile to 202–208–3312.

FOR FURTHER INFORMATION CONTACT: Glenn Allison, 202–208–3628 (This is not a toll-free number). Copies of this information collection document will be sent to you, free of charge, when you call and request them.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior, through the Bureau of Indian Affairs, is required to provide educational services to federally recognized Indians and Alaskan natives. Beginning with the Snyder Act and continuing with Public Laws 93–638, 95–561, 100–297, and 103–382, Congress has enacted legislation to ensure Indians receive educational opportunities. The data elements for enrollment information collected is for attendance in elementary and secondary schools operated and funded by the Bureau of Indian Affairs and to address the criteria for attendance that was changed by the passage of Public Law 99–228. This act allows for the tuition free attendance of any Indian student who is a member of a federally recognized tribe or is ¼ degree blood quantum descendant of a member of such tribes, as well as for dependents of Bureau, Indian Health Service or tribal government employees who live on or near the school site.

You are asked to comment on the necessity of the information collection to fulfill the functions of the bureau; whether the burden estimate is accurate and the methodology and assumptions are valid; the utility, quality, and clarity of information requested; and ways that the burden might be minimized for respondents.

Please note that an agency may not sponsor or request, and a person is not required to respond to, a collection of information, unless a valid OMB Control Number is displayed. Comments are available for public review 14 days after the **Federal Register** notice is published. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. We will honor your request to the extent allowed by law.

Title: Data Elements for Student Enrollment in Bureau-funded Schools.

Description: Information necessary to enroll students; information is provided to obtain or retain a benefit, specifically education.

OMB Control Number: 1076–0122.

Respondents: 48,000.

Burden: 15 minutes each to complete, total: 12,000 hours.

Dated: January 29, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–2952 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of a Programmatic Environmental Assessment for Applications To Inject Outer Continental Shelf (OCS) Generated, Resource Conservation and Recovery Act (RCRA) Exempt Exploration and Production (E&P) Waste Into Salt Caverns and Caprock on Sulphur and Salt Lease OCS–G 9372, Main Pass Block 299

AGENCY: Minerals Management Service, Interior.

ACTION: Preparation of an Environmental Assessment and Notice of Public Scoping Meeting.

SUMMARY: Minerals Management Service (MMS) is preparing a programmatic environmental assessment (EA) for applications from OCS oil and gas operators to inject OCS-generated, and RCRA-exempt, exploration and production (E&P) waste into salt caverns and caprock at Main Pass Block 299. Main Pass Block 299 is located 16 miles offshore, east of Plaquemines Parish, Louisiana. Water depth at the proposed waste injection site is 210 feet.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. Clay Pilie', telephone (504) 736–2443.

SUPPLEMENTAL INFORMATION: Freeport-McMoRan Sulphur LLC (Freeport) has presented the MMS Gulf of Mexico (GOM) Region with a detailed proposal to inject OCS-generated, RCRA-exempt E&P waste into the salt caverns and caprock (the rock formation overlying the salt dome, consisting of anhydrite, limestone, and sulphur ore) that underlies the existing Main Pass Block 299 sulphur and salt Lease OCS–G 9372.

RCRA-exempt E&P wastes are wastes from the exploration, development, and production of crude oil, natural gas, and geothermal energy that are exempted from regulation as hazardous wastes under RCRA Subtitle C (53 FR 25477) by a July 6, 1988, U.S. Environmental Protection Agency (EPA) regulatory determination. On March 22, 1993, EPA issued clarification of the 1988 determination (58 FR 15284). Only RCRA-exempt E&P wastes containing naturally occurring radioactive material in concentrations less than 30 picocuries per gram and exposure rates of less than 50 microroentgens per hour inclusive of background are proposed for injection at Main Pass Block 299.

Use of Main Pass Block 299 for E&P waste injection would combine the production of salt (in the form of brine) and the use of the caverns created by salt production (and in the course of sulphur production, which was conducted on the lease) as well as the caprock overlying the salt dome for disposal of waste.

Trinity Field Services, L.P. and Freeport have formed an alliance for the collection, transportation, handling, and disposal of OCS-generated, RCRA-exempt E&P waste. E&P waste will be received in bulk or in cuttings boxes/portable tanks by offshore supply vessel or self-propelled barge at Main Pass Block 299 from single and multiple offshore operating locations where the waste is generated. The waste will be either directly injected or injected after being temporarily stored and processed to extract recyclable materials or to enhance injection capability. In some cases, waste will be processed at existing onshore facilities (Fourchon, Venice, and Berwick/Morgan City, Louisiana) to remove hydrocarbons and/or other recyclable materials (primarily synthetic drilling fluids) and then taken to Main Pass Block 299 for injection.

The Main Pass Block 299 platform complex associated with the proposed waste disposal operations was constructed to support the development and production of sulphur and oil and gas reserves present in the formations above the Main Pass Block 299 salt dome structure. The facility is over a mile in length and is one of the largest structures in the GOM. Both drilling platforms PP1 and PP2 could be used to support the waste disposal activity. New equipment to be installed to accommodate waste injection will consist of a waste pump unit, air compressor, storage tanks, tank cleaning pumps, a tank cleaning vacuum system, waste pumps and dryers, and a waste air compressor, as well as additional piping on the platform. Sulphur production was discontinued in August 2000 due to unfavorable economics attributable to the combined effect of low sulphur prices and high natural gas prices (large volumes of natural gas are required to fire the boilers that heat the water injected into the formation in order to produce the sulphur and power the generators to produce electricity). Oil and gas resources are still being produced from Main Pass Block 299.

If Main Pass Block 299 is used, waste injection activities could span an anticipated 26 years starting in 2002. The anticipated volume of OCS-generated, RCRA-exempt E&P wastes that could be injected at Main Pass Block 299 is estimated to be 119 million barrels. The combined estimated disposal capacity of the caverns and barren/leached caprock is approximately 2.6 billion barrels. Freeport estimates the typical waste streams to be injected would consist of approximately 16 percent solids, 77 percent liquids, and 7 percent hydrocarbons. The EA will analyze information provided by Freeport with respect to disposal into the caprock and salt caverns underlying Main Pass Block 299. Alternatives will include the proposed action with additional mitigations and no action (*i.e.,* disapproval of the applications). The analyses in the EA will examine the potential environmental effects of the activities described by Freeport and alternatives including the potential environmental benefits over current offshore waste management practices. Current offshore waste management practices for E&P wastes that do not meet the standards for overboard discharge in accordance with a National Pollutant Discharge Elimination System (NPDES) permit include onshore disposal or disposal offshore in waste injection wells (in accordance with MMS Notice to Lessees 99–G22). E&P wastes that do meet the standards for overboard discharge in accordance with a NPDES permit are typically discharged into OCS waters.

Prior to considering applications for use of Main Pass Block 299 for waste injection activities, MMS must be assured that all activities will be conducted in an environmentally safe manner, that all injected waste will remain in the caverns and caprock, and that operational activities, monitoring activities, closure procedures, hazards analysis, and safety and environmental plans are in place and found to be acceptable.

In preparation for evaluating the applications, MMS has consulted with the following Federal, State, and private agencies: EPA , National Marine Fisheries Service, U.S. Fish and Wildlife Service, Department of Energy, State of Louisiana, State of Texas, Solution Mining Research Institute, and Sandia National Lab—Underground Storage Technology Department. MMS has also reviewed numerous documents and technical reports (*e.g.,* approval of nonhazardous oil-field waste disposal applications in Texas conducted by the Texas Railroad Commission; Texas Proposed Statewide Rule 82—Cavern Disposal Regulations; Louisiana Draft Regulations, Statewide Order No. 29–M–2, ''E&P Waste Disposal in Solution-Mined Salt Caverns''; ''Preliminary Technical and Legal Evaluation of Disposing of Nonhazardous Oil Field Waste into Salt Caverns'' (Argonne National Laboratory); ''Geologic Site Characterization Requirements for Storage and Mining in Salt'' (Sandia Lab); and ''An Investigation of the Integrity of Cemented Casing Seals with Application to Salt Cavern Sealing and Abandonment'' (Solution Mining Research Institute)).

A public scoping meeting will be held on February 21, 2002, from 1:00 to 3:00 p.m. at the Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, Room 111, New Orleans, Louisiana. At the meeting, MMS and Freeport will provide information on the applications and the public will be given an opportunity to ask questions and provide input on issues that should be addressed in the EA. For more information regarding the Main Pass Block 299 waste disposal applications, please visit those documents at: *http://www.temporarygomr.com/homepg/offshore/mp299/.*

Following completion of the programmatic EA, MMS will either issue a finding of no significant impact or prepare an environmental impact statement.

Public Comments: MMS requests interested parties to submit comments regarding issues that should be addressed in the EA to the Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5410),1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Comments must be submitted no later than 30 days from the publication of this Notice.

Dated: February 4, 2002.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 02–3009 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Outer Continental Shelf (OCS), Eastern Gulf of Mexico (GOM), Oil and Gas Lease Sales for Years 2002–2007

AGENCY: Minerals Management Service, Interior.

ACTION: Call for Information and Nominations/Notice of Intent (Call/NOI) to Prepare an Environmental Impact Statement (EIS).

SUMMARY: The purpose of the Call/NOI is to gather information and nominations on oil and gas leasing, exploration, and development and production for the two tentatively scheduled OCS lease sales in a portion of the Eastern GOM Planning Area south of Alabama. This information is important for ensuring that all interests and concerns are communicated to the Department of the Interior to use in making future decisions in the leasing processes for these two proposed sales.

DATES: Nominations and comments must be received no later than March 11, 2002.

FOR FURTHER INFORMATION CONTACT: For information on the Call/NOI, please contact Ms. Jane Burrell Johnson, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2811. For information on the Notice of Intent to Prepare an EIS, please contact Mr. Joseph Christopher,Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2788.

SUPPLEMENTARY INFORMATION: MMS proposes to adopt a multisale process for the Eastern GOM sales in the 2002–2007 OCS Oil and Gas Leasing Program. This multisale process will cover both proposed sales in the Eastern Planning Area, Eastern GOM Sale 189 and Eastern GOM Sale 197. The Call/NOI, the initial step in the process, will cover both of these sales. There will also be complete National Environmental Policy Act (NEPA), OCS Lands Act, and Coastal Zone Management Act coverage for each sale. For the 2002–2007 OCS Leasing Program, we propose to prepare a two-sale EIS for Eastern GOM Sales 189 and 197. We also propose to prepare a subsequent Environmental Assessment (EA) for Eastern GOM Sale 197, focusing primarily on new issues, to determine whether we should prepare either a Finding of No New Significant Impact or a supplemental EIS for that sale.

This is the first multisale process for the Eastern GOM. It is not, however, the very first multisale process. Beginning in 1996, MMS adopted multisale processes for sales in the Central and Western GOM. The multisale processes for those planning areas incorporated prelease planning and analysis steps for all sales proposed in the approved 5-Year OCS Oil and Gas Leasing Program. MMS is also using a multisale process in the Beaufort Sea. MMS proposes to adopt a similar process for the Eastern GOM sales in the 2002–2007 OCS Oil and Gas Leasing Program. A single multisale process will cover both proposed sales in this planning area through the final EIS stage. However, we will prepare proposed and final Notices of Sale and Consistency Determinations for each sale.

Call for Information and Nominations

1. Authority

This Call is published pursuant to the OCS Lands Act as amended (43 U.S.C. 1331–1356, (1994)), and the regulations issued thereunder (30 CFR part 256).

2. Purpose of Call

The purpose of the Call is to gather information for the following tentatively scheduled OCS Lease Sales in a portion of the Eastern GOM Planning Area south of Alabama:

Sale, OCS planning area	Tentative sale date
Sale 189, Eastern GOM	December 2003.
Sale 197, Eastern GOM	March 2005.

Information and nominations on oil and gas leasing, exploration, and development and production within the Eastern GOM are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act, and regulations at 30 CFR part 256.

Responses are requested relative to proposed sales in the Eastern GOM OCS Planning Area. Since each sale proposal and projected activities are very similar, MMS is proposing to prepare a single EIS for the two Eastern Planning Area lease sales scheduled for 2003 and 2005 in the proposed *Outer Continental Shelf Oil and Gas Leasing Program: 2002–2007.* There will be complete NEPA coverage for each sale—one EIS on both sales and a subsequent EA for the second sale, focusing primarily on new issues. We will prepare a Consistency Determination and proposed and final Notices of Sale for each proposed sale in accordance with Coastal Zone Management Act and OCS Lands Act requirements.

This Call does not indicate a preliminary decision to lease in the area described below. Final delineation for possible leasing will be made at a later date and in compliance with applicable laws including all requirements of the NEPA and OCS Lands Act. Established Departmental procedures will be employed.

3. Description of Area

The general area of this Call covers unleased whole blocks located within the portion of the Eastern GOM Planning Area that is west of 87 degrees 30 minutes West Longitude and which range from 100 to 196 miles south of Alabama, and from about 70 to 148 miles offshore Louisiana. This area is the same area that was offered for lease in Eastern GOM Sale 181 held in December 2001. The area available for nominations and comments at this time consists of approximately 1.5 million acres, of which approximately 0.8 million acres are currently available for bid in Sales 189 and/or 197.

A standard Call for Information Map depicting the proposed Eastern GOM sale area on a block-by-block basis is available without charge from: Minerals Management Service, Public Information Unit (MS 5034), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone: 1–800–200–GULF.

4. Instructions on Call

The standard Call for Information Map and indications of interest and comments must be submitted to: Ms. Jane Burrell Johnson, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Envelopes should be labeled ''Nominations for Proposed 2002–2007 Lease Sales in the Eastern Gulf of Mexico'' or ''Comments on the Call for Information and Nominations for Proposed 2002–2007 Lease Sales in the Eastern Gulf of Mexico.''

The standard Call for Information Map delineates the Call area, all of which has been identified by MMS as having potential for the discovery of accumulations of oil and gas. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have included in each of the proposed sales in the Eastern GOM.

Although individual indications of interest are considered to be privileged

and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record. Those indicating such interest are required to do so on the standard Call for Information Map by outlining the areas of interest along block lines.

Respondents should rank areas in which they have expressed interest according to priority of their interest (*e.g.,* priority 1 [high], 2 [medium], or 3 [low]). Respondents are encouraged to be specific in indicating blocks by priority, as blanket nominations on large areas are not useful in the analysis of industry interest. Areas where interest has been indicated but on which respondents have not indicated priorities will be considered priority 3 [low].

Respondents may also submit a detailed list of blocks nominated (by Official Protraction Diagram designations) to ensure correct interpretation of their nominations. Official Protraction Diagrams can be purchased from the Public Information Unit referred to under Item 3, ''Description of Area.''

Comments are sought from all interested parties about particular geological, environmental, biological, archaeological and socioeconomic conditions or conflicts, or other information that might bear upon the potential leasing and development of particular areas. Comments are also sought on possible conflicts between future OCS oil and gas activities that may result from the proposed sales and State Coastal Management Programs. If possible, these comments should identify specific Coastal Management Plans policies of concern, the nature of the conflict foreseen, and steps that MMS could take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the standard Call for Information Map.

5. Use of Information From Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose for this Call is to use the comments collected in the scoping process for the EIS and to develop proposed actions and alternatives. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore operations. And, fifth, comments may be used to assess potential conflicts between offshore gas and oil activities and a State's Coastal Management Plan.

6. Existing Information

MMS routinely assesses the status of information acquisition efforts and the quality of the information base for potential decisions on tentatively scheduled lease sales. As a result of this continually ongoing assessment, it has been determined that the status of the existing data available for planning, analysis, and decisionmaking is adequate and extensive.

An extensive environmental studies program has been underway in the GOM since 1973. The emphasis, including continuing studies, has been on environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports, and information for ordering copies, can be obtained from the Public Information Unit referenced under Item 3, ''Description of Area.'' The reports may also be ordered, for a fee, from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or telephone (703) 487–4650. In addition, a program status report for continuing studies in this area and a list of final and interim study reports for 2001–2002 can be obtained from the Chief, Environmental Sciences Section (MS 5430), Gulf of Mexico OCS Region (see address under Item 3, ''Description of Area''), or telephone (504) 736–2752. Summary Reports and Indices and technical and geological reports are available for review at Minerals Management Service, Gulf of Mexico OCS Region. Copies of the Gulf of Mexico OCS Regional Summary Reports may be obtained from the Technical Services Branch, Minerals Management Service, 381 Elden Street, MS 4063, Herndon, Virginia 20170, phone: (703) 787–1080.

7. Tentative Schedule

The following is a list of tentative milestone dates applicable to sales covered by this Call:

MULTISALE PROCESS MILESTONES FOR PROPOSED 2002–2007 EASTERN GOM SALES 189 AND 197

Call/NOI(Sales 189 and 197)	January 2002.
Comments Received on Call/NOI(Sales 189 and 197)	March 2002.
Area Identification Decision(Sales 189 and 197)	May 2002.
Draft EIS Published(Sales 189 and 197)	November 2002.
Public Hearings on Draft EIS(Sales 189 and 197)	January 2003.
Final EIS (Sales 189 and 197)	June 2003.

SALE-SPECIFIC PROCESS MILESTONES FOR PROPOSED 2002–2007 EASTERN GOM SALES 189 AND 197

Request for Information to Begin Sale 197 Sale-Specific Process	March 2004.
Sale 197 Environmental Review (EA/Finding of No New Significant Impact/Supplemental EIS (EA/FONSI/SEIS)) Published.	October 2004.
Consistency Determination	5 Months Before Each Sale.
Proposed Notice of Sale	4 Months Before Each Sale.
Final Notice of Sale	1 Month Before Each Sale.
Tentative Sale Dates	December 2003 (Sale 189) and March 2005 (Sale 197).

Notice of Intent To Prepare an EIS

1. Authority

The NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)).

2. Purpose of the Notice of Intent

Pursuant to the regulations implementing the procedural provisions of the NEPA, MMS is announcing its intent to prepare an EIS on the two proposed Eastern GOM oil and gas lease sales, tentatively scheduled for 2003 and 2005. The NOI also serves to announce the scoping process for this EIS. Throughout the scoping process, Federal, State, and local government agencies, and other interested parties have the opportunity to aid MMS in determining the significant issues and alternatives to be analyzed in the EIS.

The EIS analysis will focus on the potential environmental effects of oil and natural gas leasing, exploration, development, and production in the areas identified through the Area Identification procedure. Alternatives that may be considered for each sale are to delay the sale, cancel the sale, or modify the sale.

3. Supplemental Information

Federal regulations allow for multiple proposals to be analyzed in one EIS (40 CFR 1502.4). Since each sale proposal and projected activities are very similar, MMS is proposing to prepare a single EIS (multisale EIS) for the two Eastern Planning Area lease sales scheduled for 2003 and 2005 in the draft proposed *Outer Continental Shelf Oil and Gas Leasing Program: 2002–2007.* The multisale approach is intended to focus the NEPA/EIS process on differences between the proposed sales and on new issues and information. The multisale EIS will eliminate the repetitive issuance of complete draft and final EISs for each proposed lease sale. The resource estimates and scenario information for the EIS analyses will be presented as a range that would encompass the resources and activities estimated for either of the proposed lease sales. At the completion of this EIS process, a decision will be made only for proposed Sale 189, scheduled to be held in 2003. Subsequent to this first sale, a NEPA review will be conducted for proposed lease Sale 197 scheduled for 2005. Formal consultation with other Federal agencies, the affected States, and the public will be carried out to assist in the determination of whether or not the information and analyses in the original multisale EIS are still valid. These consultations and the NEPA review will be completed before a decision is made on proposed Sale 197.

4. For Further Information Contact

Mr. Joseph Christopher, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–2774.

5. Comments

Federal, State, and local government agencies, and other interested parties are requested to send their written comments on the scope of the EIS, significant issues that should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment (MS 5410), Gulf of Mexico OCS Region, at the address under Item 4, **FOR FURTHER INFORMATION CONTACT.** Comments should be enclosed in an envelope labeled ''Comments on the Eastern Multisale EIS.'' Comments should be submitted no later than March 25, 2002. Scoping meetings will be held in appropriate locations to obtain additional comments and information regarding the scope of the EIS. Information on the dates and locations of the scoping meetings will be made available to interested parties via mailouts and advertisements in appropriate newspapers.

Dated: January 25, 2002.

Lucy Querques Denett,

Acting Director.

[FR Doc. 02–3010 Filed 2–6–02; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–935–942 (Final)]

Certain Structural Steel Beams From China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–935–942 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan of certain structural steel beams, provided for in subheadings 7216.32.00, 7216.33.00, 7216.50.00, 7216.61.00, 7216.69.00, 7216.91.00, 7216.99.00, 7228.70.30, and 7228.70.60 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: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: D.J. Na (202–708–4727), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets.usitc.gov/eol/public.

SUPPLEMENTARY INFORMATION:

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.''

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain structural steel beams from China, Germany, Russia, South Africa, and Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on May 23, 2001, by Northwestern Steel & Wire Co., Sterling, IL; Nucor Corp., Charlotte, NC; Nucor-Yamato Steel Co., Blytheville, AR; and TXI-Chaparral Steel Co., Midlothian, TX.

Although the Department of Commerce has preliminarily determined that imports of certain structural steel beams from Italy, Luxembourg,[2] and Spain are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b)[3] so that the final phase of the investigations may proceed concurrently in the event that Commerce makes final affirmative determinations with respect to such imports.

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 § 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 these 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 § 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 May 1, 2002, and a public version will be issued thereafter, pursuant to § 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 May 15, 2002, 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 May 6, 2002. 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 May 8, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 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 § 207.23 of the Commission's rules; the deadline for filing is May 8, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 22, 2002; 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 May 22, 2002. On June 10, 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 June 12, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 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 §§ 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 § 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 1, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–2921 Filed 2–6–02; 8:45 am]

BILLING CODE 7020–02–P

[2] Although Commerce initially made an affirmative dumping determination, it published an amended preliminary determination of sales at not less than fair value on January 31, 2002.

[3] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a final phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of information collection under review; 60-day notice on fax request form from benefit agency to INS for confirmation of status of I–130 and fax request form from benefit agency to EOIR for confirmation of status.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The

proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until [Insert date of the 60th day from the date that this notice is published in the **Federal Register**].

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:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Fax Request Form from Benefit Agency to INS for Confirmation of Status of I–130 and Fax Request Form from Benefit Agency to EOIR for Confirmation of Status.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Governments. The data collected on these fax request sheets will be used by the INS and EOIR to determine eligibility for immigration benefits. The fax request sheets permit the INS and EOIR to share information with state and federal benefit granting agencies, making determinations relating to battered aliens for whom an I–130 petition has been filed, or who have made a *prima facie* case for status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,000 responses at 20 minutes (.333) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,996 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 31, 2002.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 02–2964 Filed 2–6–02; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting/ Teleconference

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ teleconference for NCD's Youth Advisory Committee. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Youth Advisory Committee: The purpose of NCD's Youth Advisory Committee is to provide input into NCD activities consistent with the values and goals of the Americans with Disabilities Act.

DATES: February 27, 2002, 4:00 p.m. EST.

FOR YOUTH ADVISORY COMMITTEE INFORMATION CONTACT: Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *ghawkins@ncd.gov* (e-mail).

Agency Mission: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on disability issues.

We currently have a membership reflecting our nation's diversity and representing a variety of disabling conditions from across the United States.

Open Meeting: This advisory committee meeting/teleconference of the National Council on Disability will be open to the public. Those interested in participating in the meeting/ teleconference should contact the appropriate staff member listed above. Due to limited resources, only a few telephone lines will be available.

Records will be kept of all Youth Advisory Committee meetings/ teleconferences and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on February 4, 2002.

Ethel D. Briggs,

Executive Director.

[FR Doc. 02–2953 Filed 2–6–02; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** 66 FR 46292, and two comments, showing a positive response to NSF's implementation of a web-based job recruitment system, were received. NSF is forwarding the proposed renewal

submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Title: Impact of Industry-Engineering Research Center (ERC) Interaction and Effectiveness of ERC-Trained Industrially Employed Engineers.

OMB Control Number: 3145–0153.

Summary of Collection

Proposed Project: NSF's Directorate for Engineering established the Engineering Research Center (ERC) Program in 1985 to address concerns of industry regarding declining U.S. industrial competitiveness. The mission of the Program as defined by the National Academy of Engineering was to strengthen competitiveness by bringing new approaches and goals to academic engineering research and education, and by forging vital new links between universities and industry. The proposed study repeats one conducted when the Program was 10 years old, which studied the outcomes and impacts of ERC involvement upon firms involved with first generation centers. The report study would involve firms formally participating with the eight second-generation centers, which were initiated from FY 1994–96. Data will be collected from the representatives to the ERCs of these firms. Data will NOT be used to evaluate individual centers, but, rather, to study the Program's on-going as a whole.

Use of the Information: The resulting information will be used to identify program-wide patterns of outcomes and impacts on organizations that are members of ERCs. Results will be used for continuous program performance improvement and external reporting, e.g., for the Government Performance and Results Act.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Individuals.

Estimated Number of Responses Per Form: One.

Estimated Number of Respondents: 291.

Estimated Total Annual Burden on Respondents: 146 hours.

Frequency of Responses: One time.

Dated: February 4, 2002.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 02–2996 Filed 2–6–02; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities Submission for the Office of Management and Budget (OMB) Review; Comment request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR part 72, Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste (3150–0132).

3. *The form number if applicable:* NA.

4. *How often the collection is required:* Required reports are collected and evaluated on a continuing basis as events occur; submittal of reports varies from less than one per year under some rule sections to up to an average of about 100 per year under other rule sections. Applications for new licenses, certificates of compliance (CoCs), and amendments may be submitted at any time; applications for renewal of licenses would be required every 20 years for an Independent Spent Fuel Storage Installation (ISFSI) and every 40 years for a Monitored Retrievable Storage (MRS) facility. Application for renewal of a CoC would be required every 20 years.

5. *Who is required or asked to report:* Certificate holders of casks for the storage of spent fuel, licensees and applicants for a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, and the Department of Energy for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radioactive materials associated with spent fuel and high-level waste storage in an MRS.

6. *The estimated number of annual responses:* 201.

7. *The estimated number of annual respondents:* 33.

8. *The number of hours needed annually to complete the requirement or request:* 41,283 hours (27,777 hours for reporting plus 13,506 hours for recordkeeping) or approximately 1,251 hours per respondent.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* NA

10. *Abstract:* 10 CFR part 72 establishes requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, and requirements for the issuance of licenses to the Department of Energy to receive, transfer, package, and possess power reactor spent fuel and high-level radioactive waste, and other associated radioactive materials, in an MRS. The information in the applications, reports and records is used by NRC to make licensing and other regulatory determinations. The revised estimate of burden reflects and increase primarily because of live rulemakings completed (and approved by OMB) since the last

extension and an increase in the number of licensees.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike, Rockville, MD. OMB clearance requests are available at the NRC World Wide Web site, http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 11, 20002. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 31st day of January 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–2968 Filed 2–6–02; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Budget Analysis Branch; Final Sequestration Report

AGENCY: Office of Management and Budget, Budget Analysis Branch.

ACTION: Notice of transmittal of the Final Sequestration Report for fiscal year 2002 to the President and Congress.

SUMMARY: Pursuant to Section 254(b) of the Balanced Budget and Emergency Control Act of 1985, as amended, the Office of Management and Budget hereby reports that it has submitted its Final Sequestration Report for fiscal year 2002 to the President, the Speaker of the House of Representatives, and the President of the Senate.

FOR FURTHER INFORMATION CONTACT: Sarah Lee, Budget Analysis Branch—202/395–3674.

Dated: January 31, 2002.

Cynthia A. Christian,

Assistant Director for Administration.

[FR Doc. 02–3016 Filed 2–6–02; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27491]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

February 1, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 26, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After February 26, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ameren Corporation, et al.

[70–9965]

Ameren Corporation (''Ameren''), a registered holding company, and its direct and indirect wholly owned nonutility subsidiaries, Union Electric Development Corporation (''UEDC'') and CIPSCO Investment Company (''CIC''),[1] all located at 1901 Chouteau Avenue, St. Louis, Missouri 63103, have filed an application (''Application'') under section 9(c)(3) of the Act.

Ameren, through UEDC and CIC, or one or more other nonutility subsidiaries formed specifically for this purpose, requests authority to invest up to $125 million in total from time to time through December 31, 2006 in existing or new low income housing tax credit (''LIHTC'') projects, historic building or other qualified rehabilitated building projects, and/or ''brownfield'' remediation projects (''Tax Credit Projects'') that qualify or are expected to qualify for Federal and/or State tax credits.[2] Ameren will not take any active role in the development, management or operation of any Tax Credit Project and will not acquire any interest in any venture holding a Tax Credit Project if, as a result, the venture would become an ''affiliate'' of Ameren as defined under section 2(a)(11) of the Act. Ameren and its subsidiaries will, however, conduct appropriate due diligence activities in connection with making investments and manage the investments in order to protect the tax credits that each Tax Credit Project is entitled to and to assure that the physical properties are properly maintained. These activities will include reviewing and analyzing financial statements generated by the general partners, the managing member, or third-party property manager against the approved budget for the investments and conducting due diligence assessments to determine that the properties remain in compliance with the provisions of all applicable Federal and State regulations. Investment management in this context may also include on site inspections to determine that the physical structures and grounds are maintained as quality affordable housing. Accordingly, Ameren will invest in ventures as a limited partner in one or more limited partnerships and/or as a non-member in one or more LLCs, with rights that are substantially the same as rights typically accorded limited partners under limited partnership statutes.

The applicants state that, in general, a separate limited partnership or manager-managed LLC would be

[1] Ameren's public utility subsidiaries are Union Electric Company and Central Illinois Public Service Company, which together serve approximately 1.5 million electric and 300,000 retail gas customers in portions of Missouri and Illinois, including St. Louis.

[2] As of December 31, 2000, Ameren, through UEDC and CIC, held passive investments totaling $6,923,708 in various separate limited partnerships or limited liability companies (LLCs) that own or manage low-income housing properties. In a 1997 merger order, the Commission directed Ameren to sell or reduce its ownership in certain low income housing tax credits properties held through investments in manager-managed LLCs to below 5%. By order dated June 27, 2001 (HCAR No. 27421), the Commission subsequently eliminated this requirement.

established for each new qualifying Tax Credit Project. This structure will allow for financing each Tax Credit Project on a stand-alone basis under the control of an unaffiliated third party, insulate each investment property from any liabilities that may arise in connection with the development or management of any other Tax Credit Project, and facilitate compliance with the requirements of sections 42 of the Internal Revenue Code (''Code'') (as applicable to low income housing properties) and section 47 of the Code (as applicable to certified historic structures and other qualified rehabilitated buildings), or other laws.

The applicants state that the LIHTC program provides Ameren a major incentive to invest in low income housing projects by generating a stream of tax credits that would reduce Ameren's federal and state income tax liability. Under the LIHTC program, equal annual tax credits are available over a ten-year period payable over eleven years, with the first and last years prorated. Under section 42(h)(6)(A) of the Code, no credit is allowed for any taxable year unless an agreement between the housing project owner and the applicable state housing credit agency is in effect as of the end of such taxable year. Under sections 42(h)(6)(B)(i), 42(h)(6)(D), and 42(h)(6)(E)(ii) of the Code, the agreement must prohibit any increase in gross rent for a period ending on the later of (a) the date specified by the agency in the agreement or (b) 15 years after the date when the building is placed in service. Thus, even though the flow of tax credits for an LIHTC property stops after ten years, the property remains subject to rent and income restrictions for at least fifteen years.

Likewise, Ameren seeks to earn tax credits under section 47 of the Code through investments in ''certified historic structures'' (defined as structures that are either listed in the National Register or located in a registered historic district and certified by the Secretary of the Interior as being of historic significance), as well as other types of ''qualified rehabilitated buildings'' (which could include apartment and office buildings, factories, warehouses, etc.) that were first placed in service before 1936. The tax credit is based on the qualified rehabilitation expenditures, as defined under the Code and regulations. It is equal to 20% in the case of ''certified historic structures'' and 10% in the case of other rehabilitated buildings. These credits are subject to possible recapture if the rehabilitated property is transferred before five years after it is placed in service. In addition to the federal tax credits, Ameren may also qualify for tax credits that are available under state law (including in Missouri) with respect to investments in historic building rehabilitation projects.

In addition, Ameren also may obtain state income tax credits under section 447 of the Missouri State Tax Code through qualified investments called ''brownfield'' sites that require environmental remediation in order to extend the useful life of a business property. The tax credit is based on a combination of qualified expenditures for environmental remediation and job creation by the businesses that occupy the renovated properties, as defined in the tax regulations. The credit is equal to 2.1% of the qualified investment in purchased or leased real estate or purchased or leased equipment per year, and is cumulative. Ameren requests authority to make passive investments in projects qualifying for these tax credits in Missouri or similar credits that may be available from time to time under the laws of other States in which Ameren or its subsidiaries have a state income tax liability.

Duke Energy Corp.

[70–10013]

Duke Energy Corp. (''Duke''), 526 S. Church Street, Charlotte, N.C. 28202, a North Carolina corporation, has filed an application under section 3(b) of the Act and rules 10(a)(1) and 11(b)(1) under the Act in connection with its proposed acquisition of Westcoast Energy Inc. (''Westcoast''), a corporation organized under the laws of Canada.

Duke engages directly and indirectly in the generation, transmission, distribution and sale of electric energy to retail and wholesale customers in the States of North Carolina and South Carolina. Duke is an electric utility company and a public-utility company as defined in sections 2(a)(3) and 2(a)(5) of the Act, respectively.[3] Duke entered into a Combination Agreement with Westcoast under which Duke seeks to acquire the stock of Westcoast in exchange for $3.5 billion in cash and stock and the assumption of approximately $5 billion in Westcoast debt (''Acquisition''). Duke states that Westcoast's holdings include three subsidiaries that are public-utility companies operating outside the United States (''Non-U.S. Utilities''). The Non-U.S. Utilities are:

(1) Union Gas Limited (''Union Gas''), a wholly-owned, direct subsidiary of Westcoast engaged in the transportation and storage of natural gas and the distribution of natural gas to residential, commercial and industrial customers in Ontario, Canada;

(2) Pacific Northern Gas Ltd. (''Pacific Northern''), a 40.04%-owned, direct subsidiary of Westcoast, engaged in the transportation of natural gas and the distribution of natural gas to residential, commercial, and industrial customers in British Columbia, Canada; and

(3) P.T. Puncakjaya Power (''PJP''), a 42.86%-owned indirect subsidiary of Westcoast engaged in the generation and sale of electric power to industrial customers in Irian Jaya, Indonesia.

Union Gas is a public company. Westcoast directly owns 100% of the Voting Common Shares of Union Gas stock. The public holds 100% of the Class A, Class B and the Class C Preferred, Non-Voting Shares of the Union Gas stock. The preferred shares of Union Gas trade on the Toronto Stock Exchange. The voting common shares are not listed.

Pacific Northern is a public company and has Class A Non-Voting Common Shares with a par value of $2.50 each and 6.75% Cumulative Redeemable Preferred Shares with a par value of $25.00 each that trade on the Toronto Stock Exchange. Westcoast directly owns 40.04% of the Class A Non-Voting Common Shares of Pacific Northern and 100% of the Class B Voting Common Shares, without intermediate subsidiaries. The public owns the balance of the Class A Common Shares and all (200,000 shares) of the 6.75% Cumulative Redeemable Preferred Shares.

Westcoast indirectly owns, through Westcoast (PJP) Holdings, Inc., a corporation organized under the laws of Canada, a 42.86% share of PJP. Duke indirectly owns, through Duke Energy International PJP Holdings (Maruritius), Ltd., an Indonesian company, a 42.86% share of PJP. The remaining 14.28% interest in PJP is owned by P.T. Austindo Nusantara Jaya, a limited liability company established under the laws of the Republic of Indonesia. Duke states that upon and after the effective date of the Acquisition, Duke may, for tax, legal, regulatory or administrative reasons, restructure the corporate organization described above.

Duke requests an order under section 3(b) of the Act, exempting without qualification each of the Non-U.S. Utilities from all provisions of the Act. Duke states that none of the Non-U.S. Utilities, either before or after the Acquisition, will serve customers in the United States, nor will the Non-U.S. Utilities derive any income directly or indirectly from sources within the

[3] Currently, Duke is not a holding company under the Act.

United States. Duke further states that the Non-U.S. Utilities are not qualified to do business in any state of the United States, nor is any Non-U.S. Utility a public-utility company operating in the United States.

Duke states that its domestic utility operations are, and will continue to be, fully separated from Duke's foreign operations. Duke further states that it will not seek recovery through higher rates to its domestic regulated utility customers for any possible loss it might sustain by reason of the proposed investment in the Non-U.S. Utilities or for any inadequate returns on that investment.

Duke asserts that an unqualified section 3(b) exemption of the Non-U.S. Utilities would entitle Duke and its subsidiary companies that directly or indirectly hold interests in the Non-U.S. Utilities (''Intermediate Subsidiaries'') to the exemption provided by rule 10 of the Act. Duke and the Intermediate Subsidiaries intend to rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company. Further, Duke and the Intermediate Subsidiaries intend to rely upon rule 11(b)(1), to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which Duke and its Intermediate Subsidiaries would otherwise be subject.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2963 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC—25407; 812–12664]

Commonfund Institutional Funds, et al.; Notice of Application

February 1, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 6(c), 12(d)(1)(J), and 17(b) of the Investment Company Act of 1940 (''Act'') for exemptions from sections 12(d)(1)(A) and (B) and 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 thereunder to permit certain joint transactions.

Summary of Application: Applicants request an order to permit certain registered open-end management investment companies to invest uninvested cash and cash collateral in one or more affiliated money market funds and/or short-term bond funds.

Applicants: Commonfund Institutional Funds (the ''Company'') and Commonfund Asset Management Company, Inc. (''Comanco'').

Filing Dates: The application was filed on October 18, 2001 and amended on January 31, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 26, 2002, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: John W. Auchincloss, General Counsel, Commonfund Institutional Funds, 15 Old Danbury Road, PO Box 812, Wilton, CT 06897–0812.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Company is organized as a Delaware business trust and registered under the Act as an open-end management investment company. The Company currently consists of eight investment portfolios (''Funds''), including CIF Short Duration Fund (''Short Duration Fund'').[1] Comanco, an indirect, wholly owned subsidiary of The Common Fund for Nonprofit Organizations, serves as investment adviser for the Company, and is registered under the Investment Advisers Act of 1940.

2. Each Fund has, or may be expected to have, uninvested cash in an account at its custodian (''Uninvested Cash''). Uninvested Cash may result from a variety of sources, such as dividends or interest received on portfolio securities, unsettled securities transactions, reserves held for investment purposes, scheduled maturity of investments, proceeds from liquidation of investment securities, dividend payments, or money received from investors. Certain of the Funds may also participate in a securities lending program under which the Fund may lend its portfolio securities to registered broker-dealers or other institutional investors. The loans will be continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash (''Cash Collateral,'' and together with Uninvested Cash, ''Cash Balances'').

3. Applicants request relief to permit certain of the Funds (the ''Investing Funds'') to use Cash Balances to purchase shares of the Short Duration Fund, as well as any future Fund that operates as a money market fund in accordance with Rule 2a–7 under the Act (''Money Market Fund'' and together with the Short Duration Fund, the ''Cash Management Funds''), and the Cash Management Funds to sell their shares to, and redeem their shares from, each of the Investing Funds. The Short Duration Fund seeks current income with some price appreciation, each consistent with liquidity and safety of principal, by investing in fixed income securities, and generally will maintain an effective duration of one year or less. Investment of Cash Balances in shares of the Cash Management Funds will be made only to the extent consistent with such Investing Fund's investment restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions will result in higher yields, increased investment opportunities, reduced transaction costs, increased returns, reduced administrative burdens, enhanced liquidity, and increased diversification.

[1] All investment companies that currently intend to rely on the requested relief have been named as applicants and any existing or future registered open-end management investment company that may rely on the requested relief in the future will do so only in accordance with the terms and conditions of the application. The applicants are also seeking relief for any registered open-end management investment company or series thereof that is currently, or in the future may be advised by the Adviser, as defined below (included in the term ''Funds''). Comanco and any person controlling, controlled by or under common control with Comanco that currently or in the future serves as investment adviser to a fund are collectively referred to as the ''Adviser''.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act authorizes the Commission to exempt any person, security or transaction (or classes thereof) from any provision of section 12(d)(1) if, and to the extent that, the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption from the provisions of sections 12(d)(1)(A) and (B) to the extent necessary to permit each Investing Fund to invest Cash Balances in the Cash Management Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that section 12(d)(1)(A) and (B) were intended to prevent. Applicants state that because each Cash Management Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Cash Management Fund through threat of redemption. Applicants also represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Cash Management Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. (''NASD'') Conduct Rules) or, if such shares are subject to any such fees in the future, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund. Applicants state that if a Cash Management Fund offers more than one class of securities, each Investing Fund will invest only in the class with the lowest expense ratio (taking into account the expected impact of the Investing Fund's investment) at the time of the investment. Before the next meeting of the board of directors (the ''Board'') of an Investing Fund is held for the purpose of voting on an advisory contract under section 15(a) of the Act, the Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee attributable to, managing the assets of the Investing Fund that can be expected to be invested in the Cash Management Funds. In connection with approving any advisory contract for an Investing Fund, the Board, including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors'') will consider to what extent, if any, the advisory fees charged to each Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in a Cash Management Fund. Applicants represent that no Cash Management Fund whose shares are held by an Investing Fund will acquire securities of any other investment company in excess of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of an investment company to include the investment adviser, any person that owns 5% or more of the outstanding voting securities of that company, and any person directly or indirectly controlling, controlled by, or under common control with the investment company. Applicants state that each of the Investing Funds may be deemed to be under common control, and therefore affiliated persons of each other, because they have a common investment adviser or their investment advisers may be under common control. In addition, applicants submit that because an Investing Fund could acquire 5% or more of the outstanding voting shares of a Cash Management Fund, such Investing Fund might be deemed an affiliated person of the Cash Management Fund. Accordingly, applicants state that the sale of shares of the Cash Management Fund to the Investing Funds, and the redemption of such shares by the Investing Funds, may be prohibited under section 17(a).

5. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policies of each registered investment company involved, and with the general purposes of the Act. Section 6(c) of the Act provides, in part, that the Commission may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act if, and to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief to permit the purchase and redemption of Cash Management Fund shares by the Investing Funds satisfies the standards of sections 17(b) and 6(c) of the Act. Applicants state that the investment by the Investing Funds in shares of the Cash Management Funds will be on the same terms and on the same basis as any other shareholders, and that the consideration paid and received by the Investing Funds on the sale and redemption of shares of a Cash Management Fund will be based on the Cash Management Fund's net asset value per share. In addition, under the proposed transactions, the Investing Funds will retain their ability to invest their Cash Balances directly in money market instruments or short-term instruments as authorized by their respective investment objectives and policies, if they believe they can obtain a higher rate of return, or for any other reason. Applicants also state that each of the Cash Management Funds reserves the right to discontinue selling shares to any of the Investing Funds if the management of the Cash Management Fund determines that such sales would adversely affect its portfolio management and operations.

7. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates, unless the Commission has issued an order authorizing the arrangement. Applicants state that each Investing Fund (by purchasing shares of the Cash Management Funds), each Adviser of an

Investing Fund (by managing the assets of the Investing Funds invested in the Cash Management Funds), and each Cash Management Fund (by selling shares to and redeeming them from the Investing Funds) could be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 thereunder.

8. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission will consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards because the investments by the Investing Funds in shares of the Cash Management Funds will be on the same basis and will be indistinguishable from any other shareholder account maintained by the same class of the Cash Management Funds, and the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Shares of the Cash Management Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if such shares are subject to any such fee, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Before the next meeting of the Board of the Investing Funds is held for purposes of voting on an advisory contract under section 15 of the Act, the Adviser to the Investing Funds will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Cash Management Funds. Before approving any advisory contract for an Investing Fund, the Board of the Investing Fund, including a majority of the Independent Directors, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in the Cash Management Fund. The minute books of the Investing Fund will record fully the Board's considerations in approving the advisory contract, including the considerations referred to above.

3. Each of the Investing Funds will invest Uninvested Cash in, and hold share of, the Cash Management Funds only to the extent that the Investing Fund's aggregate investment of Uninvested Cash in the Cash Management Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund or series thereof will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Cash Management Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information. No Investing Fund that relies on rule 2a–7 under the Act will invest in a Cash Management Fund that is not a Money Market Fund.

5. No Cash Management Fund shall acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

6. Each Investing Fund and Cash Management Fund that may rely on the order shall be advised by the Adviser.

7. Before a Fund may participate in a Securities Lending Program, a majority of the Board, including a majority of the Independent Directors, will approve the Fund's participation in the Securities Lending Program. Such directors also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Cash Management Funds is in the best interests of the shareholders of the Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2958 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (67 FR 4297, January 29, 2002)

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Wednesday, February 6, 2002 at 10 a.m.

CHANGE IN THE MEETING: Cancellation of Meeting/Additional Meetings.

The closed meeting scheduled for Wednesday, February 6, 2002, has been cancelled, and rescheduled for Thursday, February 7, 2002, at 10 a.m. Additional closed meetings will be held on Tuesday, February 12, 2002 and Thursday, February 14, 2002, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3) (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matters of the closed meeting scheduled for Tuesday, February 12, 2002, will be:

Litigation matter;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature;
Formal orders of investigation; and adjudicatory matters.

The subject matters of the closed meeting scheduled for Thursday, February 14, 2002, will be:

Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature; and
Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: February 5, 2002.

Jonathan G. Katz,

Secretary.

[FR Doc. 02–3156 Filed 2–5–01; 4:13 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–45373; File No. SR–Amex–2002–03)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 2 Thereto by the American Stock Exchange LLC Relating to an Extension of the Interim Intermarket Linkage Program

January 31, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 15, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Exchange submitted Amendment No. 1 to the proposed rule change on January 18, 2002.[3] The Exchange submitted Amendment No. 2 to the proposed rule change on January 30, 2002.[4] The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[5] and Rule 19b-4(f)(6) thereunder,[6] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend until December 31, 2002 the pilot program providing for the implementation of ''interim linkages'' with the other option exchanges.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to request an extension of the ''interim'' intermarket options linkage.[7] Currently, the Exchange is operating the interim linkage on a pilot basis pursuant to Amex Rule 940. The interim linkage utilizes the Exchange's existing systems to facilitate the sending and receiving of order flow betweenAmex specialists and their counterparts on the other option exchanges as an interim step towards development of a permanent linkage in the options market.[8] The Exchange now proposes that the interim linkage remain in effect on a pilot basis until December 31, 2002.

The Commission previously approved, on an interim basis, options intermarket linkage plans for all options exchanges.[9] Although the options exchanges have made ''progress'' toward the implementation of a permanent linkage, significant work still exists in order for the linkage to be operational. Accordingly, the Amex believes that an extension of the interim linkage is necessary for the options exchanges to complete implementation of the permanent linkage.

The key component of the interim linkage is for the participating exchanges to open their automated customer execution systems, on a limited basis, to market maker orders. Specifically, market makers are able to designate certain orders as ''customer'' orders, and thereby receive automatic execution of those orders on participating exchanges.[10]

The interim linkage authorizes the Amex to implement bilateral or multilateral interim arrangements with the other exchange providing equal access between market makers on the respective exchanges. Currently, the interim linkage pilot program allows Amex specialists and their equivalents on the other exchanges, when holding customer orders, to send those orders to the other market for execution when the other market has a better quote. Such orders are limited in size to the lesser of the size of the two markets' automatic execution size for customer orders. The interim linkage may in the future be expanded to include limited access principal orders (*i.e.,* when the market maker is not holding a customer order), for orders of no more than 10 contracts.

Consistent with the interim linkage pilot program, all interim linkage orders must be ''immediate or cancel'' (*i.e.,* they cannot be placed on an exchange's limit order book), and a market maker may send a linkage order only when the other (receiving) market is displaying the national best bid or offer and the sending market is displaying an inferior price. This allows an Amex specialist to access the better price for its customer. If the interim linkage is expanded to include principal orders, such action would allow market makers to attempt to ''clear'' another market displaying a superior quote.

Specialist participation in the interim linkage is voluntary. Only when a specialist and its equivalent on another exchange believe that this form of mutual access would be advantageous will the exchanges employ the interim linkage procedures. The Amex believes that the interim linkage will benefit investors and will provide useful experience that will help the exchanges

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, from Jeffrey P. Burns, Assistant General Counsel, Amex, dated January 17, 2002 (''Amendment No. 1'').

[4] In Amendment No. 2, Amex clarified that it was filing the proposed rule change pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder, rather than Rule 19b–4(f)(3) as set forth in Amendment No. 1. *See* letter to Nancy Sanow, Assistant Director, Division, Commission, from Jeffrey P. Burns, Assistant General Counsel, Amex, dated January 29, 2002 (''Amendment No. 2''). Amendment No. 2 replaces Amendment No. 1 in full.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6). The Amex requests that the Commission waive the 30-day operative delay. The Amex provided the Commission with notice of its intention to file this proposal on January 15, 2002.

[7] On May 7, 2001, the Commission issued a notice of filing and immediate effectiveness of a pilot program submitted by the Amex authorizing the implementation of an interim linkage. *See* Securities Exchange Act Release No. 44271 (May 7, 2001), 66 FR 26887 (May 15, 2001) (File No. SR-Amex-2001–20).

[8] The Commission approved the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage in July 2000. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

[9] *See* Securities Exchange Act Release Nos. 43904 (January 30, 2001), 66 FR 9112 (February 6, 2001) (File Nos. SR-ISE–00–15 and SR-CBOE–00–58); 43986 (February 20, 2001), 66 FR 12578 (February 27, 2001) (File No. SR-PCX–2001–10); 44271 (May 7, 2001), 66 FR 26887 (May 15, 2001) (File No. SR-Amex-2001–20); and 44311 (May 16, 2001), 66 FR 28768 (May 24, 2001) (File No. SR-Phlx-2001–52).

[10] As with other orders that are executed under the automatic execution parameters of the Exchange, when a limit order constitutes the Exchange's best bid or offer, the specialist executes the incoming order against that order.

in implementing the full linkage. For these reasons, the Amex requests an extension of the pilot program until December 31, 2002.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,[11] in general, and furthers the objectives of section 6(b)(5),[12] in particular, because it should prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from the date of filing, or such shorter date as the Commission may designate, if consistent with the protection of investors and the public interest; and (4) the Exchange provided the Commission with notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)[14] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[15] does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The Amex has requested, in order to permit the uninterrupted operation of the interim linkage, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b–4(f)(6)(iii).[16] The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and, therefore, has determined to make the proposed rule change operative as of the date of this notice.[17]

At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File Number SR-Amex-2002–03 and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2934 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45357; File No. SR–GSCC–2001–14]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Liability of Affiliated Entities

January 29, 2002.

On October 11, 2001, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] a proposed rule change (File No. GSCC–2001–14). Notice of the proposal was published in the **Federal Register** on December 20, 2001.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change addresses liability issues that may arise after the completion of the integration of GSCC, MBS Clearing Corporation (''MBSCC''), and Emerging Markets Clearing Corporation (''EMCC'') with The Depository Trust and Clearing Corporation (''DTCC'').[3] For purposes of this notice, DTCC, GSCC, MBSCC, EMCC, The Depository Trust Company (''DTC''), and National Securities Clearing Corporation (''NSCC'')[4] are collectively referred to as the ''Synergy Companies.''[5]

An important aspect of the integration plan is to insulate GSCC, its members, and its clearing fund from the risks and obligations that may arise from the

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45155 (Dec. 14, 2001), 66 FR 65768.

[3] Securities Exchange Act Release Nos. 44989 (Oct. 25, 2001), 66 FR 55220 (Nov. 1, 2001) (order approving integration of GSCC), 44988 (Oct. 25, 2001), 66 FR 55222 (Nov. 1, 2001) (order approving integration of MBSCC), and 44987 (Oct. 25, 2001), 66 FR 55218 (Nov. 1, 2001) (order approving integration of EMCC).

[4] DTC and NSCC are wholly-owned subsidiaries of DTCC.

[5] After the completion of the integration, GSCC, MBSCC, and EMCC shall each be a wholly-owned subsidiary of DTCC, and a single group of individuals shall serve as directors of each of the Synergy Companies. Following the integration, GSCC will continue to exist as a separate registered clearing agency. The retained earnings of GSCC existing at the time of (or as of the end of the last full calendar month preceding) the integration of GSCC with DTCC will, as a matter of DTCC policy, be dedicated to supporting the business of GSCC. GSCC will be managed and operated so as to be appropriately capitalized for its activities as a clearing agency.

activities of the other Synergy Companies.[6] The rule change will add a section 2 to Rule 39 that provides that notwithstanding any affiliation between GSCC and any other entity, including any clearing agency, except as otherwise provided by written agreement between GSCC and such other entity, (1) GSCC shall not be liable for any obligations of such other entity and the clearing fund or other assets of GSCC shall not be available to such other entity and (2) such other entity shall not be liable for any obligations of GSCC and any assets of such other entity shall not be available to GSCC.

II. Discussion

Section 17A(b)(3)(F) of the Act[7] requires that the rules of a clearing agency assure the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible. The Commission finds that the proposed rule change is consistent with GSCC's obligations under section 17A(b)(3)(F) because it should help ensure that GSCC's assets, including it's participants fund, are not diminished as a result of its affiliation with the Synergy Companies.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–2001–14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2960 Filed 2–6–02; 8:45 am]

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[6] The integration plan attempts to similarly insulate MBSCC and EMCC. Securities Exchange Act Release Nos. 45358 (Jan. 29, 2002) (order approving MBSCC's limitation of liability) and 45359 (Jan. 29, 2002) (order approving EMCC's limitation of liability). DTC and NSCC adopted rules similar to this proposed rule as part of their 1999 integration with DTCC. Securities Exchange Act Release Nos. 42013 (Oct. 15, 1999), 64 FR 57168 (Oct. 22, 1999) (order approving NSCC's limitation of liability) and 42014 (Oct. 15, 1999), 64 FR 57171 (Oct. 22, 1999) (order approving DTC's limitation of liability).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45385; File No. SR–NASD–2002–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, Amendment No. 1, and Amendment No. 2 Thereto by the National Association of Securities Dealers, Inc. Relating to Revisions to Form U–4 and Form U–5

February 1, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2002, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), 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 NASD Regulation. On January 23, 2002, NASD Regulation submitted Amendment No. 1 to the proposed rule change.[3] On January 31, 2002, NASD Regulation submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrice M. Gliniecki, Vice President and Acting General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division of Market Regulation (''Division''), SEC, dated January 22, 2002 (''Amendment No. 1''). In Amendment No. 1, NASD Regulation: (1) removed all language from the original filing indicating that the filing was submitted pursuant to Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A); and (2) amended the legends on the Forms to read ''Rev. Form U–4 (3/2002)'' and ''Rev. Form U–5 (3/2002),'' rather than ''Rev. Form U–4 (7/2001)'' and ''Rev. Form U–5 (7/2001).''

[4] *See* letter from Patrice M. Gliniecki, Vice President and Acting General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division, SEC, dated January 31, 2002 (''Amendment No. 2''). In Amendment No. 2, NASD Regulation renumbered the amendment to comply with Form 19b–4.

[5] NASD Regulation requested that the Commission make various technical corrections and delete a reference to ''initial'' registrations with regard to the Temporary Registration Acknowledgement (15C) described in the Signature and Acknowledgement Sections of the Purpose Section of this notice. Telephone discussion between Christopher B. Stone, Attorney Advisor, Division, SEC and Gary L. Goldsholle, Associate General Counsel, NASD Regulation, and Richard E. Pullano, Chief Counsel and Associate Director, CRD Public Disclosure, NASD Regulation (January 25, 2002).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to revise the Uniform Application for Securities Industry Registration or Transfer (''Form U–4'') and Uniform Termination Notice for Securities Industry Registration (''Form U–5'') (collectively, the ''Forms'') to: (1) Make technical changes to accommodate the electronic submission of investment adviser filings in the Investment Adviser Registration Depository (''IARD℠'') system; (2) establish procedures that will enable broker/dealer firms and investment adviser firms employing dually registered persons to concur with information contained in the Forms filed on such persons; (3) make the filing instructions clearer for all filers, but especially for those firms that are electronic filers; (4) provide separate paper filing instructions for certain investment adviser representative filers and other state-only filers that do not use the Central Registration Depository (''CRD®'') or IARD systems; (5) clarify certain items that have been a source of confusion for users of the new Internet-based CRD system (''Web CRD℠''); (6) make certain formatting and technical changes to the Forms that would complete the transition from a paper-based filing model to an electronic-filing model; (7) update the Form U–4 to add examination and registration categories not previously included; and (8) amend NASD IM–8310–2, Release of Disciplinary Information, to refer to the newly numbered Section 14 of the Form U–4. The proposed technical and formatting amendments do not alter the reporting or disclosure requirements applicable to broker/dealers or their registered persons.

The text of the proposed rule change and the Exhibits related thereto are available at the principal offices of NASD Regulation and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation 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 Form U–4 is the Uniform Application for Securities Industry Registration or Transfer. Representatives of broker/dealers, investment advisers, or issuers of securities must use this form to become registered in the appropriate jurisdictions and/or with appropriate self-regulatory organizations (''SROs''). The Form U–5 is the Uniform Termination Notice for Securities Industry Registration. Broker/dealers, investment advisers, and issuers of securities must use this form to terminate registration of an individual in the various SROs and jurisdictions.

The proposed revisions to the Forms would (1) make technical changes to the Forms to accommodate the electronic submission of investment adviser filings in the IARD system; (2) establish procedures that will enable broker/dealer firms and investment adviser firms employing dually registered persons to concur with information contained in the Forms filed on such persons; (3) make the filing instructions clearer for all filers, but especially for those firms that are electronic filers; (4) provide separate paper filing instructions for certain investment adviser representative filers and other state-only filers that do not use the CRD or IARD systems; (5) clarify certain items that have been a source of confusion for Web CRD users; (6) make certain formatting and technical changes to the Forms that would complete the transition from a paper-based filing model to an electronic-filing model; (7) update the Form U–4 to add examination and registration categories not previously included; and (8) amend NASD IM–8310–2, Release of Disciplinary Information, to refer to the newly numbered Section 14 of the Form U–4. The proposed technical and formatting amendments do not alter the reporting or disclosure requirements applicable to broker/dealers or their registered persons.

On June 25, 1999, the Commission approved amendments to the Forms (''1999 Forms'')[6] that included both technical and formatting changes in anticipation of the transition to Web CRD. Web CRD was deployed on August 16, 1999, and it became the primary system for the registration of broker/dealers and their associated persons.[7]

Since the implementation of Web CRD, a task force comprised of the North American Securities Administrators Association, Inc. (''NASAA''), the states, the Commission, representatives from the securities industry, and other SROs (hereinafter referred to as the ''Working Group''), has been examining the way in which Forms filings are processed. The consensus of the Working Group is that while an Internet-based electronic registration and termination process provides efficiencies that cannot be paralleled through a paper-filing model, additional efficiencies can be achieved by transitioning from a model designed for a paper filing system to a model that is specifically designed for an electronic filing process.

The current Forms, which were designed to be used in a paper-filing environment, are not completely compatible with an electronic filing environment. For example, the current paper Forms contain formatting and numbering inconsistencies that can be confusing to electronic filers. The proposed changes to the Forms are specifically designed to accommodate electronic filing and to take full advantage of an interactive filing environment. The proposed Forms have a revised format and separate instructions for electronic and paper filers.[8] The Forms will be available interactively to users on the Web CRD and IARD systems, and an identical static version of the Forms will be available in Portable Document Format (''PDF'') on NASD Regulation's Web site.[9]

To provide useful information to Form filers, the Working Group has developed a ''Uniform Forms Reference Guide'' that, among other things: (1) Provides address and contact information for NASD Regulation and NASAA; (2) defines filing type designations;[10] (3) and identifies the certifications from professional organizations that may make investment adviser representative applicants eligible for a waiver of the applicable state examination requirement.[11] The Working Group determined to separate the stand-alone reference guide from the Forms because of the nature of the information contained in it and to allow for convenient updates to the information as needed.

On April 5, 2000, the Commission proposed new rules that would, among other things, allow investment advisers to fulfill their filing obligations with federal and state regulators by filing electronically through a new Internet-based system—the IARD.[12] On July 28, 2000, the Commission formally designated NASD Regulation as the entity to establish and maintain the IARD system.[13] In consultation with the

[6] *See* Exchange Act Rel. No. 41560 (June 25, 1999), 64 FR 36059 (July 2, 1999).

[7] For a description of the transition from the Legacy CRD system to Web CRD, *see* Exchange Act Rel. No. 41560 (June 25, 1999), cited at note 6 *supra.*

[8] Form U–4 filings generally will be made electronically through Web CRD or IARD. However, some individuals (*e.g.,* agents of issuers, filers with certain stock exchanges, certain investment advisers) may need to file the form on paper. The proposed Form U–4 suggests that filers contact state regulators or the appropriate SRO for clarification on filing status.

[9] PDF is a file format that allows for a representation or display of documents in a software manner that is independent of the original application hardware and operating system used to create those documents. NASD Regulation understands that NASAA also intends to make the PDF forms available on its Web site.

[10] On Web CRD, firms can choose from seven Form U–4 filing types: (1) Initial or Transfer: for individuals who have never been registered on Web CRD or who have not previously been licensed/registered with a jurisdiction or SRO within thirty (30) days from the date of the current filing; (2) Amendment: to add or change information on an existing FormU–4; (3) Page 2 for BD Schedule A/B: for individuals who appear on Schedules A or B of the Form BD, providing personal, employment and residential information on Direct or Indirect Owners; (4) Page 2 Amendment for BD Schedule A/B: to add or change personal, employment or residential information on Direct or Indirect Owners; (5) DualRegistration: for individuals who intend to maintain registrations with two or more firms *not* under common ownership with the submitting firm; (6) Relicensing: for individuals who are registering with a new firm within thirty (30) days from their being registered with their previous firm in jurisdictions or SROs where they previously were registered; and (7) Concurrence Filing: to enable firms to concur with certain changes made to the Form U–4 of individuals who also are employed by another broker/dealer or investment adviser. Firms can choose from three Form U–5 filing types: (1) Full Form U–5: to terminate fully an individual from the firm; (2) Partial Form U–5: to terminate individuals from selected SROs/jurisdictions; and (3) Amendment Form U–5: to update or amend disclosure and/or residential information on an individual already terminated from a firm.

[11] An investment adviser applicant will be able to indicate on the Form U–4 whether he or she holds one of the five professional certifications (*i.e.,* Certified Financial Planner, Chartered Financial Consultant, Personal Financial Specialist, Chartered Financial Analyst, or Chartered Investment Counselor) recognized by jurisdictions. The IARD system will then use information provided by the certifying organization to verify that the individual has the indicated certification.

[12] *See* Investment Advisers Act Rel. No. 1862 (Apr. 5, 2000), 65 FR 20524 (Apr. 17, 2000).

[13] *See* Investment Advisers Act Rel. No. 1888 (July 28, 2000), 65 FR 47807 (Aug. 3, 2000). As noted in the Release, in 1996, Congress gave the Commission authority ''to participate in an electronic system for the registration of investment advisers.'' As a result, Congress enacted Section 203(A)(d) of the Advisers Act, which enables the Commission to require investment advisers to file registration and other forms ''through any entity

Continued

Commission and NASAA, NASD Regulation has built and begun to operate the IARD system. NASD Regulation administered a pilot program for the IARD system in October 2000, and it commenced full operation of the ''firm'' component of the IARD system in January 2001. The ''firm'' component of the IARD system allows investment adviser firms to file electronically Forms ADV and amendments thereto in the IARD system.

Currently, investment advisers must file hard copy Forms to register and terminate the registrations of investment adviser representatives with state regulators. Starting on March 18, 2002, NASD Regulation is scheduled to deploy the ''individual'' component of the IARD system, which will allow investment adviser firms to register and terminate electronically the registrations of their investment adviser representatives with appropriate state regulators. Individuals who are registered with both a registered investment adviser and a broker/dealer will share a single registration record on the CRD and IARD systems.[14]

NASD Regulation has been working closely with other members of the Working Group to propose revisions to the 1999 Forms that would best accommodate investment adviser representative registrations through an electronic filing process. NASAA approved the proposed Forms revisions in two steps: at its April 29, 2001 membership meeting, and on October 11, 2001, by an electronic vote of the NASAA membership.

(a) *Highlights of Proposed Changes*

(i) *Section Headers Replace Numbered Fields*

The proposed Forms eliminate the numbered field approach used in the 1999 (and previous) Forms. Because an electronic interactive filing system (and an ''electronic form'') presents information in a specified order, the need for numbered fields is eliminated. Instead, the proposed Forms contain 15 clearly identified, numbered section headers that describe the core categories of information elicited or action required by the applicant or firm, with applicable subquestions contained within each section. As a result of organizing the current fields into 15 sections, the question numbers have changed, but the questions have not been changed substantively, and, importantly, there are no changes to the questions eliciting information about disclosure events. For example, current Question 23, which elicits information about disclosure events, will change to Question 14, but the subquestions, now numbered 14A, 14B, etc. are the same as current subquestions 23A, 23B, etc. Applicants and firms will not be required to ''re-file'' disclosure information with the implementation of the revised Forms.

(ii) *Explanation of Terms and Specific Instructions*

The proposed revisions to the Explanation of Terms and Specific Instructions sections use ''plain English'' and change passive language to more active and instructive language wherever possible. The revisions to the Explanation of Terms section include the addition of seven new terms[15] and an alphabetical list of definitions to better aid applicants and firms. The Specific Instructions also include directions for Investment Adviser Representative-only applicants (*i.e.,* those individuals not also registered or seeking registration with a broker/dealer), as well as specific instructions for paper filers.

(iii) *Private Residence Check Box*

The General Information section of the proposed Forms contains a ''private residence check box'' that allows individuals to indicate that their office of employment address is a private residence. This field was added to address privacy concerns raised in connection with the potential release of this information to the public through public disclosure programs administered by the SEC, NASD, and the states. The investment adviser community has raised specific concerns about the public disclosure of the home addresses of investment advisers who are sole practitioners operating out of their homes.[16] A check in the ''private residence check box'' would enable regulators to block the release of an employment address that is a private residence through public disclosure programs. Regulators or firms will be able to view the employment address on Web CRD or IARD, whether or not the box is checked.

(iv) *Fingerprint Information*

The proposed Form U–4 contains a new ''Fingerprint Information'' section to address procedures for the submission of fingerprints by persons seeking registration as required under federal, SRO, or state rules.[17] This section includes a representation that affirms that an electronic filer seeking registration with a broker/dealer is submitting or will promptly submit fingerprint cards consistent with SRO rules.[18] The representation on current Question 8A regarding fingerprint exempt firms also has been modified to permit an applicant firm to represent that the subject of a filing is exempt from the fingerprint requirement if the applicant meets one or more of the exemptions established by Rule 17f–2 under the Exchange Act.[19] In addition, this section also addresses the applicable scenarios for filing of fingerprint cards by individuals who are

designated [by the Commission] for that purpose'' and to ''pay the reasonable costs associated with[these] filings.'' A description of the IARD system is provided in Investment Advisers Act Rel. No. 1862 (Apr. 5, 2000), cited in note 7 *supra.* Although the IARD system will function in a manner similar to Web CRD, NASD Regulation will not act as an SRO for investment advisers or investment adviser representatives.

[14] NASD Regulation does not regulate the registration of investment advisers or investment adviser representatives. As a vendor of the IARD system, NASD Regulation merely maintains and supports the IARD system.

[15] The new terms are: affiliated, applicant, designated entity, filing firm, firm, firm CRD number, and individual CRD number.

[16] In December 2000, the Commission made a technical amendment to the Form ADV that added a check box for investment advisers whose employment address is a private residence. *See* Exchange Act Rel. No. 43758 (December 21, 2000), 65 FR 81737 (December 27, 2000). The amendment addressed comments received by the SEC in response to its April 2000 proposing release, Exchange Act Rel. No. 42620 (April 5, 2000), 65 FR 20524 (April 17, 2000), in which commenters expressed privacy concerns that home addresses might be disclosed through a regulator's public disclosure program.

[17] Questions involving submission of fingerprints were contained in Question 8A on the 1999 Form U–4.

[18] *See, e.g.,* NASD Rule 1140, Electronic Filing Rules. Under this rule, which was implemented with the deployment of Web CRD, NASD members have been required to submit fingerprint cards within 30 days of electronically filing Form U–4. Firms currently submit hard copy cards via U.S. Mail or other delivery service; however, the NASD is exploring the possibility of implementing an electronic fingerprinting process at some future time. Accordingly, this representation regarding submission of fingerprint cards has been drafted to accommodate technological changes that may allow for electronic submission of fingerprint cards at some future time. In addition, for these same reasons, the representation in former Question 8A that ''[a]pplicant has submitted a fingerprint card through a CRD approved electronic method'' has been deleted because it is subsumed in the new proposed representation.

[19] The representation in current Question 8A that ''[a]pplicant is applying for registration with a Fingerprint Exempt firm'' only covers the exemption under Rule 17f–2(a)(1) for entire firms. The proposed representation more clearly reflects the full set of potential exemptions available under Rule 17f–2, which not only permits an entity to claim an exemption for all of its associated persons (*e.g.,* a broker/dealer, registered transfer agent, or registered clearing agency) provided it qualifies for an exemption (*see* Rule 17f–2(a)(1)), but also permits exemptions for certain classes of partners, directors, officers or employees of any member of any national securities exchange, broker, dealer, registered transfer agent or registered clearing agent upon application to the Commission. NASD members have informed the NASD staff that it is difficult to fingerprint their associated persons who may be located in certain foreign countries; such member firms may wish to seek exemptive relief from the Commission for this class of employees under Rule 17f–2(a)(2).

filing only as investment adviser representatives.[20]

(v) *Dual Registration/Affiliated Firms*

The meaning of ''dual registration'' in Questions 9 and 10 on the 1999 Forms has caused some confusion for both regulators and member firms. A ''yes'' response to Question 9A on the current Form U–4 is intended to determine whether the applicant will maintain registrations with separately owned and unaffiliated broker/dealers. Current Question 10 is intended to elicit whether an individual is going to maintain registrations with affiliated firms. Users of the Form U–4, however, have found these two questions, as currently worded, to be confusing.

The rule change proposes that Questions 9 and 10 be placed into two sections: ''Registration with Unaffiliated Firms'' and ''Registration with Affiliated Firms.'' ''Registration with Unaffiliated Firms'' clearly states that individuals who answer this question will be considered to be ''dually registered,'' and that the individual/firm should consult applicable rules because some jurisdictions do not permit dual registrations.[21] ''Registration with Affiliated Firms'' applies to individuals registering with firms that are under common ownership or control.[22]

(vi) *Registration Categories and Examination Requests*

The proposed Forms add: (1) A new registration category for the International Securities Exchange (''ISE''); [23] (2) new registration categories for the New York Stock Exchange (''NYSE'') Trading Assistant (''TA'') and Specialist Clerk (''SC'') positions; [24] and (3) a registration category for the Private Placement (''PR'') position as required by the Gramm-Leach-Bliley Act.[25] The position described as General Securities and Options Representative has been omitted from the proposed Forms because it was included in error when the Forms were revised in 1999.

The proposed Forms also add: (1) A Series 7A examination that corresponds with the Floor Member Conducting Public Business (''PM'') registration category; [26] (2) a NYSE BranchManager Series 12 examination that corresponds with the Securities Manager (''SM'') registration category; [27] (3) a Series 21 examination that corresponds with the NYSE SC registration category; [28] (4) a Series 25 examination that corresponds with the NYSE TA registration category; [29] (5) a National Futures Association (''NFA'') Financial Instruments examination (Series 33) for individuals registered as a General Securities Representative with the NASD, or who limit their futures activities to soliciting or accepting customer orders for futures or options involving stock index, currency or interest rate products; [30] (6) a limited representative-private securities offering examination (Series 82) that corresponds to the PR registration category discussed above; [31] and (7) a new continuing education regulatory element (Series 106) for Series 6 registered persons.[32] The new Forms omit the Series 47 examination, originally anticipated for individuals with a Japanese-limited general securities (JP) registration position.[33]

(vii) *Professional Designations Section*

The proposed Form U–4 adds Section 8, ''Professional Designations,'' to enable an individual requesting registration as an investment adviser representative to seek a waiver from examinations if he or she currently maintains certain designations.[34] The instructions on the Form U–4 state that this is an optional field that will only be used by individuals who seek the applicable waiver.

(viii) *Signature and Acknowledgment Sections*

To accommodate electronic filing, proposed Section 15, the ''Signatures'' section, defines a ''signature'' as either ''a manual signature or an electronically transmitted equivalent.'' This section permits individuals and appropriate signatories to go directly to designated signature fields to execute the electronic signatures required by the Forms. Proposed Sections 15A and 15B address the individual/applicant's acknowledgment and consent and the firm/appropriate signatory's representations, both of which must be completed on all initial or temporary registration form filings. Section 15C addresses the Temporary Registration Acknowledgment (15C), which must be completed for all temporary registrations. Section 15D has been added to address an individual/applicant's acknowledgment and consent to amendments to the disclosure questions or the Disclosure Reporting Pages (''DRPs''). Firms and appropriate signatories must complete Section 15E for all amendment form filings. In addition, the signature section includes the Firm/Appropriate Signatory Concurrence (15F), which is a new signature section that enables one firm to ''concur'' with a filing made by another firm with which an individual is also registered (*i.e.,* the individual is registered with more than one broker/dealer and/or investment adviser firm).

The proposed changes to the Form U–5 combine the signatures into Section 8, which includes the firm acknowledgment in Section 8A and the individual acknowledgment and consent in Section 8B. Only appropriate signatories of firms are required to sign the Form U–5; however, if the terminating firm reports on the Form U–5 that an individual is under internal review, that individual may file a Part

[20] Not all jurisdictions currently require the submission of fingerprint cards for investment adviser representatives. Accordingly, the proposed Form U–4 permits filers to make appropriate representations, through the use of radio buttons (*i.e.,* defined fields or sections within the system that users can click on), for their particular circumstances.

[21] The ''Registration with Affiliated Firms'' section defines the majority view of states with respect to the ''dual registration'' issue. Based on information provided by the states, 28 states do not allow a person to be registered with unaffiliated entities. A list of those states may be found on the NASD Regulation Web site at *http://www.nasdr.com/pdftext/statefee sch.pdf.*

[22] The term *affiliated* is defined in the ''Explanation of Terms'' section of the Form BD as ''under common ownership or control.''

[23] *See* Exchange Act Rel. No. 42455 (Feb. 24, 2000), 65 FR 11388 (March 2, 2000), in which the Commission approved the International Securities Exchange as a national securities exchange.

[24] *See* Exchange Act Rel. No. 40943 (January 13, 1999), 64 FR 3330 (January 21, 1999) and Exchange Act Rel. No. 41701 (August 3, 1999), 64 FR 43804 (August 11, 1999) in which the Commission approved the Trading Assistant and Specialist Clerk positions, respectively.

[25] The PR position was implemented in May 2001 as required by the Gramm-Leach-Bliley Act of 1999, which added a new subsection (j) to Section 15A of the Exchange Act and created a new NASD registration category for individuals engaged only in private securities offerings. *See* Section 203, P.L. 102, Gramm-Leach-Bliley Act (Nov. 12, 1999).

[26] *See* Exchange Act Rel. No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993) in which the Commission approved the NYSE proposed rule change to adopt the Series 7A examination as a module of the Series 7 examination for floor members who only accept orders from professional customers, and to establish a new registration category. *See also* Exchange Act Rel. No. 44790 (September 13, 2001), 66 FR 48502 (September 20, 2001), in which the Commission recently approved the Series 7A examination for Pacific Stock Exchange floor members.

[27] *See* Exchange Act Rel. No. 39577 (January 23, 1988), 63 FR 4513 (January 29, 1988) in which the NYSE proposed adding a firm element for supervisors by including the Series 12 examination for branch managers in the supervisor category.

[28] *See* note 22 *supra.*

[29] *See* note 22 *supra.*

[30] Including this NFA-sponsored examination on the proposed Form will allow member firms to request this examination without having to request it on the Form U–10 (the Uniform Examination Request for Non-NASD Candidates).

[31] *See* note 20 *supra.*

[32] *See* NASD Notice to Members 01–71. *See* NASD Rule 1120, which permits the NASD to designate continuing education regulatory elements for various registration categories.

[33] Although the Commission approved the JP registration category (*see* Exchange Act Rel. No. 37112 (April 12, 1996), 61 FR 17339 (April 19, 1996)), this examination has not yet been implemented.

[34] *See* note 7 *supra.*

II to the Internal Review DRP to provide a response.[35] In addition, unregistered individuals are obligated to report to CRD any address changes for two years following the termination of registration.[36] The individual acknowledgment and consent is included in the proposed changes to the Form U–5 to require individuals submitting an address change or an Internal Review DRP–Part II to attest that the information is accurate and complete.

(ix) *Firm/Appropriate Signatory Concurrence Section*

Investment adviser representatives who are also registered with one or more broker/dealers will share a single registration record on the CRD/IARD systems.[37] Therefore, a single event may trigger Form U–4 filing obligations by more than one investment adviser and/or broker/dealer. As noted above, Section 15F provides a mechanism by which a broker/dealer may indicate that it concurs with information filed by an investment adviser regarding a representative who is registered with both entities, and vice versa.

The CRD and IARD systems would send an electronic notice to an employer broker/dealer or investment adviser that another broker/dealer or investment adviser that also employs that individual has submitted a Form U–4 for one of its associated persons. The investment adviser or broker/dealer would then be able to review the information that has been submitted. If the firm agreed that the information was correctly reported, it would make a ''concurrence filing,'' which would communicate to the CRD system (and, therefore, all appropriate regulators) that it had adopted the filing as its own. Firms would not be required to make concurrence filings where the filing amends information that is relevant only to the broker/dealer or investment adviser that initially filed the Form U–4 (*e.g.*, such firms would not be required have to submit concurrence filings for changes to registrations, office of employment address, etc. that are specific to the entity making the initial filing).

NASD Regulation believes that concurrence filings will be made in the vast majority of cases involving individuals who are registered with multiple firms (whether they are broker/dealers or investment advisers). In the event that multiple firms associated with any particular individual submit different DRPs reporting the same disclosure event, NASD Regulation staff would ''flag'' the affected record on the CRD/IARD systems. This would identify on the system that a difference exists, and it would immediately put regulators and the involved firms on notice that a difference exists. The Working Group has determined that the ''difference flag'' will be set whenever there is a change to any of the information provided in any of the fields eliciting objective factual information (*i.e.,* all of the DRP fields, with the exception of the last field on the DRP, which is reserved for the registered representative's summary or commentary on the event). The Working Group determined to set the ''difference flag'' pursuant to these criteria to eliminate subjective determinations by NASD staff in identifying such differences.

When a difference is flagged, NASD Regulation staff will alert the firms involved to request that they resolve the difference. If the firms are not able to reach an agreement within 30 calendar days, NASD Regulation staff will refer the matter to a state regulator and/or NASD Regulation's Member Regulation or Enforcement staff, as appropriate, based on the facts and circumstances of the situation, for review and resolution.[38] NASD Regulation also will implement procedures to ensure that a public investor (or other person) who requests a public disclosure report before the difference is resolved is made aware of the conflicting or inconsistent information. Specifically, NASD Regulation intends to provide to such a requestor a public disclosure report that contains both versions of the information submitted whenever such a difference has been identified.[39] This process of permitting broker/dealers and investment advisers to concur with filings submitted by another broker/dealer or investment adviser should make it more efficient for firms to comply with their reporting obligations.[40]

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6)[41] of the Act, which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by making technical changes to the Forms to accommodate the electronic submission of investment adviser filings on the IARD system; establishing procedures that will enable broker/dealer firms and investment adviser firms employing dually registered persons to concur with information contained in the Forms; making certain formatting and technical changes to the Forms that would complete the transition from a paper-based filing model to an electronic-filing model; providing separate paper filing instructions for those filers that do not

[35] With the exception of Part II of the Form U–5 Internal Review DRP, there is currently no mechanism for a former associated person or member to submit information to amend or update a disclosure record through the use of the Forms. Part II of the Form U–5 Internal Review DRP provides a current or former registered representative an opportunity to provide a summary of the circumstances relating to an internal review reported on a FormU–5 by a former employer.

[36] *See generally* Article V, Section 4 of the NASD By-Laws, Forms U–4 and U–5, and Notice to Members 97–31.

[37] NASD Regulation is scheduled to deploy the investment adviser representative component of the IARD system on March 18, 2002. With the deployment of this component of the system, investment advisers will be able to submit Forms U–4 and U–5 electronically to register and terminate the registrations of their investment adviser representatives with appropriate state regulators. Individuals who are registered with both a registered investment adviser and a broker/dealer will share a single registration record on the CRD and IARD systems.

[38] Referrals to NASD Regulation's Member Regulation or Enforcement Department would be made only in cases where a member firm is involved (*e.g.,* when a difference is identified between filings made by two broker/dealer member firms or between filings made by a broker/dealer member firm and an investment adviser firm that is registered with a state). If NASD staff identifies a difference between filings made by two non-member investment adviser firms, a referral will be made to states in which those firms are registered. Where investment adviser firms are registered in multiple states, the Working Group has indicated that referrals would be made to the state where the investment adviser firm's principal place of business is located.

[39] NASD Regulation believes that it is unlikely that there will be many cases involving these types of differences. The universe of individuals who are registered with both a broker/dealer and an unaffiliated investment adviser is small relative to the number of individuals who maintain investment adviser registrations with a firm that is registered both as a broker/dealer and an investment adviser. NASD Regulation does not expect firms that are registered both as a broker/dealer and an investment adviser to submit differing reports about the same event. NASD Regulation further expects that any differences will be quickly resolved, given that both investment advisers and broker/dealers are subject either to state or NASD rules and regulations that require complete and accurate reporting on the Forms.

[40] The proposed language in the General Instructions under Section 15F states: ''This section must be completed to concur with a U–4 filing made by another firm (IA/BD) on behalf of an individual who is also registered with that other firm (IA/BD).'' Because this addition is exclusive to the electronic form, the Specific Instructions for Paper Filers states that Section 15F does not apply to paper filers; consequently, a paper filer would be required independently to submit hard copy filings to states and would not be able to use the electronic concurrence filing mechanism.

[41] 15 U.S.C. 78*o*-3(b)(6).

use the CRD or IARD systems; clarifying certain items that have been a source of confusion for WebCRD users; and updating the Forms to add examination and registration categories that were not previously included.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the NASD consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–05 and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[42]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2959 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45379; File Nos. SR–NASD–2001–64 and SR–NASD–2001–68]

Self Regulatory Organizations; Order Granting Approval of Proposed Rule Changes by the National Association of Securities Dealers, Inc., To Adjust the Fees Charged to NASD Non-Members for the Use of the Nasdaq National Market Execution System and the SelectNet Service

January 31, 2002.

I. Introduction

On September 28, 2001, the National Association of Securities Dealers, Inc. (''NASD'') through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adjust the fees charged to NASD non-members for the use of the Nasdaq National Market Execution System (''NNMS'' or ''SuperSOES'') and the SelectNet Service.[3] On October 4, 2001, Nasdaq filed a second proposed rule change to increase the per share charge for use of SuperSOES on a pilot basis.[4] The Commission received three comment letters on the proposals.[5] This order approves the proposed rule changes.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 44898 (October 2, 2001), 66 FR 51703 (October 10, 2001) (File No. SR-NASD–2001–64). *See also* Securities Exchange Act Release No. 44899 (October 2, 2001) (File No. SR-NASD–2001–63, which applied the new fees to NASD members, effective upon filing, and was implemented on October 1, 2001).

[4] *See* Securities Exchange Act Release No. 44914 (October 9, 2001), 66 FR 52649 (October 16, 2001) (File No. SR-NASD–2001–68). *See also* Securities Exchange Act Release No. 44910 (October 5, 2001) (File No. SR-NASD–2001–67, which applied these pilot changes to NASD members, effective upon filing, for a pilot period from November 1, 2001 through October 31, 2002).

[5] *See* Letter from Meyer S. Frucher, Chairman and Chief Executive Officer, Philadelphia Stock Exchange, Inc. (''Phlx'') to Jonathan G. Katz, Secretary, Commission, dated October 31, 2001 (''Phlx Letter); Letter from Michael T. Dorsey, Senior Vice President, General Counsel and Secretary, Knight Trading Group, Inc. to Jonathan G. Katz, Secretary, Commission, dated November 2, 2001 (''Knight Letter''); and Letter from Michael Bird, Chairman, Trading Issues Committee, Security Traders Association, to Jonathan G. Katz, Secretary, Commission, dated November 6, 2001 (''STA Letter'').

II. Description of the Proposals

A. SR–NASD–2001–64

In SR-NASD–2001–64, Nasdaq proposes to adjust the fees for SelectNet and the NNMS for NASD non-members and consolidate the rules governing these fees into NASD Rule 7010(i).[6] First, Nasdaq proposes to replace the current order execution charge in the NNMS, which is based on the number of orders executed per month, with a $0.001 per share charge for execution of orders through the NNMS. Second, Nasdaq proposes to impose a $0.10 order entry charge on orders in both the NNMS and SelectNet.

Third, Nasdaq proposes to modify the charges for order execution in SelectNet to reflect its transformation, in connection with the implementation of the NNMS, into a system that is intended to be used primarily for the delivery of negotiable, non-liability orders to market makers and electronic communication networks that participate in the NNMS.[7] Nasdaq will charge $0.90 per execution for the first 25,000 liability orders executed in a month, $0.60 per execution for the next 25,000 liability orders executed, $0.10 per execution for the next 200,000 liability orders executed, and will assess no order-execution charge for the remaining liability orders executed in a month. In addition, Nasdaq will charge a fee of $0.90 per execution for all non-liability orders executed.

B. SR–NASD–2001–68

In this filing, Nasdaq proposes to increase the per share charge for orders entered and executed in the NNMS from $0.001 per share to $0.002 per share, in keeping with Nasdaq's ongoing efforts to

[6] SR-NASD–2001–63 applied the same fees to NASD members, effective upon filing, and was implemented on October 1, 2001.

[7] Under current rules, SelectNet may still be used for liability orders by (i) national securities exchanges trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges'') that choose not to participate in the automatic execution functionality of the NNMS, and (ii) other market participants directing orders to market participants that choose not to participate in the automatic execution functionality of the NNMS. The NASD filed a proposed rule change to prohibit UTP Exchanges that do not participate in the NNMS from using SelectNet. *See* Securities Exchange Act Release No. 45319 (January 18, 2002), 67 FR 3923 (January 28, 2002).

align charges with costs and benefits.[8] Nasdaq will implement this proposed rule change on the first day of the month immediately following Commission approval; it will remain in effect, on a pilot basis, until October 31, 2002.

III. Summary of Comments

The Commission received three comment letters on the proposals. One commenter expressed general support for Nasdaq's new pricing system but did not specifically address the proposals contained in SR–NASD–2001–64 and SR–NASD–2001–68.[9] Another commenter, writing in support of the proposed rule changes, believed that a per share approach with SuperSOES is appropriate, because it seems to be the general method of calculating fees by Nasdaq's competitors and members.[10] The commenter also noted that the new fee structure would allow Nasdaq to become more competitive with other trading venues.[11]

The third commenter objected on the basis that allowing Nasdaq to charge national securities exchanges for execution and entry of orders, while also requiring national securities exchanges to pay as part of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''Plan'')[12] in effect amounts to dual charges for the same service.[13] The commenter believed that Nasdaq's pricing policy thus might not promote a level playing field.[14]

Nasdaq's Response to the Comments

Nasdaq filed its response to comments with the Commission on January 15, 2002.[15] In the Nasdaq Letter, Nasdaq responds that charges of duplicative fees ''reflect a misunderstanding of the nature of the fees to be established by [SR–NASD–2001–64 and SR–NASD–2001–68] and therefore do not articulate a reasoned basis for challenging those fees.''[16] Nasdaq believes that the Plan does not guarantee access to Nasdaq market participants through Nasdaq proprietary trading systems. Nevertheless, Nasdaq notes that it has, via NASD rule, allowed UTP Exchanges to use two of its proprietary systems, SuperSOES and SelectNet. Nasdaq stated that the UTP Filings merely change the fees to be paid by UTP Exchanges that elect to use these systems. Specifically, the UTP Filings would specify order entry and order execution charges for the use of SelectNet and the NNMS by UTP Exchanges, including a per share charge for orders executed through the NNMS.

At this time, only two UTP Exchanges—the Chicago Stock Exchange and the Boston Stock Exchange—participate in the NNMS and SelectNet. According to Nasdaq, other UTP Exchanges that commence trading of Nasdaq securities can, if they choose, avoid paying any of the fees to be established by the UTP Filings by using the telephone linkages guaranteed by the Plan, as the Cincinnati Stock Exchange currently does. Alternatively, if they elect to use Nasdaq execution systems, Nasdaq believes that they must pay the fees associated with those systems.

Nasdaq also represented that the costs incurred by Nasdaq in developing and maintaining the NNMS and SelectNet are not, and never have been, covered by the Plan.[17] According to Nasdaq, those costs are not deducted from the data revenues distributed to Plan participants, nor were they included in the initial development costs shared among Plan participants.[18]

IV. Discussion

After careful review, 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 association, and, in particular, the requirements of section 15A of the Act.[19] Specifically, the Commission finds that the proposal is consistent with section 15A(b)(5) of the Act,[20] which requires that the rules of a national securities association provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

The Commission believes that Nasdaq may adjust the fees charged to NASD non-members for the use of SuperSOES and the SelectNet Service to align those fees with the fees charged to members.[21] If UTP Exchanges trade Nasdaq securities on Nasdaq SuperSOES and SelectNet, Nasdaq may charge fees for usage as long as those fees are reasonable and equitably allocated.[22] The Commission notes that Nasdaq is currently working on upgrades to the UTP lines in order to meets its obligations as the exclusive securities information processor under the OTC/UTP Plan.

V. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule changes (SR–NASD–2001–64 and SR–NASD–2001–68) be and hereby are approved on a pilot basis through October 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2962 Filed 2–6–02; 8:45 am]

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[8] SR–NASD–2001–67 applied these same changes to NASD members, effective upon filing, for a pilot period from November 1, 2001 through October 31, 2002.

[9] *See* STA Letter.

[10] *See* Knight Letter, p. 2.

[11] *See* Knight Letter, p. 4.

[12] The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange pursuant to unlisted trading privileges (''UTP''). The Plan provides for the collection from Plan participants, and the consolidation and dissemination to vendors, subscribers and others, of quotation and transaction information in ''eligible securities.'' The Plan also contains various provisions concerning its operation and sets out the responsibilities of the participants with respect to each other and the Plan processor.

[12] *See* Phlx Letter, p. 1.

[14] *Id.*

[15] *See* Letter from John Yetter, Assistant General Counsel, Nasdaq, to Belinda Blaine, Associate Director, Division of Market Regulation (''Division''), Commission, dated January 15, 2002 (''Nasdaq Letter''). The Nasdaq Letter responds to comments on SR–NASD–2001–64, SR–NASD–2001–68, and SR–NASD–2001–72 and amends SR–NASD–2001–72. Nasdaq filed SR–NASD–2001–72 on October 9, 2001. *See* Securities Exchange Act Release No. 44931 (October 12, 2001), 66 FR 53276 (October 19, 2001). Under the proposal, the per share charge for orders executed in the NNMS by non-members would increase to $0.003 per share and will remain at $0.002 per share for NASD Members. The Commission has not yet acted on SR–NASD–2001–72.

[16] Nasdaq Letter, pp. 2–3.

[17] Nasdaq Letter, p. 3.

[18] Nasdaq Letter, pp. 3–4.

[19] 15 U.S.C. 78*o*–3(b). In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78o-3(b)(5).

[21] *See supra* note 3 (SR–NASD–2001–3) and note 4 (SR–NASD–2001–67).

[22] For example, the NYSE charges NYSE non-members certain fees to access its Super Designated Order Turnaround System (SuperDOT), the NYSE's electronic order routing system.

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45374; File No. SR–PCX–2002–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to an Extension of the Interim Intermarket Linkage Program

January 31, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 29, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to extend the effective date of its rules providing for interim linkage from January 31, 2002 to the earlier of January 31, 2003 or such time when the participating exchanges implement permanent intermarket linkage in the options market.[5] The text of the proposed rule change is below; new language is italicized.

Interim Intermarket Linkage Program

RULE 6.91 Pilot Program for Away Market Maker Access.

(d) Implementation of the Pilot Program. The Chairman, or his designee, may implement the Pilot Program, in whole or in part, with respect to specific Participating Exchanges, to the extent that any such Participating Exchange has agreed to implement corresponding aspects of the Pilot Program. Lead Market Maker participation in the Pilot Program will be voluntary. *The Pilot Program will expire on the earlier of January 31, 2003 or at such time when the Participating Exchanges implement permanent linkage.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 20, 2001, the Commission issued a Notice of Filing and Immediate Effectiveness of a pilot program authorizing the PCX to participate in an interim linkage plan with the other options exchanges.[6] The interim linkage plan utilizes existing systems to facilitate the sending and receiving of order flow between PCX market makers and their counterparts on the other option exchanges. The key component of the interim linkage is for the participating exchanges to open their automated customer execution systems, on a limited basis, to market maker orders. Market makers are able to designate certain orders as ''customer'' orders and are thus eligible for automatic execution and similar processing efficiencies.

The options exchanges implemented the interim linkage pending completion of a permanent linkage. That linkage will provide enhanced connectivity between the markets and will have additional rules and mechanisms to help investors achieve the best execution of their orders. While work continues on the permanent linkage, the Exchange currently does not believe that permanent linkage will be implemented until late this year. At the same time, the Exchange's interim linkage rules will expire on January 31, 2002. The Exchange proposes to extend the effectiveness of the interim linkage rules until the full implementation of the permanent intermarket linkage in the options market, or January 31, 2003, whichever comes first. The Exchange believes investors will benefit from the continued operation of interim linkage pending completion of permanent linkage.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[7] in general, and section 6(b)(5),[8] in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, 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 burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission ActionBecause the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to section 19(b)(3)(A)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). In its filing, the PCX requested that the Commission waive the rule's requirement of a 30-day operative delay. The PCX also requested that the Commission shorten the rule's requirement of a five-day pre-filing notice to a three-day pre-filing notice. Telephone conversation between Mai Shiver, Senior Attorney, PCX, and Jennifer Lewis, Attorney, Division of Market Regulation, Commission, on January 30, 2002.

[5] The Commission approved the Plan for the purpose of Creating and Operating an Intermarket Options Linkage (''Linkage Plan'') in July 2000. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

[6] *See* Securities Exchange Act Release No. 43986 (February 20, 2001), 66 FR 12578 (February 27, 2001) (SR–PCX–2001–10).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

of the Act[9] and Rule 19b–4(f)(6)[10] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The PCX has requested, in order to permit the uninterrupted operation of the interim linkage, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b–4(f)(6)(iii).[12] The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and, therefore, has determined to make the proposed rule change operative as of the date of this notice.[13]

A proposed rule change filed under Rule 19b–4(f)(6)[14] normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b–4(6)(iii)[15] permits the Commission to designate a shorter time. The PCX seeks to have the five-business-day pre-filing requirement shortened to a three-business-day pre-filing requirement with respect to the proposed rule change.[16] The Commission has determined to shorten the five-business-day pre-filing requirement with respect to this proposal.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File Number SR–PCX–2002–06 and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2933 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See supra* note 4.

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45383; File No. SR–Phlx–2002–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Conform Its Fee Schedule to Congress' Amendment of Section 31 of the Securities Exchange Act of 1934

February 1, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On February 1, 2002, the Exchange amended the proposal.[3] The Exchange filed this proposal under section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(2)[5] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its schedule of dues, fees and charges to reflect the revised fees imposed pursuant to section 31 of the Act.[6] Until recently, section 31 of the Act required that national securities exchanges pay to the SEC ''a fee at a rate equal to 1/300 of one percent of the aggregate dollar amount of the sales of securities (other than bonds, debentures, other evidences of indebtedness and security futures products) transacted on such national securities exchange * * * '' Congress recently passed the ''Investor and Capital Markets Relief Act'' (''ICMRA''),[7] which amends section 31 of the Act. The ICMRA will reduce the fee to $15 per $1 million of the aggregate dollar amount of the sale of securities. In addition, section 31 fees would no longer apply to sales of options on securities indexes (other than narrow-based security indexes). The Phlx proposes to amend its schedule of dues, fees and charges to reflect the reduced section 31 fee.[8] The new fee is effective as of December 28, 2001. The text of the proposed rule change is available at the Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] *See* January 31, 2002 letter from Cynthia K. Hoekstra, Counsel, Phlx, to Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC (''Amendment No. 1''). In Amendment No. 1, the Phlx provided new text to the proposed rule, and clarified that although the fee referred to in section 31 of the Act is imposed on national securities exchanges, the Phlx imposes this same fee on its members.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

[6] 15 U.S.C. 78ee.

[7] H.R. 1088, 107th Cong. (2001).

[8] While the fee referred to in section 31 of the Act is imposed on national securities exchanges, the Phlx imposes this same fee on its members. *See* Amendment No. 1.

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 Phlx proposes to amend its schedule of dues, fees and charges to incorporate the amended section 31 fee passed by Congress.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act [9] in general, and in particular, with section 6(b)(4),[10] by providing for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [11] and subparagraph (f)(2) of Rule 19b–4 thereunder,[12] because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR–Phlx–2002–02, and should be submitted by February 28, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2961 Filed 2–6–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3907]

Office of Overseas Schools

ACTION: 60-Day notice of proposed information collection: Overseas Schools Grant Request Automated Submissions Program (GRASP): Forms DS–573, DS–574, DS–575, and DS–576 (Formerly Forms FS–573, FS–573A, FS–573B, and FS–574 Respectively) OMB Number 1405–0036.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

Type of Request: Reinstatement with change of a currently approved collection.

Originating Office: A/OPR/OS.

Title of Information Collection: Overseas Schools Grant Request Automated Submissions Program (GRASP).

Frequency: Annual.

Form Numbers: DS–573, DS–574, DS–575, DS–576 (Formerly FS–573, FS–573A, FS–573B, FS–574).

Respondents: Recipients of grants.

Estimated Number of Respondents: 189.

Average Hours Per Response: 1.5.

Total Estimated Burden: 56.70.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Washington, DC 20522–0132, (202) 261–8200.

Dated: January 15, 2002.

Robert B. Dickson,

Executive Director, Bureau of Administration, Department of State.

[FR Doc. 02–3008 Filed 2–6–02; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 3904]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Small Grants Competition for Women's Political Leadership, Girls' Education, Disability Issues, and Women-Led Small Business Development, for Afghanistan, North Africa, the Arabian Peninsula States of the Middle East, and Latin America and the Caribbean

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces a Small GrantsCompetition designed to promote Women's PoliticalLeadership, Girls' Education, Disability Issues, and Women-Led Small Business Development. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals to conduct exchanges for a *single country* from the following: Afghanistan, North Africa, the ArabianPeninsula States of the Middle East, and Latin America & the

Caribbean. The goal of this initiative is to provide support for grassroots organizations or local chapters of national groups to expand the scope of their overseas work and build or strengthen linkages with partner organizations in other countries. Approximately $500,000 has been allotted for this competition, with at least $250,000 projected for Afghanistan and countries in North Africa and the Arabian Peninsula States. ''(Afghanistan is included in this solicitation, contingent on security and feasibility of programming.)'' Grant awards will not exceed $60,000, with most grants ranging from $25,000 to $50,000.

Overview

The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs (ECA) announces a small grants competition for U.S. nonprofit, nongovernmental organizations and institutions to implement international exchange programs, in partnership with one or more local organization(s) in one of the countries listed below. Each Small Grant award is meant to fund a single-country project, with the exception of projects for Afghanistan*. The following are this year's priority themes: (1) Political Leadership for Women, (2) Girls' Education, (3) Disability Issues, or (4) Women-Led Small Business Development. Project activities may take place in the partner's country overseas, or in both the U.S. and the partner country.

* Two-country projects with Afghanistan and one other MiddleEastern or North African country are eligible. These projects should recruit an equal number of participants from each country. Alternatively, single-country projects for Afghanistan may take place in the U.S., Afghanistan and/or a third country.

With the exception of Women-Led Small Business Development, eligible countries for each theme are:

Afghanistan (included in this solicitation, contingent on security and feasibility of programming.)

Latin America: Bolivia, Brazil, Colombia, Ecuador,Paraguay, Peru, Uruguay, Venezuela, Belize, Costa Rica, ElSalvador, Guatemala, Honduras, Nicaragua, Panama, Mexico; Caribbean: The Bahamas, Barbados, Dominican Republic,Haiti, Jamaica, Trinidad.

North Africa: Algeria, Morocco, Tunisia.

Arabian Peninsula States of the Middle East: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates,Yemen.

Proposals for Women-Led Small Business Development may include Afghanistan, and the countries listed under NorthAfrica and the Arabian Peninsula States of the Middle East.

ECA seeks organizations that are interested in expanding or developing grassroots training programs and international exchanges in Afghanistan, North Africa, Latin America & the Caribbean, and the Arabian Peninsula States of the Middle East. Eligibility: U.S. nonprofit 501(c)3 organizations that *have not* received prior funding directly from ECA; and organizations that have received prior ECA funding, *but only under previous Small Grants competitions,* are eligible to apply. All proposals will receive equal consideration. Foreign organizations may submit a joint proposal with the U.S. partner as the principal applicant.

Organizations planning to submit a proposal are strongly encouraged to contact the program office for a consultation. Before calling, applicants should be ready to discuss a concrete concept specific to the guidelines supplied in this request for grant proposals (RFGP).

For Latin America & the Caribbean: Laverne Johnson, *ljohnson@pd.state.gov,* Tel: (202) 619–5337.

For North Africa, the Arabian Peninsula States of the Middle East and Afghanistan: Susan Krause, *skrause@pd.state.gov,* Tel: (202) 619–5320.

Guidelines

To be considered for a grant award in this competition, the proposed project must address one of the themes described in this RFGP for a single country from the above list (except as noted above for Afghanistan).

Applicants should describe a clear and convincing plan for carrying out project components that will fulfill the expected outcomes stated in the proposal narrative. Proposals should address the REVIEW CRITERIA outlined below.

Projects funded under this competition should enhance partnerships among American and foreign organizations, reach the widest possible audiences, provide hands-on activities and training sessions with practical materials in the local language for use during the project and after the grant period is over, and achieve permanent and sustainable results.

This program is not academic in nature; proposals should be creative and innovative, combining elements of skill enrichment, experiential learning and exposure to American life and culture. The activities should also provideAmericans an opportunity to experience the culture of the partner country. Cultural programming may include activities or events hosted by local institutions and home stays with community members. Orientation sessions must be included for all foreign and American program participants.

The majority of funding should be directed toward participant program costs.

Unless otherwise specified below, project components may include, but are not limited to, training of trainers(TOT), internships & job shadowing, workshops, site visits, consultations, and short-term training. Distance learning techniques using appropriate technology and activities meant to bridge the digital divide are also encouraged.

Partner organizations should be identified in the proposal, with project plans developed collaboratively by both the American and foreign organization(s). Applicants that have not yet identified local partners, but whose proposals show significant regional and thematic expertise, are also eligible to apply.

The proposal narrative (excluding resumes, sample materials, the budget & budget notes) should be 3–5 pages and double-spaced. The budget should be presented on one page. Budget notes should be included. The proposed start date should not commence before June 1, 2002, and may be subject to change.

Women's Political Leadership

Proposals should focus on promoting women's political leadership by (1) strengthening the capacity of grassroots women's organizations in developing the skills of current and future women political leaders, and (2) compiling a repertoire of practical materials in the local language for use in workshops, mock elections and campaigns, educational sessions, or other activities. Proposals must indicate a practical knowledge of the political and legislative environment in the partner country. Projects may include, but are not limited to, components listed above and may also include the following: ''Workshops for PoliticalLeaders,'' ''Women's Political Awareness Campaigns'' and ''NGO Management,'' as described below.

Workshops for Political Leaders might include such topics as public speaking, message development, leadership, campaign management, accountability and constituencies, consensus building, lobbying, surveying, polling, advocacy, voter outreach, networking, working with the media, and fundraising. Mock campaigns and elections are encouraged.

Women's Political Awareness Campaigns should educate women on the political process and get them actively involved in the political arena. Awareness campaigns should be jointly conducted with partner organizations, and should reach the widest possible audience in large and small cities, towns and villages.

NGO Management Part of the program design may also include workshops on NGO management and capacity building, for NGOs whose work is linked to emerging or enhanced women's political leadership. NGO workshop topics might include: strategic planning, managing volunteers, coalition building, public relations, facilitation training, peer education & outreach, public-private partners, information management, and website development.

Girls' Education

The proposal should focus on exchanges and training for grassroots educational and community leaders who are actively involved in girls' education. Emphasis should be on providing essential tools and support to educators for classes and leadership activities. Potential topics for activities include, but are not limited to, creating & reconstructing educational opportunities, methodology & practice, the role of women & girls in society, leadership, civic responsibility, mentoring, women in history, conflict resolution, health education, and social issues. Only adult professionals or grassroots practitioners may be selected to travel internationally for exchange activities. Girls may take part as students in pilot sessions and other in-country educational activities.

Disability Issues

Projects should focus on engaging disability NGOs and institutions, individuals with disabilities, leaders in the disability community, as well as the community at-large, to improve opportunities and expand services for the disabled. Projects should seek to involve victims of civil wars and acts of terrorism. Possible themes for exchanges and training include: professional & occupational training, accessibility, entrepreneurship, community involvement, educational & extra-curricular issues, association building, leadership, dealing with mental & emotional scars, public relations, and NGO management. Projects may be designed to cover a range of topics and/or methods, or may focus more intensively on a specific area.

Women-Led Small Business Development

Projects should foster the development of local women-led businesses in the partner country and create ongoing international partnerships. Project components in the U.S. or overseas, with *examples* of possible topics, include: seminars for women considering micro-enterprise (e.g. entrepreneurship, management, finance and registration issues); workshops (start-up, loan packages, marketing, staff training, appropriate technology); site visits(chamber of commerce, local government, women's business association, small business resource centers); mentoring; consultancies; internships; job-shadowing; or other activities.

Grant funds may be used to establish or enhance overseas Women's Business Resource Centers, Women's Business Associations, and regularly published not-for-profit Women's Business Newsletters in the local language, or other sustainable elements. For women's business centers,ECA funding may be used on resources and development of services, but may not be used to furnish new centers. No more than $5,000 may be used to purchase computer and/or office equipment. No funds may be used for micro-credit or re-lending activities.

Foreign participants should be linked with U.S. mentors or counterparts with similar work responsibilities, in order to ensure ongoing professional interaction. In addition to activities for businesswomen, proposals should include components targeting potential entrepreneurs, single mothers and low-income working or non-working women, particularly in countries with critical social and economic challenges.

Countries eligible for Women-Led Small Business Development grants are Afghanistan, and those listed above under NorthAfrica and the Arabian Peninsula States of the Middle East.

Selection of Participants

The proposal narrative should include a description of an open, merit-based selection process for all international exchange components and/or any other component requiring participant selection. A draft application and a sample announcement used for recruitment advertising should be included. ECA and the U.S. embassies retain the right to nominate participants and approve or reject participants recommended by the grantee institution. For exchanges to the U.S., priority must be given to foreign participants who have not previously traveled to the United States.

VISA Regulations

Foreign participants on programs sponsored by ECA are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations.

Project Funding

Funding available for the FY 2002 Small Grants Competition will be disbursed through grants to several organizations. Priority will be given to grant proposals with budgets ranging from $25,000 to $50,000, with funding limited at $60,000. Applicants should not submit a budget that exceeds $60,000 in costs to be paid by ECA, however the overall budget may exceed $60,000 through cost sharing by the U.S. and foreign partner organization(s), and/or other sources. Approximately $500,000 has been allotted for this competition, but may be subject to change. At least $250,000 is projected for Afghanistan, and the countries of North Africa and the Arabian Peninsula States of the Middle East. ECA expects to announce the small grants awards recipients around late May 2002.

Budget Guidelines

To assist applicants in preparing project budgets, listed below are selected sample allowable costs. Applicants should refer to the Proposal Submission Instructions for specific formatting instructions and sample line items.

(1) General Program Expenses (*i.e.* orientation & program-related supplies, educational materials, traveling campaigns, consultants, interpreters, room rental, etc.)

(2) Participant Program Expenses (*i.e.* domestic and international travel, per diem)

(3) Administrative Expenses (*i.e.* salaries, telephone/fax, and other direct administrative costs)

Review Process

In support of first-time applicants, the grant proposal, budget and review process has been modified for this competition. Proposals will be reviewed in two tiers. First, all proposals will be reviewed by a team of qualified staff from the Office of Citizen Exchanges and the respective Department of State regional bureaus per the established review criteria outlined in this RFGP. Second, the most competitive proposals will be forwarded to embassies overseas and to ECA panels for formal advisory review. Non-finalists will be advised at

this point in the process. Please follow the instructions in this RFGP and the Proposal Submission Instructions (PSI) for guidelines. ECA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the ECA GrantsOfficer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. Proposals should adequately address each area of review. The criteria are not rank ordered and all carry equal weight.

1. *Quality of Program Idea and Ability to Achieve Objectives:* Program objectives should be clearly and precisely stated and respond to the priority topics in this announcement. The proposal should articulate the organization's ability to carry out the planned objectives, and should include an outline of the U.S. and foreign staff responsibilities, staff resumes, the organizations' mission statements, a monthly timetable, and sample schedules for program components.

2. *Cost Effectiveness and Cost Sharing:* Administrative costs should be kept to a minimum. Proposals should maximize cost sharing through support and in-kind contributions from the U.S. and partner organization(s).

3. *Program Evaluation:* Proposals must include a plan and methodology to evaluate the program's successes and challenges. The evaluation plan should show a clear link between program objectives and expected outcomes, and should include a brief description of performance indicators and measurement tools. A draft questionnaire for evaluation purposes may be attached to support the proposal.

4. *Support of Diversity:* Proposals should demonstrate substantive support of ECA's policy on diversity. Program content (orientation, evaluation, program sessions, resource materials, follow-on activities) and program administration (selection process, orientation, evaluation) should address diversity in a comprehensive and innovative manner. Applicants should refer to ECA's Diversity, Freedom and Democracy Guidelines on page four of the Proposal Submission Instructions (PSI).

Announcement Title and Number

All communications with ECA concerning this Request for Grant Proposals should refer to the announcement title *FY02 Small Grants* and reference number ECA/PE/C–02–37.

Diversity, Freedom and Democracy Guidelines

Pursuant to ECA's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' ECA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Deadline for Proposals

The U.S. Department of State, Bureau of Educational and Cultural Affairs must receive all copies by 5 p.m. Washington, DC time on Friday, March 29, 2002. Faxed documents will not be accepted at any time. The mailroom closes at 5:00 p.m.; no late submissions will be accepted. Documents postmarked by March 29, 2002, but received at a later date, will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

To Download an Application Package Via the Internet

The entire Application Package may be downloaded from ECA's Web site at *http://exchanges.state.gov/education/rfgps/*.

Submissions

Applicants must follow all instructions given in the Application Package. The applicant's original proposal and ten (10) copies should be sent to: U.S. Department of State, Ref.: ECA/PE/C–02–37, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the ''Executive Summary,'' ''Proposal Narrative'' and ''Budget'' sections of the proposal on a 3.5″ diskette. ECA will transmit these files electronically to the Public Affairs Sections of the U.S. Embassies for review. Once the RFGP deadline has passed, Bureau staff may not discuss this competition in any way with applicants until the proposal review process has been completed.

FOR FURTHER INFORMATION, CONTACT By mail: United States Department of State, SA–44, Bureau of Educational and Cultural Affairs, Office of Citizen Exchanges (ECA/PE/C), Room 220, Washington, DC 20547, Attn: FY02 Small Grants, By phone: (202) 619–5334; By fax: (202) 619–4350, By e-mail: *pmidgett@pd.state.gov.*

Interested applicants may request a copy of the Application Package, which includes the RFGP and the Proposal Submission Instructions (PSI). Please specify ''FY02 Small Grants'' on all inquiries and correspondence. All potential applicants should read the complete announcement before sending inquiries or submitting proposals.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau or program officers that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the U.S. Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with the Bureau in evaluating their programs under the principles of the Government Performance and Results Act (GPRA) of

1993, which requires federal agencies to measure and report on the results of their programs and activities.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: January 28, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 02–3005 Filed 2–6–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 3905]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Central and East European Exchanges and Training Programs for Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Hungary, Kosovo, Macedonia, Montenegro, Poland, Romania, Serbia, the Slovak Republic, and Slovenia

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for Central and East European Exchanges and Training Programs. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals to conduct training programs.

Program Information

Overview

The Bureau of Educational and Cultural Affairs (ECA) invites applicants to submit proposals that encourage the growth of democratic institutions in Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Hungary, Kosovo, Macedonia, Montenegro, Poland, Romania, Serbia, the Slovak Republic, and Slovenia. Exchanges and training programs supported by institutional grants from ECA should operate at two levels: they should enhance institutional partnerships, and they should offer practical information to individuals and groups to assist them with their professional and volunteer responsibilities.

Strong proposals usually have the following characteristics: an active, existing partnership between a U.S. organization and an in-country institution(s); a proven track record for conducting successful program activity; cost-sharing from U.S. and in-country sources, including donations of air fare, hotel and/or housing costs, ground transportation, interpreters, room rentals, *etc.*; experienced staff with language ability; a clear, convincing plan outlining exactly how the program components will be carried out and how permanent results will be achieved as a result of the grant; and a follow-on plan that extends beyond the ECA grant period. Knowledge of the current technological capacity (Internet connectivity, e-mail, hardware and software) of in-country partners and their countries and/or regions, and a description of the role of technology in the proposed program, are essential. Cost sharing, which should be included in the budget, must be in tangible forms, both in-kind and monetary. Cost sharing may be contributed to the program by the prospective grantee institution, in-country partners and by third party sources.

Unless otherwise specified below: (1) Program activity may include: ''training of trainers (TOT),'' internships, short-term training, consultations, site visits, workshops; and (2) programming may take place in the United States or, when possible, in the target country(ies), or in both. Proposals should reflect a practical understanding of the current political, economic and social environment that is relevant to the theme addressed in the proposal. In order to avoid the duplication of activities and programs, proposals should also indicate knowledge of similar projects being conducted in the region.

Applicants are expected to identify the U.S. and in-country partner organizations and individuals with whom they are proposing to collaborate and describe in detail previous cooperative projects undertaken by the organizations/individuals. Specific information about in-country partners' activities and accomplishments is required and should be included in the section on ''Institutional Capacity.'' Resumes for individuals mentioned in the proposal should be provided, including proposed U.S. and in-country staff, trainers, consultants, *etc.* Letters of support from partner organizations as well as internship and site visit hosts should be included in the proposal.

Programs should be designed so that the sharing of information and training that occurs during the grant period will continue long after the grant period is over. Proven methods of sustainability include, but are not limited to: a model TOT program that would include initial training, practice presentation sessions for the in-country participants, followed by training activities coordinated and implemented by the in-country participants in their home countries; a commitment to create or support in-country training/resource centers; plans to create coalitions, professional interests groups, networks, or associations; regularly published electronic and/or hard-copy newsletters; and ongoing mentoring through Internet communication.

All proposals should include a discussion of the follow-on activities that will continue after the USG funding period is over.

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

To be eligible for a grant award under this competition, the proposed training and exchange programs must address one of the following specific themes for regional projects or single country projects, as specified.

- *Prevention of Trafficking in Women and Girls*—Regional Project—Must include all of the following countries: Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, Macedonia, Montenegro, Romania, and Serbia
- *Diplomatic Training*—Single Country Project: Must target Macedonia or Romania
- *Professional Internships*—Projects for Bulgaria, Hungary, Poland, the Slovak Republic and Slovenia (please see topics and country assignments below)

Prevention of Trafficking in Women and Girls

Trafficking in Women and Girls has become a widespread problem in Southeastern Europe (SEE). In June 2001 the U.S. Department of State released its first report on the issue of trafficking in persons worldwide. (Please see *http://www.state.gov/g/inl/rls/tiprpt/2001/.)* The need to educate and inform communities, lawmakers and media representatives has become imperative to prevent women and girls from falling victim to trafficking in the SEE region.

The Bureau seeks proposals that provide training and capacity building to individuals and communities in the SEE region to help combat trafficking in women and girls. Programs should be regional in focus and should include cross-border efforts to ensure integration of efforts and cooperation among SEE countries. To avoid duplication of efforts, applicants should be familiar with the International Organization for Migration and the UNHCR's programs as well as indigenous SEE NGOs' programs to combat trafficking. Priority will be given to programs that propose to reach risk groups where anti-trafficking initiatives have been limited or

nonexistent. Proposals may address multiple themes listed below. Applicants should expect to work closely with the Public Affairs Sections of the U.S. Embassies in SEE on coordination of all activities, including participant selection.

Areas of Focus

Bilateral exchange and training programs that may address public awareness, victim assistance, reintegration and/or occupational training:

1. The Bureau is seeking two-way exchange programs that will educate the U.S. and SEE citizenries on the issue of trafficking. Many NGOs in SEE have been confronting the issue of trafficking and have much to share with their U.S. counterparts. Given that many women are now being trafficked into the United States, it is important that U.S. relief and assistance organizations are exposed to effective prevention and assistance programs in SEE. SEE participants in turn will benefit from exposure to U.S. models for job training and life skills management programs, peer education and economic assistance programs as well as models for successful advocacy and fundraising campaigns on the issue. Participants may be leaders of NGOs, community leaders, teachers and school administrators and local government officials. Follow-up workshops/on site consultations in the region are encouraged after the U.S.-based training. Programs may focus on developing participants' skills to establish job training programs and centers in the region, but funding may not be used for the establishment of the centers. Successful proposals will offer hands-on training, including shadowing and internship opportunities, as well as the development of action plans, publications, web-based information and/or other products that can be accessed easily by the general public.

2. Training and exchanges of SEE media representatives: The Bureau seeks proposals that will provide hands-on training to SEE journalists to ensure widespread, accurate media coverage on the issue of trafficking, to raise media professionals' awareness of the issue, and to train journalists to cover the issue of trafficking without stigmatizing victims. Workshops and on-site consultations at media outlets in the region are strongly encouraged. U.S.-based training may also be proposed when appropriate. Target participants may include media managers, editors and journalists. Successful proposals will include plans for interactive training, as well as the development of action plans, publications, web-based information and/or other results-oriented products that media representatives may access.

3. Training and exchanges of parliamentarians and other government officials: The Bureau welcomes proposals that will encourage members of parliament and other government officials to take an active stand against trafficking in the SEE region. Proposals should focus on how government should enforce and/or improve laws against trafficking. Proposals should outline a strategy on how governments in the region can increase information sharing among the SEE governments on the issue and cooperate to close down trafficking routes in the region. Proposals should also address how training will encourage cooperative and complementary efforts among government, the media and the NGO community regarding the issue. Two-way exchanges and follow-up workshops in the region are strongly encouraged. The Bureau is interested in results-oriented proposals that include regional action plans, publications and other work products that will serve to educate government officials throughout the SEE region regarding the issue of trafficking.

Funding: The total funding available for prevention of trafficking programs is $989,450. The Bureau anticipates awarding 4–6 proposals for this competition, averaging approximately $60,000–$215,000 each.

Diplomatic Training

For Macedonia

The Bureau is seeking proposals that will offer training to representatives of Macedonia's Ministry of Foreign Affairs (MFA). Programs will offer training and assistance to the Macedonian MFA to help establish a unified foreign policy in the face of ethnic and political divisions and to create a professional, multi-ethnic Macedonian foreign service that can represent the country abroad.

Macedonian diplomats, including deputy chiefs of mission and other senior, mid-level and junior officials, should be trained in the essentials of foreign policy formulation. Training will be based on courses offered to U.S. diplomats and will incorporate such practical and substantive themes as: international politics (including international organizations and lending institutions); the structure and operation of an embassy; professional ethics; management skills; analytical reporting; negotiation skills; media relations and public diplomacy; trade promotion; management of VIP visits and other relevant topics.

The program should include in-country training as well as training in the United States. Program activity may incorporate training-of-trainers, workshops, internships and site visits and should reflect a practical understanding of the current political, economic and social climate in Macedonia. Training should balance formal presentations, discussions and group exercises and should be targeted at diplomats with a wide range of experience, including some who are new to the profession. The Macedonian MFA will nominate participants. The U.S. Embassy in Skopje will make final participant selection. Applicants are required to work closely with the Public Affairs Section in Skopje during all program planning and implementation. Language issues must also be addressed throughout the proposal.

Funding: The total funding available for Diplomatic Training in Macedonia is $239,375. The Bureau anticipates awarding one grant.

For Romania

The Bureau is seeking proposals that will provide consultative support and professional training for the staff and faculty of the Diplomatic Academy (DA) in Bucharest. The objectives of the project are:

—To improve the existing training of new foreign service officers;

—To develop advanced training programs for mid- and senior-level career diplomats;

—To develop short-term academic courses in international affairs to be offered to Romanian government employees and employees of Romanian NGOs;

—To establish a documentation center for the DA;

—To establish a system for evaluating work performance at DA which will help the Ministry of Foreign Affairs (MFA) in determining assignments and promotions of diplomats.

Currently, the only activity that the DA conducts is beginning-level training for new foreign service officers. There is one class per year composed of about fifteen freshman foreign service officers. The nine-month course is composed of six months of theoretical instruction at the academy followed by three months of practical training somewhere else in the MFA, which oversees the work of the DA.

The following program activities should be proposed:

An Initial Needs Assessment of the DA by a U.S. Consultant

A needs assessment of the DA should be carried out in the opening weeks of the program. Specific recommendations will be provided to the Public Affairs Section (PAS) of the U.S. Embassy in Bucharest. These recommendations will, in turn, be shared with the MFA.

US-Based Training Visit(s) for Faculty/Staff of the DA

The grantee organization will organize short-term U.S.-based training for key DA staff in order to allow them to: (1) Improve the existing training that it provides to new foreign service officers, (2) develop training courses for mid- and senior-level diplomats, and (3) develop and implement a mechanism for evaluating work performance to help in determining diplomat assignments and promotions. Further, U.S.-based training may be proposed for the DA staff that will be setting up the documentation center.

Visit(s) to DA by U.S. Trainers and/or Grantee Coordinators

The in-country components should be proposed for American experts who will: (1) Provide follow-on consultations and assess the effectiveness of the U.S.-based training on developing curriculum and courses for DA, (2) develop courses on international relations, and (3) assist with the establishment of the DA's documentation center.

Equipment Purchases

Based on the finds of the initial needs assessment, reasonable requests for basic office equipment, such as a computer, printer, or scanner, may be proposed for the documentation center.

Applicants will be required to work very closely with PAS/Bucharest throughout the program, including the recruitment and selection of participants.

Funding: The total funding available for Diplomatic training in Romania is $137,250. The Bureau anticipates awarding one grant.

Professional Internships

The Bureau is seeking proposals that provide community based, four-to six-week practical training opportunities with home-stays in the United States on the topics listed below. The objectives of the exchanges are to provide participants with exposure to the day-to-day functioning of a democratic, free market system and create links between U.S. and CEE regions and communities. Projects may also include in-country components that send American experts to conduct or co-conduct workshops or consultancies. These activities may be held in a central location or in individual countries. Participants in the internship components must speak English; interpreters may be used at in-country workshops.

Proposals should address one of the following themes and include the countries listed beside each topic.

1. Public Administration Focusing on Transparency at the Local Level—Bulgaria, Hungary, Poland, Slovak Republic,Slovenia (Must Include All Countries)

Projects should examine transparency and freedom of information issues for local governments and NGOS.

2. Tolerance, Pluralism and Diversity—Bulgaria, Hungary, Poland, Slovak Republic (Must Include All Countries)

Projects should examine approaches taken by NGO, government and education leaders to promote tolerance and protect the rights of minority populations.

Funding: The total funding available for Professional Internships is approximately $400,000. The Bureau anticipates awarding 2–3 grants for this competition. Although no set funding limit exists, proposals for less than $150,000 will receive preference.

Guidelines: Subject to the availability of funds, ECA anticipates that grant will begin in August, 2002.

Selection of Participants

Except when the U.S. Embassies' Public Affairs Sections will nominate participants, a competitive selection process is required. The majority of proposals should include a description of an open, merit-based participant selection process, including advertising, recruitment and selection. A sample application should be submitted with the proposal. Applicants should expect to carry out the entire selection process, with the understanding that ECA and the Public Affairs Sections of the U.S. Embassies abroad must be consulted during the recruitment and selection procedures. ECA and the U.S. Embassies retain the right to nominate participants and to approve or reject participants recommended by the grantee institution. Priority must be given to foreign participants who have not traveled to the United States.

Visa Regulations

Foreign participants on programs sponsored by ECA are granted J–1 Exchange Visitor visas by the U.S. Embassy in the sending country. All programs must comply with J–1 visa regulations. Please refer to the Proposal SubmissionInstructions (PSI) for further information.

Project Funding

Budget Guidelines

Applicants must submit a comprehensive line item budget based on the model in the Proposal Submission Instructions, but are encouraged to provide the optional separate sub-budgets for each program component, location or activity in order to facilitate decisions on funding. Applicants should include a budget narrative or budget notes for clarification of each line item.

Cost sharing: Since ECA's grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of cost sharing, including financial and in-kind support. Proposals with substantial private sector support from foundations, corporations, and other institutions will be considered highly competitive. Please refer to the statement on cost sharing in the Proposal Submission Instructions.

The Following Program Costs Are Eligible for Funding Consideration

1. *Transportation.* International and domestic airfares (per the Fly America Act), transit costs, ground transportation costs, and visas for U.S. participants (visas for ECA-supported participants from Central and Eastern Europe to travel to the U.S. are issued at no charge).

2. *Per Diem.* For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. For activities in Europe and Eurasia, ECA strongly encourages applicants to budget realistic costs that reflect the local economy. Domestic per diem rates may be accessed at: *http://www.policyworks.gov/* and foreign per diem rates can be accessed at: *http://www.state.gov/www/perdiems/index.html.*

3. *Interpreters.* Local interpreters with adequate skills and experience may be used for program activities. Typically, one interpreter is provided for every four visitors who require interpreting, with a minimum of two interpreters. ECA grants do not pay for foreign interpreters to accompany delegations from their home country. Salary costs for local interpreters must be included in the budget. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters. ECA strongly encourages applicants to use local interpreters. U.S.

Department of State Interpreters may be used for highly technical programs with the approval of the Office of Citizen Exchanges. Proposal budgets should contain a flat$170/day per diem for each U.S. Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter, reimbursements for taxi fares, plus any other transportation expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget.

4. *Book and cultural allowance.* Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise or to make presentations. Daily honoraria cannot exceed $250 per day. Subgrantees may also be used, in which case the written agreement between the prospective grantee and the subgrantee should be included in the proposal. Subgrants should be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop and translate materials for participants.

ECA strongly discourages the use of automatic translation software for the preparation of training materials or any information distributed to the group of participants or network of organizations. Costs for good-quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA.

8. *Equipment.* Proposals may contain costs to purchase equipment for Europe/Eurasia-based programming such as computers, fax machines and copy machines. Costs for furniture are not allowed. Equipment costs must be kept to a minimum.

9. *Working meal.* Only one working meal may be provided during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. The allowance may be used for incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of a Bureau-sponsored health insurance policy. The premium is paid by ECA directly to the insurance company. Applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from ECA. Proposals should show strong administrative cost-sharing contributions from the applicant, the in-country partner and other sources.

Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines.

Announcement Title and Number

All correspondence with ECA concerning this RFGP should reference the above title and number ECA/PE/C/EUR–02–60.

FOR FURTHER INFORMATION CONTACT:

By mail: United States Department of State, SA–44, Bureau of Educational and Cultural Affairs, Office of Citizen Exchanges (ECA/PE/C), Room 220, Washington, DC 20547,
attn: Central and Eastern European
Exchanges & Training Programs

By phone: Tel: (202) 619–5328 (Kendra Davis), (202) 619–5327 (Henry Scott); or (202) 619–5330 (Michael George); fax: 202–619–4350

By e-mail: *kldavis@pd.state.gov, hscott@pd.state.gov,* or *mdgeorge@pd.state.gov.*

Interested applicants may request an application package that is composed of the Request for Grant Proposals (RFGP), the Proposal Submission Instructions (PSI), and the Bureau's Diversity Flyer. Please specify Kendra Davis, Henry Scott, or Michael George on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals.

Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The Solicitation Package may be downloaded from ECA's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on April 12, 2002. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and eight copies (unbound) of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/EUR–02–60, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully

adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and CulturalAffairs. Final technical authority for assistance awards cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Planning and Ability to Achieve Objectives:* Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the included countries. Objectives should be reasonable and attainable. A detailed work plan should explain step-by-step how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars, presentations and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of in-country partners should be clearly described.

2. *Institutional Capacity:* The proposal should include (1) The U.S. institution's mission and date of establishment (2) detailed information about the subgrantee's or in-country partner institution's capacity and the history of the U.S. and in-country partnership (3) an outline of prior awards— U.S. government and private support received for the target theme/region (4) descriptions of experienced staff members who will implement the program. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The narrative should demonstrate proven ability to handle logistics. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/region(s).

3. *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs for the proposal, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total funds requested from ECA. Applicants are encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, the in-country partner, and other sources should be included in the budget.

4. *Program Evaluation:* Proposals must include a plan and methodology to evaluate the program's successes, both as the activities unfold and at the program's conclusion. ECA recommends that the proposal include a draft survey questionnaire or other technique (such as a series of questions for a focus group). The evaluation plan should show a clear link between program objectives and expected outcomes in the short- and medium-term, and provide a well-thought-out description of performance indicators and measurement tools.

5. *Multiplier Effect/Impact:* Proposals should show how the program will strengthen long-term mutual understanding and institutionalization of program goals. Applicants should describe how responsibility and ownership of the program will be transferred to the in-country participants to ensure continued activity and impact. Programs that include convincing plans for sustainability will be given top priority.

6. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (beyond ECA grant period) ensuring that the ECA-supported programs are not isolated events. Follow-on activities should be clearly outlined.

7. *Support of Diversity:* Proposals should demonstrate substantive support of ECA's policy on diversity. Program content (orientation, evaluation, program sessions, resource materials, follow-on activities) and program administration(selection process, orientation, evaluation) should address diversity in a comprehensive and innovative manner. Applicants should refer to ECA's Diversity, Freedom and Democracy Guidelines on page four of the Proposal Submission Instructions (PSI).

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * *and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authorities for the programs above are provided through the Fulbright-Hays Act and the Support for East EuropeanDemocracy (SEED) Act of 1989.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: January 31, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 02–3006 Filed 2–6–02; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 3906]

Bureau of Educational and Cultural Affairs Request for GrantProposals: United States—East Timor Scholarship Program

SUMMARY: The Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the United States—East Timor Scholarship Program (formerly the East Timor Scholarship Program). Public and private non-profit organizations meeting the provisions described in Internal

Revenue Code section 26 USC 501(c)(3) may submit proposals to provide administrative and support services for the United States—East TimorScholarship Program (USET).

Program Information

Overview: In response to Public Law 103–236, which directed the Bureau of Educational and Cultural Affairs (ECA) to provide scholarships for East Timorese students, ECA created an East Timor scholarship program in Fiscal Year (FY) 1999.As East Timor makes the transition to independence and democratic government, it is essential to develop the human resource capacity of the East Timorese people, especially in fields such as agricultural science, business, communication, economics, education, environmental science, international relations, political science, and psychology.The goal of the scholarship program is to identify and support undergraduate level study at accredited higher education institutions in the United States for a select cadre of academically talented East Timorese who are expected to assume future leadership roles in East Timor's development.

Guidelines: Program administration activities should cover the time period June 1, 2002 through December 31, 2005. The projected grantee caseload is expected to be up to five (5) new students to begin U.S. English language training in January 2003. USET scholarships are offered for the final two years of undergraduate level study in designated fields, with the provision of pre-academic training depending on participant academic readiness and English-language abilities. Program design should either assume placement of all grantees at a single academic institution or propose an alternative structure in order to foster grantee cohesion and build USET program identity. The successful applicant will have responsibility for program administration, which involves performance of services in the following broad categories: Program Planning and Management; Recruitment and Selection; Placement; Orientations; Supervision and Support Services; Special Programs Management; Fiscal Management and Budgeting Services; and Program Projection, Reporting and Evaluation Services. Applicants for this award should submit a program proposal with yearly budget projections for the full duration of the award. Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further information.

Budget Guidelines

The Bureau anticipates awarding one grant up to $500,000 to support program and administrative costs required to implement this program. The Bureau encourages applicants to provide maximum levels of cost sharing and funding from private sources in support of its programs. Proposals whose administrative costs are 20% or less of the total requested from ECA will be deemed more competitive.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the UnitedStates—East Timor Scholarship Program and numberECA/A/E/EAP–02-USET.

FOR FURTHER INFORMATION CONTACT: Matt McMahon, Office of Academic Exchange Programs,ECA/A/E/EAP, Room 208, United States Department of State,301 4th Street, S.W., Washington, DC 20547, phone:(202) 619–4148, fax: (202) 401–1728, e-mail: *mmcmahon@pd.state.gov* to request a Solicitation Package. TheSolicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Program Officer Matt McMahon on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, D.C. time on April 4, 2002. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven (7) copies of the application should be sent to:U.S. Department of State,SA–44,Bureau of Educational and Cultural Affairs,Ref.: ECA/A/E/EAP–02–USET,Program Management, ECA/EX/PM, Room 534,301 4th Street, SW.,Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and

''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.''Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein

and in the Solicitation Package.All eligible proposals will be reviewed by the program office, as well as the appropriate Public Diplomacy Section overseas. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review.Proposals may also be reviewed by the Office of the LegalAdviser or by other Department elements. Final funding decisions are at the discretion of the Department of State'sAssistant Secretary for Educational and Cultural Affairs.Final technical authority for assistance awards resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity.Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content(orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

9. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology used to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

10. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals whose administrative costs are 20% or less of the total requested from ECA will be deemed more competitive.

11. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in Public Law 103–236. The purpose of the legislation is to make available scholarships for qualified East Timorese students to study at U.S. colleges and universities. The funding authority for the United States—East TimorScholarship Program is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative.Explanatory information provided by the Bureau that contradicts published language will not be binding.Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: January 29, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 02–3007 Filed 2–6–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: King County Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent

SUMMARY: The FHWA, in cooperation with the Washington State Department of Transportation, is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposal to either repair or replace the South Park Bridge, which crosses the Duwamish River in King County, Washington.

FOR FURTHER INFORMATION CONTACT: Elizabeth Healy, Transportation and Environmental Engineer, Federal Highway Administration, 711 South Capital Way, Suite 501, Olympia, Washington 98501–1284, Telephone: (360) 753–8655 or Jim Sussex, Environmental Engineer, King County, Road Services Division, Department of Transportation, King Street Center M.S. KSC–TR–0231, 201 South Jackson Street, Seattle, WA 98104–3856, Telephone: (206) 296–8737.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation and the King County Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to either repair or replace the South Park Bridge, which spans the Duwamish River between 14th Avenue South and 16th Avenue South. The existing movable span bridge structure is owned jointly by King County and the City of Tukwila, and the bridge approaches extend into the City of Seattle. The bridge was built in 1931, using a Scherzer Rolling Lift double leaf bascule span, with steel truss and concrete approach spans on both sides. In spite of substantial ongoing maintenance and repairs, the bridge has suffered significant deterioration over the past 70 years.

Damage that occurred during the Nisqually Earthquake of February 2001 has been repaired, but the bridge is increasingly vulnerable to future seismic events. The proposed project is necessary in order to implement a long-term solution to the deteriorated condition and the seismic vulnerability of the bridge. Specific alternatives for this project have not yet been developed. However, it is anticipated that approximately four build alternatives will be developed for analysis in the EIS, in addition to the no action alternative. The build alternatives may include: (1) Restoration of the existing bridge, (2) a movable span replacement bridge, and (3) a fixed span replacement bridge, The exact alignment and other significant design features may vary for each of these build alternatives, and variations may be different enough to warrant consideration as separate alternatives. Details regarding the number and character of these alternatives will be established through an extensive process of resource agency consultation and public involvement.

Scoping meetings will be held for the public and resource agencies during late February or early March 2002. A Project Advisory Committee (PAC) will be established to provide ongoing input from relevant government agencies and tribes. A Citizen Advisory Group (CAG) will be formed to provide additional involvement for representatives from neighborhood and business groups, as well as the public at large. A public hearing to gather public comments will be held after the draft EIS is issued and made available for public and agency review. The time and location of public meetings, when determined, will be announced in the local news media and public mailings.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or King County at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 31, 2002.

Elizabeth Healy,

Transportation and Environmental Engineer, Olympia, Washington.

[FR Doc. 02–2922 Filed 2–6–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

Revised Guidance for Implementing the March 1999 Circuit Court Decision Affecting Transportation Conformity

AGENCIES: Federal Highway Administration (FHWA), Federal TransitAdministration (FTA), DOT.

ACTION: Notice; issuance of revised guidance.

SUMMARY: The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) have issued revised guidance for implementing a March 1999 Circuit Court decision affecting transportation conformity. In previous guidance issued on June 18, 1999, the FHWA and FTA indicated that projects that had received funding commitments for construction prior to the conformity lapse could proceed during a lapse. However, project development activities such as right-of-way (ROW) acquisition and design that had received funding commitments prior to the conformity lapse could not proceed. After reviewing the implementation and effectiveness of the previous guidance, the FHWA and FTA decided to supplant the previous guidance and allow completion of all project phases during a conformity lapse, if such activities were approved prior to the lapse. The FHWA and FTA believe the revision is necessary for consistency and will help in streamlining the transportation planning and development process.

DATES: This revised guidance was effective on January 2, 2002.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Cecilia Ho, Office of Natural Environment (HEPN), (202) 366–9862; Mr. Gary Jensen, Office of Natural Environment (HEPN), (202) 366–2048; or Mr. Reid Alsop, Office of the Chief Counsel (HCC–30), (202) 366–1371. For FTA: Mr. Abbe Marner, Office of Planning (TPL–30), (202) 366–4317; or Mr. Scott Biehl, Office of the Chief Counsel (TCC–30), (202) 366–0748. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.nara.gov/fedreg* and the Government Printing Office's Web page at *http://www.access.gpo.gov/nara.* A copy of this guidance can be obtained by accessing the FHWA Web site at *http://www.fhwa.dot.gov/environment/conformity/con_mdash;guid.htm.*

March 2, 1999, Court Decision

Under section 176 of the Clean Air Act (CAA) as amended, the U.S. Department of Transportation (U.S. DOT) cannot approve or fund any activity that does not conform to the State implementation plan (SIP) in nonattainment and maintenance areas. The CAA provides that conformity to an implementation plan means conformity to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards. Conformity to an implementation plan also means that such activities will not cause or contribute to any new violation of any standard in any area; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The FHWA and FTA funded activities must come from a transportation plan and transportation improvement program (TIP) that have been found to conform.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on the Environmental Protection Agency's (EPA) August 1997 transportation conformity amendments in response to a case brought by the Environmental Defense Fund (EDF) (*EDF* v. *EPA,* 167 F.3d 641 (DC Cir. 1999)). The court ruled that CAA Section 176(c)(2)(C) prohibits the U.S. DOT from approving or funding new projects in the absence of a conforming plan and TIP. The decision also held that, among other things, projects that had previously been found to conform and had completed the National Environmental Policy Act (NEPA) process (''grandfathered'' projects) may not be advanced (that is, such projects should not be approved or funded) in a nonattainment or maintenance area if there is no currently conforming transportation plan and TIP for the area. The court did not rule on the issue of how active right-of-way (ROW) acquisition and design projects

should be treated during a conformity lapse.

Previous Guidance From the FHWA and FTA Concerning the March 2, 1999, Court Decision

On March 31, 1999, the FHWA and FTA issued interim guidance [1] implementing this court decision, which was supplemented by additional guidance [2] on May 7, 1999. On June 18, 1999, the FHWA and FTA issued an additional memorandum [3] that replaced the previously issued guidance. In the June 18, 1999, guidance, the FHWA and FTA indicated that projects that received funding commitments for construction prior to the conformity lapse could proceed during a lapse.

For the FHWA, a funding commitment means there is a project agreement, which is a contractual obligation by the Federal Government to reimburse the Federal share of expenses on a Federal-aid highway project. A project agreement includes approval of plans, specifications, and estimates. For the FTA, a funding commitment means there is a full funding grant agreement (FFGA). For transit projects not covered by FFGAs, the construction commitment occurs after the FTA grant is made and a local contract for construction or vehicle purchase has been approved.

The June 18, 1999, guidance also stated that the FHWA could not continue to reimburse with Federal funds active highway design and ROW acquisition activities, except for exempt projects, during a conformity lapse, even though these activities were approved before the conformity lapse. Likewise, funding for active transit design and land acquisition activities, except for exempt projects, which received a grant, other than a FFGA, could not continue unless: (1) The FTA approved the grant before the conformity lapse; and (2) the grantee had awarded a contract for construction or for vehicle acquisition like procurement of rolling stock before the lapse.

Since the release of the June 18, 1999, guidance, the FHWA and FTA have had the opportunity to review the implementation and effectiveness of that guidance. As a result of our review, the FHWA and FTA decided to revise the guidance concerning the March 2, 1999, court decision to allow completion of a project development activity during a conformity lapse, if that activity was approved prior to the lapse (e.g., final design or ROW acquisition). We consulted with the EPA in the development of the following revised guidance.

The revised guidance does not allow new ROW acquisition or final design approvals to occur during a conformity lapse. The revisions only allow ROW acquisition and design activities that had received approvals and funding commitments before a lapse to be federally reimbursed during a lapse. We believe this is a reasonable interpretation that is consistent with the March 2, 1999, court decision.

Reasons for Revising the June 19, 1999, Guidance

The FHWA and FTA believe that we can and should provide flexibility and consistency, by allowing Federal reimbursement of previously authorized ROW acquisition and design activities, as well as previously authorized construction activities, to proceed during a conformity lapse. There are several reasons for this revision.

First, our June 18, 1999, guidance provides that when the CAA says that the U.S. DOT cannot ''fund'' a project unless it conforms, ''fund'' actually means the point at which the U.S. DOT commits to funding the project. For the FHWA, this point is the project agreement and for the FTA, it is the FFGA or equivalent authorization.

The June 18, 1999, guidance made a distinction between the construction phase and ROW acquisition and design activities phases. According to the June 18, 1999, guidance, projects that received funding commitments for construction prior to the conformity lapse could proceed during the conformity lapse. However, reimbursements for previously authorized ROW acquisition and design activities could not proceed during a conformity lapse. In other words, the Federal Government had to suspend its previously authorized commitment to these activities.

The FHWA and FTA have concluded that guidance concerning Federal authorizations should be consistent, regardless of whether our authorization is for construction, ROW acquisition, or design activities. By treating each phase of a project similarly in the revised guidance, we consistently apply the principle that ''fund'' actually means the point at which the U.S. DOT commits to funding a phase of the project, not just the point the U.S. DOT commits to funding the construction of the project.

Second, streamlining transportation planning and development processes continues to be a priority of the U.S. DOT. Suspending Federal reimbursement of active ROW acquisition and design activities is an onerous process that can be time and resource intensive for the project sponsor, and, as discussed, was not directly addressed by the court in its March 2, 1999, decision.

Third, although the FHWA and FTA discouraged it, under the June 18, 1999, guidance these activities could be continued using State or local funds. Also, projects using design-build contracting could proceed with all project phases that were included in the design-build contract, which the FHWA authorized before the lapse.

Finally, ROW acquisition and design activities will not affect regional motor vehicle emissions until such time as the project is constructed and completed. The construction of non-exempt projects utilizing such acquired ROW or designs cannot be authorized until a new conformity analysis and conforming plan and TIP are adopted and the conformity lapse has ended. Therefore, this revised guidance will not lessen the air quality protection afforded by the transportation conformity provisions of the CAA.

Other Information Regarding Revised Guidance

The June 18, 1999, guidance contained a detailed discussion on how the court decision affected areas that relied on submitted, but not yet approved, motor vehicle emission budgets for their most recent conformity determination. This discussion is no longer needed, as all areas, except one where conformity has remained suspended, have now determined conformity based on budgets that have been found adequate or approved by EPA, or based on the appropriate emissions reductions test(s). For guidance on the process EPA currently uses to review and decide whether motor vehicle emissions budgets are adequate and can be used for conformity, refer to EPA's May 14, 1999, ''Conformity Guidance on Implementation of March 2, 1999

[1] The March 31, 1999, interim guidance entitled ''Interim Guidance for the Implementation of the Circuit Court Decision Affecting Transportation Conformity'' may be obtained by contacting Mr. Gary Jensen, Office of Natural Environment (HEPN), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2048.

[2] The May 7, 1999, supplemental guidance entitled ''Supplemental Guidance for the Implementation of the Circuit Court Decision Affecting Transportation Conformity'' is available at the following URL: *http://www.fhwa.dot.gov/environment/gdad—int.htm.*

[3] The June 18, 1999, supplemental additional guidance entitled ''Additional Supplemental Guidance for the Implementation of the Circuit Court Decision Affecting Transportation Conformity'' is available at the following URL: *http://www.fhwa.dot.gov/environment/gdad—add.htm.*

Conformity Court Decision'' which is available at the following URL: *http://www.epa.gov/otaq/transp/conform/epaguidf.pdf.*

Authority: 23 U.S.C. 106; 23 U.S.C. 134; 42 U.S.C. 7506; 23 U.S.C. 315; and 49 CFR 1.48.

Issued on: January 31, 2002.

Mary E. Peters,

Federal Highway Administrator.

Jennifer L. Dorn,

Federal Transit Administrator.

The text of the revised guidance for implementing the March 1999 Circuit Court decision affecting transportation conformity and dated January 2, 2002 reads as follows:

Information

Revised Guidance for Implementing the March 1999 Circuit Court Decision Affecting Transportation Conformity, HEPN–10

Mary E. Peters, Administrator, FHWA

Jennifer L. Dorn, Administrator, FTA

FHWA Division Administrators

Federal Lands Highway Division Engineers

FTA Regional Administrators

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on EPA's August 1997 transportation conformity amendments in response to a case brought by the Environmental Defense Fund. The EPA will be providing revised conformity regulations that implement this ruling in the near future. This memorandum supersedes and replaces all previous FHWA and FTA guidance implementing this ruling, including the Additional Supplemental Guidance issued on June 18, 1999. The FHWA and FTA consulted with EPA on the development of this guidance. This guidance does not supersede any existing settlement agreements that address this subject. In addition, guidance on other issues addressed by the March 1999 court decision can be found in EPA's ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' published on May 14, 1999 (http://www.epa.gov/otaq/transp/conform/epaguidf.pdf).

Projects That Can Proceed During a Conformity Lapse

The court decision held that projects that had previously been found to conform and had completed the National Environmental Policy Act (NEPA) process (''grandfathered'' projects) may not be advanced (that is, such projects should not be approved) in nonattainment and maintenance areas which do not have a currently conforming transportation plan and transportation improvement program (TIP). Thus, in such areas, no new approvals or grants for further development of projects (*i.e.,* NEPA, final design, right-of-way acquisition, or construction) should be made. The only projects which can receive further approvals or grants during a plan and TIP conformity lapse are: (1) Projects exempt from the conformity process; and (2) transportation control measures (TCMs) which are included in an approved State implementation plan (SIP).

A non-exempt project is any project that is not listed as exempt in the transportation conformity rule at 40 CFR 93.126 or 93.127, or the project is not a TCM in an approved SIP.

For FHWA-funded projects, project phases (i.e., design, right-of-way acquisition, or construction) that received funding commitments or an equivalent approval or authorization prior to a conformity lapse may continue during the lapse. The execution of a project agreement (which includes Federal approval of the plans, specifications, and estimates) indicates funding commitment.

For FTA, the largest projects are handled with a full funding grant agreement (FFGA). If the FFGA was executed prior to a conformity lapse, the project can continue to utilize Federal funding during the lapse. If the FFGA was not completed by the date of the lapse, the project sponsor may only complete the current stage of project development (e.g., final design or land acquisition), but may not use Federal funds to proceed further. Transit projects not handled with FFGAs may proceed during a lapse if, prior to the lapse, FTA approved a grant and the project sponsor awarded a contract for construction or vehicle acquisition. If a local contract was not approved by the date of the lapse, the project sponsor may only complete the current stage of project development with Federal funds.

Subsequent phases of a project for which FHWA or FTA has not taken an approval action or awarded a grant may not proceed in the absence of conformity. For transportation project phases not requiring a project specific project agreement/authorization approval, the State or local transportation agency should not take any action committing the State or local agency to proceed with the project phase during a lapse unless the project phase had already received full approval or authorization for funding before the lapse.

Preliminary engineering for project development activities that are necessary to assess social, economic, and environmental effects of the proposed action or alternatives as part of the NEPA process for a non-exempt project may continue during the lapse, according to 40 CFR 93.126. However, FHWA or FTA cannot approve a categorical exclusion, finding of no significant impact, final environmental impact statement, or a record of decision for a non-exempt project during a conformity lapse. The NEPA process can be completed for exempt projects and TCMs in an approved SIP during a conformity lapse.

When a community is facing a conformity lapse within 6 months, FHWA, FTA, and EPA will meet and jointly evaluate the potential consequences of the lapse and assess any concerns. The FHWA, FTA, and EPA will meet at least 90 days before a conformity lapse to determine which projects could receive funding commitments before the lapse, and which projects could potentially be delayed, and the actions that would be necessary to correct the lapse. In preparation for these discussions, FHWA and FTA offices, in consultation with project sponsors, should review the current TIP to identify the current status of development of non-exempt projects being advanced in the nonattainment or maintenance area. As you know, some nonattainment areas include more than one metropolitan planning organization (MPO).

When a conformity lapse is imminent, FHWA Division Administrators and FTA Regional Administrators shall notify the Governor or the Governor's designee immediately to inform him/her of the consequences, and potential solutions to minimize disruptions to the transportation programs in the respective nonattainment and maintenance areas. The FHWA and FTA will consult with EPA regional offices before notifying the Governor or the Governor's designee of conformity consequences and solutions.

Coordination between FHWA, FTA and EPA prior to a conformity lapse is detailed in the April 19, 2000, National Memorandum of Understanding (MOU) Between the U.S. DOT and the U.S. EPA (http://www.fhwa.dot.gov/environment/cnfmou.htm). Appendix A of the MOU also discusses how to meet the transportation planning requirements during a lapse in order to continue funding exempt projects and TCMs until conformity is reestablished. Therefore, in the event of a conformity lapse, an MPO must create an interim plan and TIP for any projects that can be federally-funded and approved during the lapse, including exempt projects and

TCMs in an approved SIP. Please see the MOU for more information regarding the requirements for including projects in an interim plan and TIP.

Other Issues

To address other issues related to the Court ruling, on May 14, 1999, EPA issued ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision'' which provides more details about using submitted budgets, projects requiring Federal approval, non-Federal projects, SIP disapprovals, and reallocation of a SIPs safety margin. Areas should reference this guidance for specific information on these other issues. The EPA, in coordination with DOT, will be working to formalize the guidance through the rulemaking process to amend the conformity regulation.

If you have questions on this guidance, please contact Ms. Cecilia Ho (202) 366–9862 or Mr. Gary Jensen (202) 366–2048 of FHWA, or Mr. Abbe Marner (202) 366–4317 of FTA.

cc: Directors of Field Services

[FR Doc. 02–2957 Filed 2–6–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–7–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–7–90 (TD 8461), Nuclear Decommissioning Fund Qualification Requirements (§ 1.468A–3).

DATES: Written comments should be received on or before April 8, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, or through the internet (*CAROL.A.SAVAGE@irs.gov.*), Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Nuclear Decommissioning Fund Qualification Requirements.

OMB Number: 1545–1269.

Regulation Project Number: PS–7–90.

Abstract: If a taxpayer requests, in connection with a request for a schedule of ruling amounts, a ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 1, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–2993 Filed 2–6–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8697

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.

DATES: Written comments should be received on or before April 8, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665 or through the internet (*Allan.M.Hopkins@irs.gov*), Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.

OMB Number: 1545–1031.

Form Number: Form 8697.

Abstract: Taxpayers who are required to account for all or part of any long-term contract entered into after February 28, 1986, under the percentage of completion method must use Form 8697 to compute and report interest due or to be refunded under Internal Revenue

Code section 460(b)(3). The IRS uses Form 8697 to determine if the interest has been figured correctly.

Current Actions: There are no changes being made to Form 8697 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 13 hours, 40 minutes.

Estimated Total Annual Burden Hours: 68,340.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 30, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–2994 Filed 2–6–02; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Thursday,
February 7, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Removal of Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2001–10664; SFAR No. 90–1]

RIN 2120–AH64

Removal of the Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal.

SUMMARY: This action removes Special Federal Aviation Regulation (SFAR) No. 90, which prohibits flight operations within the territory and airspace of Afghanistan by all U.S. air carriers, all U.S. commercial operators, and by all persons exercising the privileges of an airman certificate issued by the FAA unless that airman is a foreign national engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. This action is taken because the heightened threat to civil aviation within the territory and airspace of Afghanistan, which warranted the issuance of the emergency rule, no longer exists.

EFFECTIVE DATE: February 1, 2002.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–3732 or 267–8166.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy of this SFAR using the Internet through the FAA's web page at *http://www.faa.gov/avr/arm/nprm.htm* or through the *Government Printing Office's* web page at *http://www.access.gpo.gov/su__docs/aces/aces140.html.*

You can get a paper copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave., SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify to docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to comply with small entity requests for information and advice about compliance statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http://www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquires to the following Internet address: *9–AWA–SBREFA@faa.dot.gov.*

Background

Following the September 11, 2001, terrorist attacks against the United States, the FAA determined that unrest in Kabul, Afghanistan, combined with the heightened state of alert by military forces controlled by the Taliban, could exacerbate coordination and communication problems between military air defense and civil air traffic authorities that could result in an inadvertent attack on civil aviation. Consequently, the FAA determined that it was unsafe and contrary to the national security interests of the United States for U.S. operators and airmen to fly within the territory and airspace of Afghanistan. On September 19, 2001, the FAA issued SFAR 90, which prohibits all flight operations within the territory and airspace of Afghanistan by U.S. air carriers, U.S. commercial operators, and all persons exercising the privileges of an airmen certificate issued by the FAA unless that person is a foreign national engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. The FAA imposed the flight prohibition in the exercise of its statutory responsibility for the safety of U.S-registered aircraft and U.S. operators.

The FAA has since determined that the above-registered hazards to civil aviation operations in Afghanistan have largely disappeared. There now appears to be no heightened threat to civil aviation within the territory and airspace of Afghanistan.

Because this action lifts a prohibition on certain operations conducted by U.S. air carriers and commercial operators, and persons exercising the privileges under FAA issued certificates with limited exception, I find that notice and public comment under 5 U.S.C. 533(b) are unnecessary and contrary to the public interest. Further, I find that good cause exists under 5 U.S.C. 533(d) for making this rule effective immediately upon issuance.

Regulatory Analyses

The FAA has determined that this action is not a ''significant regulatory action'' under Executive Order 12866, nor is it considered a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because this amendment removes a restriction that is no longer appropriate, the FAA finds that this final rule may be issued without public comment and may be made effective immediately. The FAA also certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. It also will have no impact on international trade and creates no unfunded mandate for any entity.

Therefore, on the basis of the foregoing information, I have determined that the immediate removal of SFAR 90 from 14 CFR Part 91 is appropriate. The Department of State has been advised of, and has no objection to, the action taken herein.

List of Subjects in 14 CFR Part 91

Afghanistan, Air Traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight.

The Amendment

For the reasons set forth above, the Federal Aviation Administration amends part 91 of Title 14 of the Code of Federal Regulations, by removing SFAR 90 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

SFAR No. 90 [Removed]

2. Special Federal Aviation Regulation No. 90—Prohibition Against Certain Flights Within the Terriroty and Airspace of Afghanistan is removed.

Issued in Washington DC, on February 1, 2002.

Jane F. Garvey,

Administrator.

[FR Doc. 02–2884 Filed 2–1–02; 4:32 pm]

BILLING CODE 4910–13–M

Federal Register

Thursday,
February 7, 2002

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Removal of Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2001–10664; SFAR No. 90–1]

RIN 2120–AH64

Removal of the Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal.

SUMMARY: This action removes Special Federal Aviation Regulation (SFAR) No. 90, which prohibits flight operations within the territory and airspace of Afghanistan by all U.S. air carriers, all U.S. commercial operators, and by all persons exercising the privileges of an airman certificate issued by the FAA unless that airman is a foreign national engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. This action is taken because the heightened threat to civil aviation within the territory and airspace of Afghanistan, which warranted the issuance of the emergency rule, no longer exists.

EFFECTIVE DATE: February 1, 2002.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–3732 or 267–8166.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy of this SFAR using the Internet through the FAA's web page at *http://www.faa.gov/avr/arm/nprm.htm* or through the *Government Printing Office's* web page at *http://www.access.gpo.gov/su__docs/aces/aces140.html.*

You can get a paper copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave., SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify to docket number of this rulemaking.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to comply with small entity requests for information and advice about compliance statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http://www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquires to the following Internet address: *9–AWA–SBREFA@faa.dot.gov.*

Background

Following the September 11, 2001, terrorist attacks against the United States, the FAA determined that unrest in Kabul, Afghanistan, combined with the heightened state of alert by military forces controlled by the Taliban, could exacerbate coordination and communication problems between military air defense and civil air traffic authorities that could result in an inadvertent attack on civil aviation. Consequently, the FAA determined that it was unsafe and contrary to the national security interests of the United States for U.S. operators and airmen to fly within the territory and airspace of Afghanistan. On September 19, 2001, the FAA issued SFAR 90, which prohibits all flight operations within the territory and airspace of Afghanistan by U.S. air carriers, U.S. commercial operators, and all persons exercising the privileges of an airmen certificate issued by the FAA unless that person is a foreign national engaged in the operation of a U.S.-registered aircraft for a foreign air carrier. The FAA imposed the flight prohibition in the exercise of its statutory responsibility for the safety of U.S-registered aircraft and U.S. operators.

The FAA has since determined that the above-registered hazards to civil aviation operations in Afghanistan have largely disappeared. There now appears to be no heightened threat to civil aviation within the territory and airspace of Afghanistan.

Because this action lifts a prohibition on certain operations conducted by U.S. air carriers and commercial operators, and persons exercising the privileges under FAA issued certificates with limited exception, I find that notice and public comment under 5 U.S.C. 533(b) are unnecessary and contrary to the public interest. Further, I find that good cause exists under 5 U.S.C. 533(d) for making this rule effective immediately upon issuance.

Regulatory Analyses

The FAA has determined that this action is not a ''significant regulatory action'' under Executive Order 12866, nor is it considered a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because this amendment removes a restriction that is no longer appropriate, the FAA finds that this final rule may be issued without public comment and may be made effective immediately. The FAA also certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. It also will have no impact on international trade and creates no unfunded mandate for any entity.

Therefore, on the basis of the foregoing information, I have determined that the immediate removal of SFAR 90 from 14 CFR Part 91 is appropriate. The Department of State has been advised of, and has no objection to, the action taken herein.

List of Subjects in 14 CFR Part 91

Afghanistan, Air Traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight.

The Amendment

For the reasons set forth above, the Federal Aviation Administration amends part 91 of Title 14 of the Code of Federal Regulations, by removing SFAR 90 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

SFAR No. 90 [Removed]

2. Special Federal Aviation Regulation No. 90—Prohibition Against Certain Flights Within the Terriroty and Airspace of Afghanistan is removed.

Issued in Washington DC, on February 1, 2002.

Jane F. Garvey,

Administrator.

[FR Doc. 02–2884 Filed 2–1–02; 4:32 pm]

BILLING CODE 4910–13–M

Federal Register

Thursday,
February 7, 2002

Part III

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2002 Subsistence Taking of Fish and Shellfish Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AH77

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2002 Subsistence Taking of Fish and Shellfish Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, and methods and means related to taking of fish and shellfish for subsistence uses during the 2002 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. This rulemaking replaces the fish and shellfish regulations included in the ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and subpart D—2001 Subsistence Taking of Fish and Wildlife Regulations,'' which expire on February 28, 2002. This rule also amends the Customary and Traditional Use Determinations of the Federal Subsistence Board (Section __.24 of Subpart C).

DATES: Section __.24(a)(2) is effective March 1, 2002. Sections __.27, and __.28 are effective March 1, 2002, through February 28, 2003.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in McDowell required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the McDowell decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). On January 8, 1999, (64 FR 1276), the Departments published a final rule to extend jurisdiction to include waters in which there exists a Federal reserved water right.

This amended rule became effective October 1, 1999, and conformed the Federal Subsistence Management Program to the Ninth Circuit's ruling in *Alaska* v. *Babbitt.* Consistent with Subparts A, B, and C of these regulations, the Departments established a Federal Subsistence Board (Board) to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participated in the development of regulations for Subparts A; B; and C, which pertain to general provisions of the Subsistence Program, the Program structure, and the Board determinations; and the annual Subpart D regulations, which cover harvest season and limits.

All Board members have reviewed this rule and agree with its substance. Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR part 242 and 50 CFR part 100.

Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 apply to regulations found in this subpart.

Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (1999) and 50 CFR 100.11 (1999), and for the purposes identified therein, we divide Alaska into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents, with personal knowledge of local conditions and resource requirements, to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Regional Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, presented their Council's recommendations at the Board meeting of December 11–12, 2001.

Summary of Changes

Section __.24 (Customary and traditional use determinations) was originally published in the **Federal Register** (57 FR 22940) on May 29, 1992. Since that time, the Board has made a number of Customary and Traditional Use Determinations at the request of subsistence users and others. Those modifications, along with some administrative corrections, were published in the **Federal Register** (59 FR 27462, published May 27, 1994; 59 FR 51855, published October 13, 1994; 60 FR 10317, published February 24, 1995; 61 FR 39698, published July 30, 1996; 62 FR 29016, published May 29,

1997; 63 FR 35332, published June 29, 1998; 63 FR 46148, published August 28, 1998; 64 FR 1276, published January 8, 1999; 64 FR 35776, published July 1, 1999; and 66 FR 10142, published February 13, 2001). During its December 11–12, 2001, meeting, the Board made additional determinations in addition to various annual season and harvest limit changes. The public has had extensive opportunity to review and comment on all changes. Additional details on the recent Board modifications are contained below in Analysis of Proposals Adopted by the Board.

Subpart D regulations are subject to an annual cycle and require development of an entire new rule each year. Customary and traditional use determinations are also subject to an annual review process providing for modification each year. Proposed Subpart D regulations for the 2002–2003 seasons and harvest limits, and methods and means were published on February 13, 2001, in the **Federal Register** (66 FR 10142). A 55-day comment period providing for public review of the proposed rule and calling for proposals was advertised by mail, radio, and newspaper. During that period, the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. The Board received a total of 51 proposals for changes to Customary and Traditional Use Determinations or to Subpart D. Subsequent to the review period, the Board prepared a booklet describing the proposals and distributed it to the public. The public had an additional 30 days in which to comment on the proposals for changes to the regulations. The ten Regional Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. Seven of the proposals were not considered, falling outside the call for proposals. Nine proposals were withdrawn before Board consideration. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments.

Analysis of Proposals Rejected by the Board

The Board rejected five proposals from the current regulatory cycle and one deferred proposal from the 2001–2002 proposal cycle. The Board also rejected parts of four other proposals. All but one of these rejections were consistent with recommendations from the respective Regional Council. For one proposal, the Board did not concur with the Regional Council recommendation to reduce size limits, increase harvest limits, and remove a bait restriction for the harvest of steelhead/rainbow trout because the proposal, if implemented, would have threatened the conservation of healthy populations.

The Board rejected six proposals that would restrict fishing in the marine portion of a bay/river area and restrict the freshwater portion of the sockeye salmon Federal subsistence fishery to Federally-qualified users only. In this case, the marine area is not under jurisdiction of the Federal Subsistence Program and the freshwater areas support sockeye salmon populations that are sufficient for subsistence and non-subsistence harvest.

Two proposals requested limiting the harvest of eulachon. These proposals were rejected because they may not have adequately provided for subsistence needs and because there is no conservation concern for this species in the affected area.

The Board rejected a proposal deferred from the 2001–2002 regulatory cycle that would have reduced the open period for harvest of sockeye salmon. This proposal was rejected because it would have been detrimental to the satisfaction of subsistence harvest.

The Board deferred action on three proposals and parts of four others in order to assemble additional fisheries data, harvest information, or to allow communities or Regional Councils additional time to review the issues and provide additional information.

Analysis of Proposals Adopted by the Board

The Board adopted 19 proposals from the current regulatory cycle and one deferred proposal from the 2001–2002 proposal cycle. Some of these proposals were adopted as submitted and others were adopted with modifications suggested by the respective Regional Council or staff or were developed during the Board's public deliberations.

All of the adopted proposals were recommended for adoption by at least one of the Regional Councils and were based on meeting customary and traditional uses, harvest practices, or protecting fish populations. Detailed information relating to justification for the action on each proposal may be found in the Board meeting transcripts, available for review at the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska or on the Office of Subsistence Management Web site (*http://www.r7.fws.gov/asm/home.html*). [Note: This site is not currently accessible due to court-imposed restrictions.] Additional technical clarifications and removal of excess materials have been made, which result in a more readable document.

Kotzebue Fishery Management Area

The Board adopted one proposal affecting residents of the Kotzebue Fishery Management Area resulting in the following changes to the regulations found in § __.27.

- Revised the regulations relative to blocking a stream with a net for the taking of whitefish and pike.

Norton Sound-Port Clarence Fishery Management Area

The Board adopted one proposal affecting residents of the Norton Sound-Port Clarence Fishery Management Area resulting in the following changes to the regulations found in § __.24.

- Revised the customary and traditional use determination for the Point Romanof/Canal Point area.

Yukon-Northern Fishery Management Area

The Board adopted three proposals affecting residents of the Yukon-Northern Fishery Management Area resulting in the following changes to the regulations found in § __.27.

- Relaxed the subsistence fishing regulations on Beaver Creek.
- Relaxed the subsistence fishing regulations on Birch Creek.
- Revised the language restricting the targeting of chinook salmon for dog food in the Yukon River drainage.

Cook Inlet Fishery Management Area

The Board adopted parts of four similar proposals affecting residents of the Cook Inlet Fishery Management Area resulting in the following change to the regulations found in § __.27.

- Established subsistence harvest regulations for the Cook Inlet Area.

Prince William Sound Fishery Management Area

The Board adopted six proposals affecting residents of the Prince William Sound Fishery Management Area resulting in the following changes to the regulations found in § __.24 and in § __.27.

- Established or revised the customary and traditional use determination in three parts of the Upper Copper River drainage.
- Opened the Chitina Subdistrict to the use of fishwheels, dipnets, and rod and reel for Federally-qualified users.
- Revised the marking methods for subsistence taken salmon and rainbow/steelhead trout.
- Revised the permitting requirements for the Upper Copper River District and the Batzulnetas areas.

Southeastern Alaska Fishery Management Area

The Board adopted four proposals from the current regulatory cycle and one proposal from the 2001–2002 cycle affecting residents of the Southeastern Alaska Fishery Management Area resulting in the following changes to the regulations found in § __.27.

- Established harvest limits and methods and means for coho salmon throughout the Southeastern Alaska Fishery Management Area.
- Revised the permit requirements for sockeye salmon and closed Redoubt Lake to non-Federally-qualified users.
- Provided for the use of Federal subsistence harvest permits for the taking of rainbow/steelhead trout and Dolly Varden.
- Provided for the use of Federal subsistence harvest permits for the taking of eulachon.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analysis and examined the environmental consequences of four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992, amended January 8, 1999, 64 FR 1276, and June 12, 2001 66 FR 31533) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

Compliance with Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

This rule contains information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below were approved by OMB under 44 U.S.C. 3501 and were assigned control number 1018–0075, which expires July 31, 2003. The information collection requirements described below will be submitted to OMB for approval beyond that date, if needed. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

Currently, information is being collected by the use of a Federal Subsistence Registration Permit and Designated Harvester Application. The information collected on these two permits establishes whether an applicant qualifies to participate in a Federal subsistence fishery on public land in Alaska and provides a report of harvest and the location of harvest. The collected information is necessary to determine harvest success, harvest location, and population health in order to make management decisions relative to the conservation of healthy fish and shellfish populations. Additional harvest information is obtained from harvest reports submitted to the State of Alaska. The recordkeeping burden for this aspect of the program is negligible (1 hour or less). This information is accessed via computer data base.

Form	Estimated number of respondents	Completion time for each form (hour)	Estimated annual response	Estimated annual burden (hours)	Hourly cost for respondent	Financial burden on respondents
Federal Subsistence Registration Permit.	5,000	¼	5,000	1,250	$20.00	$5.00 each or $25,000 total.
Designated Harvester Application	1,000	¼	1,000	250	20.00	$5.00 each or $5,000 total.

Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 222 ARLSQ, Washington, DC 20240. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B. We will submit for OMB approval any changes or additional information collection requirements not included in 1018–0075.

Other Requirements

This rule was not subject to OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number

of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as tackle, boat, and gasoline dealers. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

In general, the resources harvested under this rule will be consumed by the local harvester and do not result in a dollar benefit to the economy. However, we estimate that 24 million pounds of fish (including 8.3 million pounds of salmon) are harvested by the local subsistence users annually and, if given a dollar value of $3.00 per pound for salmon [Note: $3.00 per pound is much higher than the current commercial value for salmon.] and $ 0.58 per pound for other fish, would equate to about $34 million in food value Statewide.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over wildlife resources on Federal lands.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this action is not a significant action and no Statement of Energy Effects is required.

Drafting Information

William Knauer drafted these regulations under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Federal Subsistence Board amends Title 36, part 242, and Title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR Part 242 and 50 CFR Part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § _.24(a)(2) is revised to read as follows:

§ _.24 Customary and traditional use determinations.

(a) * * *

(2) *Fish determinations.* The following communities and areas have been found to have a positive customary and traditional use determination in the listed area for the indicated species:

Area	Species	Determination
Kotzebue Area	All fish	Residents of the Kotzebue Area.
Norton Sound—Port Clarence Area:		
Norton Sound—Port Clarence Area, waters draining into Norton Sound between Point Romanof and Canal Point.	All fish	Residents of Stebbins, St. Michael, and Kotlik.
Norton Sound—Port Clarence Area, remainder	All fish	Residents of the Norton Sound-Port Clarence Area.
Yukon-Northern Area:		
Yukon River drainage	Salmon, other than fall chum salmon.	Residents of the Yukon River drainage, including the community of Stebbins.
Yukon River drainage	Fall chum salmon	Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
Yukon River drainage	Freshwater fish (other than salmon).	Residents of the Yukon-Northern Area.
Remainder of the Yukon-Northern Area	All fish	Residents of the Yukon-Northern Area, excluding the residents of the Yukon River drainage and excluding those domiciled in Unit 26–B.

Area	Species	Determination
Kuskokwim Area	Salmon	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
	Rainbow trout	Residents of the communities of Quinhagak, Goodnews Bay, Kwethluk, Eek, Akiachak, Akiak, and Platinum.
	Pacific cod	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Chefornak, Kipnuk, Mekoryuk, Kwigillingok,Kongiganak, Eek, and Tuntutuliak.
	All other fish other than herring.	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
Waters around Nunivak Island	Herring and herring roe	Residents within 20 miles of the coast between the westernmost tip of the Naskonat Peninsula and the terminus of the Ishowik River and on Nunivak Island.
Bristol Bay Area:		
Nushagak District, including drainage flowing into the district.	Salmon and freshwater fish.	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek-Kvichak District—Naknek River drainage	Salmon and freshwater fish.	Residents of the Naknek and Kvichak River drainages.
Naknek-Kvichak District—Iliamna-Lake Clark drainage.	Salmon and freshwater fish.	Residents of the Iliamna-Lake Clark drainage.
Togiak District, including drainages flowing into the district.	Salmon and freshwater fish.	Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak.
Togiak District	Herring spawn on kelp	Residents of the Togiak District.
Remainder of the Bristol Bay Area	All fish	Residents of the Bristol Bay Area.
Aleutian Islands Area	All fish	Residents of the Aleutian Islands Area and the Pribilof Islands.
Alaska Peninsula Area	Halibut	Residents of the Alaska Peninsula Area and the communities of Ivanof Bay and Perryville.
	All other fish in the Alaska Peninsula Area.	Residents of the Alaska Peninsula Area.
Chignik Area	Halibut, salmon and fish other than rainbow/steelhead trout.	Residents of the Chignik Area.
Kodiak Area—except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°52′ North latitude) mid-stream Shelikof Strait, and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°11′22″ North latitude, 156°20′30″ W longitude).	Salmon	Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.
Kodiak Area	Fish other than rainbow/steelhead trout and salmon.	Residents of the Kodiak Area.
Cook Inlet Area	Fish other than salmon, Dolly Varden, trout, char, grayling, and burbot.	Residents of the Cook Inlet Area.
	Salmon, Dolly Varden, trout, char, grayling, and burbot.	No Determination.
Prince William Sound Area:		
South-Western District and Green Island	Salmon	Residents of the Southwestern District which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield, and Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands.
North of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.	Salmon	Residents of the villages of Tatitlek and Ellamar.
Copper River drainage upstream from Haley Creek	Freshwater fish	Residents of Cantwell, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Slana,Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.

Area	Species	Determination
Chitina Subdistrict of the Upper Copper River District	Salmon	Residents of Cantwell, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Glennallen Subdistrict of the Upper Copper River District.	Salmon	Residents of the Prince William Sound Area and residents of Cantwell, Chisana, Dot Lake, Healy Lake, Dot Lake, Northway, Tanacross, Tetlin, Tok and those individuals living along the Alaska Highway from the Alaskan/Canadian border to along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Waters of the Copper River between National Park Service regulatory markers located near the mouth of Tanada Creek, and in Tanada Creek between National Park Service regulatory markers identifying the open waters of the creek.	Salmon	Residents of Mentasta Lake and Dot Lake.
Remainder of the Prince William Sound Area	Salmon	Residents of the Prince William Sound Area.
YAKUTAT AREA:		
Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsiu River.	Salmon	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of including Knight Island.
Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to Point Manby.	Dolly Varden, steelhead trout, and smelt.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
Remainder of the Yakutat Area	Dolly Varden, trout, smelt and eulachon.	Residents of Southeastern Alaska and Yakutat Areas.
SOUTHEASTERN ALASKA AREA:		
District 1—Section 1–E in waters of the Naha River and Roosevelt Lagoon.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Saxman.
District 1—Section 1–F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Saxman.
District 2—North of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132° 20′ W. long. and east of 132° 25′ W. long.
District 3—Section 3–A	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the townsite of Hydaburg.
District 3—Section A	Halibut and bottomfish	Residents of Southeast Area.
District 3—Section 3–B in waters east of a line from Point Ildefonso to Tranquil Point.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they existed in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they existed in January 1989.
District 3—Section 3–C in waters of Sarkar Lakes	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they existed in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they existed in January 1989.
District 5—North of a line from Point Barrie to Boulder Point.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–A	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–B north of the latitude of Swain Point.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 10—West of a line from Pinta Point to False Point Pybus.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.

Area	Species	Determination
District 12—South of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30′ W. long., including Killisnoo Island.
District 13—Section 13–A south of the latitude of Cape Edward.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–B north of the latitude of Redfish Cape.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C east of the longitude of Point Elizabeth.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30′ W. long., including Killisnoo Island.
District 14—Section 14–B and 14–C	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Hoonah and in Chichagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia.
Remainder of the Southeastern Alaska Area	Dolly Varden, trout, smelt and eulachon.	Residents of Southeastern Alaska and Yakutat Areas.

* * * * *

3. In Subpart D of 36 CFR part 242 and 50 CFR part 100, §____.27 and §____.28 are added effective March 1, 2002, through February 28, 2003, to read as follows:

§____.27 Subsistence taking of fish.

(a) *Applicability.* (1) Regulations in this section apply to the taking of fish or their parts for subsistence uses.

(2) You may take fish for subsistence uses at any time by any method unless you are restricted by the subsistence fishing regulations found in this section. The harvest limit specified in this section for a subsistence season for a species and the State harvest limit set for a State season for the same species are not cumulative. This means that if you have taken the harvest limit for a particular species under a subsistence season specified in this section, you may not, after that, take any additional fish of that species under any other harvest limit specified for a State season.

(b) *[Reserved]*

(c) *Methods, means, and general restrictions.* (1) Unless otherwise specified in this section or under terms of a required subsistence fishing permit (as may be modified by this section), you may use the following legal types of gear for subsistence fishing:

(i) A set gillnet;
(ii) A drift gillnet;
(iii) A purse seine;
(iv) A hand purse seine;
(v) A beach seine;
(vi) Troll gear;
(vii) A fish wheel;
(viii) A trawl;
(ix) A pot;
(x) A longline;
(xi) A fyke net;
(xii) A lead;
(xiii) A herring pound;
(xiv) A dip net;
(xv) Jigging gear;
(xvi) A mechanical jigging machine;
(xvii) A handline;
(xviii) A cast net;
(xix) A rod and reel; and
(xx) A spear.

(2) You must include an escape mechanism on all pots used to take fish or shellfish. The escape mechanisms are as follows:

(i) A sidewall, which may include the tunnel, of all shellfish and bottomfish pots must contain an opening equal to or exceeding 18 inches in length, except that in shrimp pots the opening must be a minimum of 6 inches in length. The opening must be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine, no larger than 30 thread. The cotton twine may be knotted at each end only. The opening must be within 6 inches of the bottom of the pot and must be parallel with it. The cotton twine may not be tied or looped around the web bars. Dungeness crab pots may have the pot lid tie-down straps secured to the pot at one end by a single loop of untreated, 100 percent cotton twine no larger than 60 thread, or the pot lid must be secured so that, when the twine degrades, the lid will no longer be securely closed;

(ii) All king crab, Tanner crab, shrimp, miscellaneous shellfish and bottomfish pots may, instead of complying with paragraph (c)(2)(i) of this section, satisfy the following: a sidewall, which may include the tunnel, must contain an opening at least 18 inches in length, except that shrimp pots must contain an opening at least 6 inches in length. The opening must be laced, sewn, or secured together by a single length of treated or untreated twine, no larger than 36 thread. A galvanic timed release device, designed to release in no more than 30 days in salt water, must be integral to the length of twine so that, when the device releases, the twine will no longer secure or obstruct the opening of the pot. The twine may be knotted only at each end and at the attachment points on the galvanic timed release device. The opening must be within 6 inches of the bottom of the pot and must be parallel with it. The twine may not be tied or looped around the web bars.

(3) For subsistence fishing for salmon, you may not use a gillnet exceeding 50 fathoms in length, unless otherwise specified in this section. The gillnet web must contain at least 30 filaments of equal diameter or at least 6 filaments, each of which must be at least 0.20 millimeter in diameter.

(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.

(5) You may not use live non-indigenous fish as bait.

(6) You must have your first initial, last name, and address plainly and legibly inscribed on the side of your fishwheel facing midstream of the river.

(7) You may use kegs or buoys of any color but red on any permitted gear.

(8) You must have your first initial, last name, and address plainly and legibly inscribed on each keg, buoy, stakes attached to gillnets, stakes identifying gear fished under the ice, and any other unattended fishing gear

which you use to take fish for subsistence uses.

(9) You may not use explosives or chemicals to take fish for subsistence uses.

(10) You may not take fish for subsistence uses within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction, unless otherwise indicated.

(11) The limited exchange for cash of subsistence-harvested fish, their parts, or their eggs, legally taken under Federal subsistence management regulations to support personal and family needs is permitted as customary trade, so long as it does not constitute a significant commercial enterprise. The Board may recognize regional differences and define customary trade differently for separate regions of the State.

(12) Individuals, businesses, or organizations may not purchase subsistence-taken fish, their parts, or their eggs for use in, or resale to, a significant commercial enterprise.

(13) Individuals, businesses, or organizations may not receive through barter subsistence-taken fish, their parts or their eggs for use in, or resale to, a significant commercial enterprise.

(14) Except as provided elsewhere in this section, you may not take rainbow/steelhead trout.

(15) You may not use fish taken for subsistence use or under subsistence regulations in this part as bait for commercial or sport fishing purposes.

(16) You may not accumulate harvest limits authorized in this section or § __.28 with harvest limits authorized under State regulations.

(17) Unless specified otherwise in this section, you may use a rod and reel to take fish without a subsistence fishing permit. Harvest limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:

(i) If you are required to obtain a subsistence fishing permit for an area, that permit is required to take fish for subsistence uses with rod and reel in that area. The harvest and possession limits for taking fish with a rod and reel in those areas are the same as indicated on the permit issued for subsistence fishing with other gear types;

(ii) Except as otherwise provided for in this section, if you are not required to obtain a subsistence fishing permit for an area, the harvest and possession limits for taking fish for subsistence uses with a rod and reel are the same as for taking fish under State of Alaska subsistence fishing regulations in those same areas. If the State does not have a specific subsistence season and/or harvest limit for that particular species, the limit shall be the same as for taking fish under State of Alaska sport fishing regulations.

(18) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish for subsistence uses at any time.

(19) You may not intentionally waste or destroy any subsistence-caught fish or shellfish; however, you may use for bait or other purposes, whitefish, herring, and species for which harvest limits, seasons, or other regulatory methods and means are not provided in this section, as well as the head, tail, fins, and viscera of legally-taken subsistence fish.

(d) *Fishing by designated harvest permit.* (1) Any species of fish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user, you (beneficiary) may designate another Federally-qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated harvest permit when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.

(4) The designated fisherman may not fish with more than one legal limit of gear.

(5) You may not designate more than one person to take or attempt to take fish on your behalf at one time. You may not personally take or attempt to take fish at the same time that a designated fisherman is taking or attempting to take fish on your behalf.

(e) *Fishing permits and reports.* (1) You may take salmon only under the authority of a subsistence fishing permit, unless a permit is specifically not required in a particular area by the subsistence regulations in this part, or unless you are retaining salmon from your commercial catch consistent with paragraph (f) of this section.

(2) The U.S. Fish and Wildlife Service, Office of Subsistence Management may issue a permit to harvest fish for a qualifying cultural/educational program to an organization that has been granted a Federal subsistence permit for a similar event within the previous 5 years. A qualifying program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. Applications must be submitted to the Office of Subsistence Management 60 days prior to the earliest desired date of harvest. Permits will be issued for no more than 25 fish per culture/education camp. Appeal of a rejected request can be made to the Federal Subsistence Board. Application for an initial permit for a qualifying cultural/educational program, for a permit when the circumstances have changed significantly, when no permit has been issued within the previous 5 years, or when there is a request for harvest in excess of that provided in this paragraph (e)(2), will be considered by the Federal Subsistence Board.

(3) If a subsistence fishing permit is required by this section, the following permit conditions apply unless otherwise specified in this section:

(i) You may not take more fish for subsistence use than the limits set out in the permit;

(ii) You must obtain the permit prior to fishing;

(iii) You must have the permit in your possession and readily available for inspection while fishing or transporting subsistence-taken fish;

(iv) If specified on the permit, you shall keep accurate daily records of the catch, showing the number of fish taken by species, location and date of catch, and other such information as may be required for management or conservation purposes; and

(v) If the return of catch information necessary for management and conservation purposes is required by a fishing permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances. You must also return any tags or transmitters that have been attached to fish for management and conservation purposes.

(f) *Relation to commercial fishing activities.* (1) If you are a Federally-qualified subsistence user who also commercial fishes, you may retain fish for subsistence purposes from your lawfully-taken commercial catch.

(2) When participating in a commercial and subsistence fishery at the same time, you may not use an amount of combined fishing gear in excess of that allowed under the appropriate commercial fishing regulations.

(g) You may not possess, transport, give, receive, or barter subsistence-taken

fish or their parts which have been taken contrary to Federal law or regulation or State law or regulation (unless superseded by regulations in this part).

(h) [Reserved]

(i) *Fishery management area restrictions.* (1) *Kotzebue Area.* The Kotzebue Area includes all waters of Alaska between the latitude of the westernmost tip of Point Hope and the latitude of the westernmost tip of Cape Prince of Wales, including those waters draining into the Chukchi Sea.

(i) You may take fish for subsistence purposes without a permit.

(ii) You may take salmon only by gillnets, beach seines, or a rod and reel.

(iii) In the Kotzebue District, you may take sheefish with gillnets that are not more than 50 fathoms in length, nor more than 12 meshes in depth, nor have a mesh size larger than 7 inches.

(iv) You may not obstruct more than one-half the width of a stream, creek, or slough with any gear used to take fish for subsistence uses, except from May 15 to July 15 and August 15 to October 31 when taking whitefish or pike in streams, creeks, or sloughs within the Kobuk River drainage and from May 15 to October 31 in the Selawik River drainage. Only one gillnet 100 feet or less in length with a mesh size from 2½ to 4½ inches may be used per site. You must check your net at least once in every 24-hour period.

(2) *Norton Sound-Port Clarence Area.* The Norton Sound-Port Clarence Area includes all waters of Alaska between the latitude of the westernmost tip of Cape Prince of Wales and the latitude of Point Romanof, including those waters of Alaska surrounding St. Lawrence Island and those waters draining into the Bering Sea.

(i) Unless otherwise restricted in this section, you take fish at any time in the Port Clarence District.

(ii) In the Norton Sound District, you may take fish at any time except as follows:

(A) In Subdistricts 2 through 6, if you are a commercial fishermen, you may not fish for subsistence purposes during the weekly closures of the State commercial salmon fishing season, except that from July 15 through August 1, you may take salmon for subsistence purposes 7 days per week in the Unalakleet and Shaktoolik River drainages with gillnets which have a mesh size that does not exceed 4½ inches, and with beach seines;

(B) In the Unalakleet River from June 1 through July 15, you may take salmon only from 8:00 a.m. Monday until 8:00 p.m. Saturday;

(C) In Subdistricts 1–3, you may take salmon other than chum salmon by beach seine during periods established by emergency action.

(iii) You may take salmon only by gillnets, beach seines, fishwheel, or a rod and reel.

(iv) You may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, pot, long line, fyke net, jigging gear, spear, lead, or a rod and reel.

(v) In the Unalakleet River from June 1 through July 15, you may not operate more than 25 fathoms of gillnet in the aggregate nor may you operate an unanchored fishing net.

(vi) You must have a subsistence fishing permit for net fishing in all waters from Cape Douglas to Rocky Point.

(vii) Only one subsistence fishing permit will be issued to each household per year.

(3) *Yukon-Northern Area.* The Yukon-Northern Area includes all waters of Alaska between the latitude of Point Romanof and the latitude of the westernmost point of the Naskonat Peninsula, including those waters draining into the Bering Sea, and all waters of Alaska north of the latitude of the westernmost tip of Point Hope and west of 141° W. long., including those waters draining into the Arctic Ocean and the Chukchi Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time.

(ii) In the following locations, you may take salmon during the open weekly fishing periods of the State commercial salmon fishing season and may not take them for 24 hours before the opening of the State commercial salmon fishing season:

(A) In District 4, excluding the Koyukuk River drainage;

(B) In Subdistricts 4–B and 4–C from June 15 through September 30, salmon may be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday;

(C) In District 6, excluding the Kantishna River drainage, salmon may be taken from 6:00 p.m. Friday until 6:00 p.m. Wednesday.

(iii) During any State commercial salmon fishing season closure of greater than five days in duration, you may not take salmon during the following periods in the following districts:

(A) In District 4, excluding the Koyukuk River drainage, salmon may not be taken from 6:00 p.m. Friday until 6:00 p.m. Sunday;

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5–D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.

(iv) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

(v) In Districts 1, 2, 3, and Subdistrict 4–A, excluding the Koyukuk and Innoko River drainages, you may not take salmon for subsistence purposes during the 24 hours immediately before the opening of the State commercial salmon fishing season.

(vi) In Districts 1, 2, and 3:

(A) After the opening of the State commercial salmon fishing season through July 15, you may not take salmon for subsistence for 18 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period;

(B) After July 15, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period.

(vii) In Subdistrict 4–A after the opening of the State commercial salmon fishing season, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period; however, you may take king salmon during the State commercial fishing season, with drift gillnet gear only, from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday.(viii) You may not subsistence fish in the following drainages located north of the main Yukon River:

(A) Kanuti River upstream from a point 5 miles downstream of the State highway crossing;

(B) Bonanza Creek;

(C) Jim River including Prospect and Douglas Creeks.

(ix) You may not subsistence fish in the Delta River.

(x) In Beaver Creek downstream from the confluence of Moose Creek, a gillnet with mesh size not to exceed 3-inches stretch-measure may be used from June 15–September 15. You may subsistence fish for all non-salmon species but may not target salmon during this time period (retention of salmon taken incidentally to non-salmon directed fisheries is allowed). From the mouth of Nome Creek downstream to the confluence of Moose Creek, only rod and reel may be used. From the mouth of Nome Creek downstream to the confluence of O'Brien Creek, the daily harvest and possession limit is 5 grayling; from the mouth of O'Brien Creek downstream to the confluence of Moose Creek, the daily harvest and

possession limit is 10 grayling. The Nome Creek drainage of Beaver Creek is closed to subsistence fishing for grayling.

(xi) You may not subsistence fish in the Toklat River drainage from August 15 through May 15.

(xii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(xiii) In District 4, if you are a commercial fisherman, you may not take salmon for subsistence purposes during the State commercial salmon fishing season using gillnets with mesh larger than six-inches after a date specified by ADF&G emergency order issued between July 10 and July 31.

(xiv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4–A upstream from the mouth of Stink Creek, you may take king salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;

(B) In Subdistrict 4–A downstream from the mouth of Stink Creek, you may take king salmon by drift gillnets less than 150 feet in length from June 10 through July 14.

(xv) Unless otherwise specified in this section, you may take fish other than salmon and halibut by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(A) During the open weekly fishing periods of the State commercial salmon fishing season, if you are a commercial fisherman, you may not operate more than one type of gear at a time, for commercial, personal use, and subsistence purposes;

(B) You may not use an aggregate length of set gillnet in excess of 150 fathoms and each drift gillnet may not exceed 50 fathoms in length;

(C) In Districts 4, 5, and 6, you may not set subsistence fishing gear within 200 feet of other operating commercial, personal use, or subsistence fishing gear except that, at the site approximately 1 mile upstream from Ruby on the south bank of the Yukon River between ADF&G regulatory markers containing the area known locally as the ''Slide,'' you may set subsistence fishing gear within 200 feet of other operating commercial or subsistence fishing gear and in District 4, from Old Paradise Village upstream to a point 4 miles upstream from Anvik, there is no minimum distance requirement between fish wheels;

(D) During the State commercial salmon fishing season, within the Yukon River and the Tanana River below the confluence of the Wood River, you may use drift gillnets and fish wheels only during open subsistence salmon fishing periods;

(E) In Birch Creek, gillnet mesh size may not exceed 3-inches stretch-measure.

(xvi) In District 4, from September 21 through May 15, you may use jigging gear from shore ice.

(xvii) You must possess a subsistence fishing permit for the following locations:

(A) For the Yukon River drainage from the mouth of Hess Creek to the mouth of the Dall River;

(B) For the Yukon River drainage from the upstream mouth of 22 Mile Slough to the U.S.-Canada border;

(C) Only for salmon in the Tanana River drainage above the mouth of the Wood River.

(xviii) Only one subsistence fishing permit will be issued to each household per year.

(xix) In Districts 1, 2, and 3, you may not possess king salmon taken for subsistence purposes unless the dorsal fin has been removed immediately after landing.

(xx) In the Yukon River drainage, chinook (king) salmon must be used primarily for human consumption and may not be targeted for dog food. Dried chinook salmon may not be used for dogfood anywhere in the Yukon River drainage. Whole fish unfit for human consumption (due to disease, deterioration, deformities), scraps, and small fish (16 inches or less) may be fed to dogs. Also, whole chinook salmon caught incidentally during a subsistence chum salmon fishery in the following time periods and locations may be fed to dogs:

(A) After July 10 in the Koyukuk River drainage;

(B) After August 10, in Subdistrict 5–D, upstream of Circle City.

(4) *Kuskokwim Area.* The Kuskokwim Area consists of all waters of Alaska between the latitude of the westernmost point of Naskonat Peninsula and the latitude of the southernmost tip of Cape Newenham, including the waters of Alaska surrounding Nunivak and St. Matthew Islands and those waters draining into the Bering Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Kuskokwim Area at any time without a subsistence fishing permit.

(ii) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokuak Slough, you may not take salmon for 16 hours before, during, and for 6 hours after, each State open commercial salmon fishing period for District 1.

(iii) In District 1, Kuskokuak Slough only from June 1 through July 31, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.

(iv) In Districts 4 and 5, from June 1 through September 8, you may not take salmon for 16 hours before, during, and 6 hours after each State open commercial salmon fishing period in each district.

(v) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8 you may not take salmon for 16 hours before, during, and 6 hours after each State open commercial salmon fishing period in the district.

(vi) You may not take subsistence fish by nets in the Goodnews River east of a line between ADF&G regulatory markers placed near the mouth of the Ufigag River and an ADF&G regulatory marker placed near the mouth of the Tunulik River 16 hours before, during, and 6 hours after each State open commercial salmon fishing period.

(vii) You may not take subsistence fish by nets in the Kanektok River upstream of ADF&G regulatory markers placed near the mouth 16 hours before, during, and 6 hours after each State open commercial salmon fishing period.

(viii) You may not take subsistence fish by nets in the Arolik River upstream of ADF&G regulatory markers placed near the mouth 16 hours before, during, and 6 hours after each State open commercial salmon fishing period.

(ix) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Holitna, Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.

(x) You may not use an aggregate length of set gillnets or drift gillnets in excess of 50 fathoms for taking salmon.

(xi) You may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, pot, long line, fyke net, dip net, jigging gear, spear, lead, handline, or rod and reel.

(xii) You must attach to the bank each subsistence gillnet operated in tributaries of the Kuskokwim River and fish it substantially perpendicular to the bank and in a substantially straight line.

(xiii) Within a tributary to the Kuskokwim River in that portion of the Kuskokwim River drainage from the

north end of Eek Island upstream to the mouth of the Kolmakoff River, you may not set or operate any part of a set gillnet within 150 feet of any part of another set gillnet.

(xiv) The maximum depth of gillnets is as follows:

(A) Gillnets with 6-inch or smaller mesh may not be more than 45 meshes in depth;

(B) Gillnets with greater than 6-inch mesh may not be more than 35 meshes in depth.

(xv) You may take halibut only by a single hand-held line with no more than two hooks attached to it.

(xvi) You may not use subsistence set and drift gillnets exceeding 15 fathoms in length in Whitefish Lake in the Ophir Creek drainage. You may not operate more than one subsistence set or drift gillnet at a time in Whitefish Lake in the Ophir Creek drainage. You must check the net at least once every 24 hours.

(xvii) Rainbow trout may be taken by only residents of Goodnews Bay, Platinum, Quinhagak, Eek, Kwethluk, Akiachak, and Akiak. The following restrictions apply:

(A) You may take rainbow trout only by the use of gillnets, dip nets, fyke nets, handline, spear, rod and reel, or jigging through the ice;

(B) You may not use gillnets, dip nets, or fyke nets for targeting rainbow trout from March 15–June 15;

(C) If you take rainbow trout incidentally in other subsistence net fisheries and through the ice, you may retain them for subsistence purposes;

(D) There are no harvest limits with handline, spear, rod and reel, or jigging.

(5) *Bristol Bay Area.* The Bristol Bay Area includes all waters of Bristol Bay including drainages enclosed by a line from Cape Newenham to Cape Menshikof.

(i) Unless restricted in this section, or unless under the terms of a subsistence fishing permit, you may take fish at any time in the Bristol Bay area.

(ii) In all State commercial salmon districts, from May 1 through May 31 and October 1 through October 31, you may subsistence fish for salmon only from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, you may take salmon only during State open commercial salmon fishing periods.

(iii) In the Egegik River from 9:00 a.m. June 23 through 9:00 a.m. July 17, you may take salmon only from 9:00 a.m. Tuesday to 9:00 a.m. Wednesday and 9:00 a.m. Saturday to 9:00 a.m. Sunday.

(iv) You may not take fish from waters within 300 feet of a stream mouth used by salmon.

(v) You may not subsistence fish with nets in the Tazimina River and within one-fourth mile of the terminus of those waters during the period from September 1 through June 14.

(vi) Within any district, you may take salmon, herring, and capelin only by drift and set gillnets.

(vii) Outside the boundaries of any district, you may take salmon only by set gillnet, except that you may also take salmon by spear in the Togiak River excluding its tributaries.

(viii) The maximum lengths for set gillnets used to take salmon are as follows:

(A) You may not use set gillnets exceeding 10 fathoms in length in the Egegik, River;

(B) In the remaining waters of the area, you may not use set gillnets exceeding 25 fathoms in length.

(ix) You may not operate any part of a set gillnet within 300 feet of any part of another set gillnet.

(x) You must stake and buoy each set gillnet. Instead of having the identifying information on a keg or buoy attached to the gillnet, you may plainly and legibly inscribe your first initial, last name, and subsistence permit number on a sign at or near the set gillnet.

(xi) You may not operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(xii) During State closed commercial herring fishing periods, you may not use gillnets exceeding 25 fathoms in length for the subsistence taking of herring or capelin.

(xiii) You may take fish other than salmon, herring, capelin, and halibut by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(xiv) You may take salmon and char only under authority of a subsistence fishing permit.

(xv) Only one subsistence fishing permit may be issued to each household per year.

(xvi) In the Togiak River section and the Togiak River drainage, you may not possess coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

(6) *Aleutian Islands Area.* The Aleutian Islands Area includes all waters of Alaska west of the longitude of the tip of Cape Sarichef, east of 172° East longitude, and south of 54°36′ North latitude.

(i) You may take fish, other than salmon and rainbow/steelhead trout, at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except:

(A) That from June 1 through September 15, you may not use a salmon seine vessel to take salmon for subsistence 24 hours before, during, or 24 hours after a State open commercial salmon fishing period within a 50–mile radius of the area open to commercial salmon fishing;

(B) That from June 1 through September 15, you may use a purse seine vessel to take salmon only with a gillnet and you may not have any other type of salmon gear on board the vessel while subsistence fishing; or

(C) As may be specified on a subsistence fishing permit.

(iii) In the Adak, Akutan, Atka-Amlia, and Umnak Districts, you may take salmon at any time.

(iv) You may not subsistence fish for salmon in the following waters:

(A) The waters of Unalaska Lake, its tributaries and outlet stream;

(B) The waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the ''Bishop's House'' at 53°52.64′ N. lat., 166°32.30′ W. long. to a point on Amaknak Island at 53°52.82′ N. lat., 166°32.13′ W. long., and north of line from a point south of Agnes Beach at 53°52.28′ N. lat., 166°32.68′ W. long. to a point at 53°52.35′ N. lat., 166°32.95′ W. long. on Amaknak Island;

(C) Within Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point, waters within 250 yards of any anadromous stream, except the outlet stream of Unalaska Lake, which is closed under paragraph (i)(6)(iv)(A) of this section;

(D) The waters of Summers and Morris Lakes and their tributaries and outlet streams;

(E) All streams supporting anadromous fish runs that flow into Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point;

(F) Waters of McLees Lake and its tributaries and outlet stream;

(G) Waters in Reese Bay from July 1 through July 9, within 500 yards of the outlet stream terminus to McLees Lake;

(H) All freshwater on Adak Island and Kagalaska Island in the Adak District.

(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.

(vi) In the Unalaska District, if you fish with a net, you must be physically

present at the net at all times when the net is being used.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.

(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(xi) The daily harvest limit for halibut is two fish, and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(7) *Alaska Peninsula Area.* The Alaska Peninsula Area includes all Pacific Ocean waters of Alaska between a line extending southeast (135°) from the tip of Kupreanof Point and the longitude of the tip of Cape Sarichef, and all Bering Sea waters of Alaska east of the longitude of the tip of Cape Sarichef and south of the latitude of the tip of Cape Menshikof.

(i) You may take fish, other than salmon and rainbow/steelhead trout, at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries or through the ice, you may retain them for subsistence purposes.

(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.

(iii) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(iv) You may take salmon at any time except within 24 hours before and within 12 hours following each State open weekly commercial salmon fishing period within a 50-mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence fishing permit.

(v) You may not subsistence fish for salmon in the following waters:

(A) Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;

(B) Trout Creek and within 500 yards outside its mouth.

(vi) You may take salmon by seine, gillnet, rod and reel, or with gear specified on a subsistence fishing permit.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may not use a set gillnet exceeding 100 fathoms in length.

(ix) You may take halibut for subsistence purposes only by a single handheld line with no more than two hooks attached.

(x) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on your subsistence fishing permit.

(xi) The daily harvest limit for halibut is two fish and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(8) *Chignik Area.* The Chignik Area includes all waters of Alaska on the south side of the Alaska Peninsula enclosed by 156°20.22′ West longitude (the longitude of the southern entrance to Imuya Bay near Kilokak Rocks) and a line extending southeast (135°) from the tip of Kupreanof Point.

(i) You may take fish, other than rainbow/steelhead trout, at any time, except as may be specified by a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) You may not take salmon in the Chignik River, upstream from the ADF&G weir site or counting tower, in Black Lake, or any tributary to Black and Chignik Lakes.

(iii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.

(iv) You must keep a record on your permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(v) If you hold a commercial fishing license, you may not subsistence fish for salmon from 48 hours before the first State commercial salmon fishing opening in the Chignik Area through September 30.

(vi) You may take salmon by seines, gillnets, rod and reel, or with gear specified on a subsistence fishing permit, except that in Chignik Lake you may not use purse seines.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may take halibut for subsistence purposes only by a single handheld line with no more than two hooks attached.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(x) The daily harvest limit for halibut is two fish, and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(9) *Kodiak Area.* The Kodiak Area includes all waters of Alaska south of a line extending east from Cape Douglas (58°51.10′ N. lat.), west of 150° W. long., north of 55°30.00′ N. lat.; and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (156°20.22′ W. long.).

(i) You may take fish, other than salmon and rainbow/steelhead trout, at any time unless restricted by the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:

(A) From June 1 through September 15, you may not use salmon seine vessels to take subsistence salmon for 24 hours before, during, and for 24 hours after any State open commercial salmon fishing period. The use of skiffs from any type of vessel is allowed;

(B) From June 1 through September 15, you may use purse seine vessels to take salmon only with gillnets, and you may have no other type of salmon gear on board the vessel.

(iii) You may not subsistence fish for salmon in the following locations:

(A) Womens Bay closed waters—all waters inside a line from the tip of the Nyman Peninsula (57°43.23′ N. lat., 152°31.51′ W long.), to the northeastern tip of Mary's Island (57°42.40' N. lat., 152°32.00′ W. long.), to the southeastern shore of Womens Bay at 57°41.95′ N. lat., 152°31.50' W. long.;

(B) Buskin River closed waters—all waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80′ N. lat, 152°28.38′ W. long., to a point offshore at 57°45.35′ N. lat, 152°28.15′ W. long., to a marker located onshore south of the river mouth at approximately 57°45.15′ N. lat., 152°28.65′ W. long.;

(C) All waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek;

(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point;

(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;

(F) All freshwater systems of Afognak Island.

(iv) You must have a subsistence fishing permit for taking salmon, trout, and char for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.

(v) With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed.

(vi) You must record on your subsistence permit the number of subsistence fish taken. You must complete the record immediately upon landing subsistence-caught fish, and must return it by February 1 of the year following the year the permit was issued.

(vii) You may take fish other than salmon and halibut by gear listed in this part unless restricted under the terms of a subsistence fishing permit.(viii) You may take salmon only by gillnet, rod and reel, or seine.

(ix) You must be physically present at the net when the net is being fished.

(x) You may take halibut only by a single hand-held line with not more than two hooks attached to it.

(xi) The daily harvest limit for halibut is two fish, and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(10) *Cook Inlet Area.* The Cook Inlet Area includes all waters of Alaska enclosed by a line extending east from Cape Douglas (58° 51′06'' N. lat.) and a line extending south from Cape Fairfield (148°50′ 15'' W. long.).

(i) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time in the Cook Inlet Area. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) You may not take grayling or burbot for subsistence purposes.

(iii) You may take fish by gear listed in this part unless restricted in this section or under the terms of a subsistence fishing permit (as may be modified by this section).

(iv) You may only take salmon, Dolly Varden, trout, and char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56).

(v) You may only take smelt with dip nets or gillnets in fresh water from April 1 through June 15. You may not use a gillnet exceeding 20 feet in length and 2 inches in mesh size. You must attend the net at all times when it is being used. There are no harvest or possession limits for smelt.

(vi) Gillnets may not be used in freshwater, except for the taking of whitefish in the Tyone River drainage or for the taking of smelt.

(11) *Prince William Sound Area.* The Prince William Sound Area includes all waters of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, you may take fish, other than rainbow/steelhead trout, at any time in the Prince William Sound Area.

(ii) You may take salmon in the Glennallen and Chitina Subdistricts only from May 15 through September 30.

(iii) You may take salmon in the vicinity of the former Native village of Batzulnetas only under the authority of a Batzulnetas subsistence salmon fishing permit available from the National Park Service under the following conditions:

(A) You may take salmon only in those waters of the Copper River between National Park Service regulatory markers located near the mouth of Tanada Creek and approximately one-half mile downstream from that mouth and in Tanada Creek between National Park Service regulatory markers identifying the open waters of the creek;

(B) You may use only fish wheels, dip nets, and rod and reel on the Copper River and only dip nets, spears, and rod and reel in Tanada Creek;

(C) You may take salmon only from May 15 through September 30 or until the season is closed by special action;

(D) You may retain chinook salmon taken in a fishwheel in the Copper River. You may not take chinook salmon in Tanada Creek;

(E) You must return the permit to the National Park Service no later than October 15.

(iv) You may take salmon for subsistence purposes with no harvest or possession limits in those waters of the Southwestern District and along the northwestern shore of Green Island from the westernmost tip of the island to the northernmost tip, only as follows:

(A) You may use seines up to 50 fathoms in length and 100 meshes deep with a maximum mesh size of 4 inches, or gillnets up to 150 fathoms in length, except that you may only take pink salmon in fresh water using dip nets;

(B) You may take salmon only from May 15 until 2 days before the State commercial opening of the Southwestern District, 7 days per week; during the State commercial salmon fishing season, only during State open commercial salmon fishing periods; and from 2 days following the closure of the State commercial salmon season until September 30, 7 days per week;

(C) You may not fish within the closed waters areas for commercial salmon fisheries.

(v) You may take salmon for subsistence purposes with no harvest or possession limits in those waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point, only as follows:

(A) You may use seines up to 50 fathoms in length and 100 meshes deep with a maximum mesh size of 4 inches, or gillnets up to 150 fathoms in length with a maximum mesh size of 6¼ inches, except that you may only take pink salmon in fresh water using dip nets;

(B) You may take salmon only from May 15 until 2 days before the State commercial opening of the Eastern District, 7 days per week; during the State commercial salmon fishing season, only during State open commercial salmon fishing periods; and from 2 days following the closure of the State commercial salmon season until October 31, 7 days per week;

(C) You may not fish within the closed waters areas for commercial salmon fisheries.

(vi) If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, except when taken by dip net in the Upper Copper River District, where they must be immediately released, unharmed to the water. Rainbow/steelhead trout caught incidental to other species by fish wheel may be retained. Rainbow/steelhead trout retained for subsistence purposes will have the anal (ventral) fin removed immediately.

(vii) In the upper Copper River drainage, you may only take salmon in

the waters of the Glennallen and Chitina Subdistricts, or in the vicinity of the Native Village of Batzulnetas.

(viii) You may take fish by gear listed in this part unless restricted in this section or under the terms of a subsistence fishing permit.

(ix) In the Glennallen and Chitina Subdistricts, you may take salmon only by fish wheels, rod and reel, or dip nets.

(x) You may not rent, lease, or otherwise use your fish wheel used for subsistence fishing for personal gain. You must register your fish wheel with ADF&G or the National Park Service. Your registration number and name and address must be permanently affixed and plainly visible on the fish wheel when the fish wheel is in the water; only the current year's registration number may be affixed to the fish wheel; you must remove any other registration number from the fish wheel. You must remove the fish wheel from the water at the end of the permit period. You may operate only one fish wheel at any one time. You may not set or operate a fish wheel within 75 feet of another fish wheel. No fish wheel may have more than two baskets. If you are a permittee other than the owner, a wood or metal plate at least 12 inches high by 12 inches wide, bearing your name and address in letters and numerals at least 1 inch high, must be attached to each fish wheel so that the name and address are plainly visible.

(xi) You must personally operate the fish wheel or dip net. You may not loan or transfer a subsistence fish wheel or dip net permit except as permitted.

(xii) Except as provided in this section, you may take fish other than salmon for subsistence purposes without a subsistence fishing permit.

(xiii) You may take salmon only under authority of a subsistence fishing permit.

(xiv) Only one Federal subsistence fishing permit per subdistrict will be issued to each household per year. If a household has been issued permits for both subdistricts in the same year, both permits must be in your possession and readily available for inspection while fishing or transporting subsistence-taken fish in either subdistrict. A qualified household may also be issued a Batzulnetas salmon fishery permit in the same year.

(xv) The following apply to Upper Copper River District Federal subsistence salmon fishing permits:

(A) Multiple types of gear may be specified on a permit, although only one unit of gear may be operated at any one time;

(B) You must return your permit no later than October 31, or you may be denied a permit for the following year;

(C) A fish wheel may be operated only by one permit holder at one time; that permit holder must have the fish wheel marked as required by this section and during fishing operations;

(D) Only the permit holder and the authorized member of the household listed on the subsistence permit may take salmon;

(E) A permit holder must record on the appropriate form all salmon taken immediately after landing the salmon.

(xvi) The total annual harvest limit for salmon in combination for the Glennallen Subdistrict and the Chitina Subdistrict is as follows:

(A) For a household with 1 person, 30 salmon, of which no more than 5 may be chinook salmon if taken by dip net;

(B) For a household with 2 persons, 60 salmon, of which no more than 5 may be chinook salmon if taken by dip net; plus 10 salmon for each additional person in a household over 2 persons, except that the household's limit for chinook salmon taken by dip net does not increase;

(C) Upon request, permits for additional salmon will be issued for no more than a total of 200 salmon for a permit issued to a household with 1 person, of which no more than 5 may be chinook salmon if taken by dip net; or no more than a total of 500 salmon for a permit issued to a household with 2 or more persons, of which no more than 5 may be chinook salmon if taken by dip net.

(xvii) A subsistence fishing permit may be issued to a village council, or other similarly qualified organization whose members operate fish wheels for subsistence purposes in the Upper Copper River District, to operate fish wheels on behalf of members of its village or organization. A permit may only be issued following approval by ADF&G or the Federal Subsistence Board of a harvest assessment plan to be administered by the permitted council or organization. The harvest assessment plan must include: provisions for recording daily catches for each fish wheel; sample data collection forms; location and number of fish wheels; the full legal name of the individual responsible for the lawful operation of each fish wheel; and other information determined to be necessary for effective resource management. The following additional provisions apply to subsistence fishing permits issued under this paragraph (i)(11)(xvii):

(A) The permit will list all households and household members for whom the fish wheel is being operated;

(B) The allowable harvest may not exceed the combined seasonal limits for the households listed on the permit; the permittee will notify the ADF&G or the Federal Subsistence Board when households are added to the list, and the seasonal limit may be adjusted accordingly;

(C) Members of households listed on a permit issued to a village council or other similarly qualified organization, are not eligible for a separate household subsistence fishing permit for the Upper Copper River District.

(xviii) You may not possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit unless the anal (ventral) fin has been immediately removed from the salmon.

(xix) In locations open to State commercial salmon fishing other than described for the Upper Copper River District, the annual subsistence salmon limit is as follows:

(A) 15 salmon for a household of 1 person;

(B) 30 salmon for a household of 2 persons and 10 salmon for each additional person in a household;

(C) No more than five king salmon may be taken per permit.

(12) *Yakutat Area.* The Yakutat Area includes all waters of Alaska between the longitude of Cape Suckling and the longitude of Cape Fairweather.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time in the Yakutat Area.

(ii) You may not take salmon during the period commencing 48 hours before a State opening of commercial salmon net fishing season until 48 hours after the closure. This applies to each river or bay fishery individually.

(iii) When the length of the weekly State commercial salmon net fishing period exceeds two days in any Yakutat Area salmon net fishery, the subsistence fishing period is from 6:00 a.m. to 6:00 p.m. on Saturday in that location.

(iv) You may take salmon, trout (other than steelhead,) and char only under authority of a subsistence fishing permit. You may only take steelhead trout in the Situk and Ahrnklin Rivers and only under authority of a Federal subsistence fishing permit.

(v) If you take salmon, trout, or char incidentally by gear operated under the terms of a subsistence permit for salmon, you may retain them for subsistence purposes. You must report any salmon, trout, or char taken in this manner on your permit calendar.

(vi) You may take fish by gear listed in this part unless restricted in this

section or under the terms of a subsistence fishing permit.

(vii) In the Situk River, each subsistence salmon fishing permit holder shall attend his or her gill net at all times when it is being used to take salmon.

(viii) You may block up to two-thirds of a stream with a gillnet or seine used for subsistence fishing.

(ix) You must remove the dorsal fin from subsistence-caught salmon when taken.

(x) You may not possess subsistence-taken and sport-taken salmon on the same day.

(xi) With a subsistence fishing permit, you may harvest at any time up to 10 Dolly Varden with no minimum size.

(13) *Southeastern Alaska Area.* The Southeastern Alaska Area includes all waters between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance.

(i) Unless restricted in this section or under the terms of a subsistence fishing permit, you may take fish, other than rainbow/steelhead trout, in the Southeastern Alaska Area at any time.

(ii) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.

(iii) You must possess a subsistence fishing permit to take salmon. You must possess a Federal subsistence fishing permit to take coho salmon, trout, or char. You must possess a Federal subsistence fishing permit to take steelhead in Hamilton Bay and Kadake Bay Rivers. You must possess a Federal subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1–C or 1–D.

(iv) You may take steelhead trout on Prince of Wales Island only under the terms of a Federal subsistence fishing permit. The annual harvest limit is two fish, 36 inches or larger. You may use only a dip net or rod and reel with artificial lure or fly. You may not use bait.

(v) You may take coho salmon in Subdistricts 3 (A), (B), and (C) only under the terms of a Federal subsistence fishing permit. There is no closed season. The daily harvest limit is 20 fish per household. Only spears, dip net, and rod and reel may be used. Bait may be used only from September 15 through November 15.

(vi) In the Southeastern Alaska Area, except for sections 3A, 3B, and 3C, you may take coho salmon in Southeast Alaska waters under Federal jurisdiction under the terms of a Federal subsistence fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household, and the annual limit is 40 coho salmon per household. Only dipnets, spears, gaffs, and rod and reel may be used. Bait may only be used from September 15 through November 15. You may not retain incidentally caught trout and sockeye salmon unless taken by gaff or spear.

(vii) If you take salmon, trout, or char incidentally with gear operated under terms of a subsistence permit for other salmon, they may be kept for subsistence purposes. You must report any salmon, trout, or char taken in this manner on your permit calendar.

(viii) No permits for the use of nets will be issued for the salmon streams flowing across or adjacent to the road systems within the city limits of Petersburg, Wrangell, and Sitka.

(ix) You shall immediately remove the pelvic fins of all salmon when taken.

(x) You may not possess subsistence-taken and sport-taken salmon on the same day.

(xi) For the Salmon Bay Lake system, the daily harvest and season limit per household is 30 sockeye salmon.

(xii) For Virginia Lake (Mill Creek), the daily harvest limit per household is 20 sockeye salmon, and the season limit per household is 40 sockeye salmon.

(xiii) For Thoms Creek, the daily harvest limit per household is 20 sockeye salmon, and the season limit per household is 40 sockeye salmon.

(xiv) The Sarkar River system above the bridge is closed to the use of all nets by both Federally-qualified and non-Federally qualified users.

(xv) Only Federally-qualified subsistence users may harvest sockeye salmon in streams draining into Falls Lake Bay, Gut Bay, or Pillar Bay. In the Falls Lake Bay and Gut Bay drainages, the possession limit is 10 sockeye salmon per household. In the Pillar Bay drainage, the individual possession limit is 15 sockeye salmon with a household possession limit of 25 sockeye salmon.

(xvi) The Redoubt Lake watershed is closed to sockeye salmon fishing except by Federally-qualified subsistence fishermen. You may fish for sockeye salmon in these waters only under the terms of a Federal subsistence permit. Open season is from June 1 to August 15. For the Redoubt Lake watershed, the possession limit per individual is 10 sockeye, and the possession limit per household is 10 sockeye salmon per household. Only spears, gaffs, dip net and rod and reel may be used. Steelhead incidentally speared or gaffed may be retained.

(xvii) In Baranof Lake, Florence Lake, Hasselborg Lake and River, Mirror Lake, Virginia Lake, and Wilson Lake, in addition to the requirement for a Federal subsistence fishing permit, the following restrictions for the harvest of Dolly Varden, cutthroat, and rainbow trout apply:

(A) You may harvest at any time up to 10 Dolly Varden of any size;

(B) You may harvest at any time six cutthroat or rainbow trout in combination. You may only retain fish between 11″ and 22″. You may only use a rod and reel without bait.

(xviii) In all waters, other than those identified in paragraph (i)(13)(xvii) of this section, in addition to the requirement for a subsistence fishing permit, you may harvest Dolly Varden and cutthroat and rainbow trout in accordance with the seasons and harvest limits delineated in the Alaska Administrative Code, 5 AAC 47. You may only use a rod and reel without bait unless the use of bait is specifically permitted in 5 AAC 47.

§ ____.28 Subsistence taking of shellfish.

(a) Regulations in this section apply to subsistence taking of Dungeness crab, king crab, Tanner crab, shrimp, clams, abalone, and other shellfish or their parts.

(b) [*Reserved*]

(c) You may take shellfish for subsistence uses at any time in any area of the public lands by any method unless restricted by this section.

(d) Methods, means, and general restrictions. (1) The harvest limit specified in this section for a subsistence season for a species and the State harvest limit set for a State season for the same species are not cumulative. This means that if you have taken the harvest limit for a particular species under a subsistence season specified in this section, you may not, after that, take any additional shellfish of that species under any other harvest limit specified for a State season.

(2) Unless otherwise provided in this section or under terms of a required subsistence fishing permit (as may be modified by this section), you may use the following legal types of gear to take shellfish:

(i) Abalone iron;

(ii) Diving gear;

(iii) A grappling hook;

(iv) A handline;

(v) A hydraulic clam digger;

(vi) A mechanical clam digger;

(vii) A pot;

(viii) A ring net;

(ix) A scallop dredge;

(x) A sea urchin rake;

(xi) A shovel; and

(xii) A trawl.

(3) You are prohibited from buying or selling subsistence-taken shellfish, their parts, or their eggs, unless otherwise specified.

(4) You may not use explosives and chemicals, except that you may use chemical baits or lures to attract shellfish.

(5) Marking requirements for subsistence shellfish gear are as follows:

(i) You shall plainly and legibly inscribe your first initial, last name, and address on a keg or buoy attached to unattended subsistence fishing gear, except when fishing through the ice, you may substitute for the keg or buoy, a stake inscribed with your first initial, last name, and address inserted in the ice near the hole; subsistence fishing gear may not display a permanent ADF&G vessel license number;

(ii) kegs or buoys attached to subsistence crab pots also must be inscribed with the name or United States Coast Guard number of the vessel used to operate the pots.

(6) Pots used for subsistence fishing must comply with the escape mechanism requirements found in § ____.27(c)(2).

(7) You may not mutilate or otherwise disfigure a crab in any manner which would prevent determination of the minimum size restrictions until the crab has been processed or prepared for consumption.

(e) Taking shellfish by designated harvest permit. (1) Any species of shellfish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user (beneficiary), you may designate another Federally-qualified subsistence user to take shellfish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest shellfish and must return a completed harvest report. The designated fisherman may harvest for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated harvest permit when taking, attempting to take, or transporting shellfish taken under this section, on behalf of a beneficiary.

(4) You may not fish with more than one legal limit of gear as established by this section.

(5) You may not designate more than one person to take or attempt to take shellfish on your behalf at one time. You may not personally take or attempt to take shellfish at the same time that a designated fisherman is taking or attempting to take shellfish on your behalf.

(f) If a subsistence shellfishing permit is required by this section, the following conditions apply unless otherwise specified by the subsistence regulations in this section:

(1) You may not take shellfish for subsistence in excess of the limits set out in the permit unless a different limit is specified in this section;

(2) You must obtain a permit prior to subsistence fishing;

(3) You must have the permit in your possession and readily available for inspection while taking or transporting the species for which the permit is issued;

(4) The permit may designate the species and numbers of shellfish to be harvested, time and area of fishing, the type and amount of fishing gear and other conditions necessary for management or conservation purposes;

(5) If specified on the permit, you shall keep accurate daily records of the catch involved, showing the number of shellfish taken by species, location and date of the catch, and such other information as may be required for management or conservation purposes;

(6) You must complete and submit subsistence fishing reports at the time specified for each particular area and fishery;

(7) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances.

(g) Subsistence take by commercial vessels. No fishing vessel which is commercially licensed and registered for shrimp pot, shrimp trawl, king crab, Tanner crab, or Dungeness crab fishing may be used for subsistence take during the period starting 14 days before an opening until 14 days after the closure of a respective open season in the area or areas for which the vessel is registered. However, if you are a commercial fisherman, you may retain shellfish for your own use from your lawfully taken commercial catch.

(h) You may not take or possess shellfish smaller than the minimum legal size limits.

(i) Unlawful possession of subsistence shellfish. You may not possess, transport, give, receive, or barter shellfish or their parts taken in violation of Federal or State regulations.

(j) (1) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise, shellfish that has been taken under this section, unless:

(i) The shellfish has been taken with gear deployed and retrieved by the client or guest who is a federally-qualified subsistence user;

(ii) The gear has been marked with the client's or guest's name and address; and

(iii) The shellfish is to be consumed by the client or guest or is consumed in the presence of the client or guest.

(2) The captain and crewmembers of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence shellfish fishery when that vessel is being chartered.

(k) Subsistence shellfish areas and pertinent restrictions. (1) *Southeastern Alaska-Yakutat Area.* No marine waters are currently identified under Federal subsistence management jurisdiction.

(2) *Prince William Sound Area.* No marine waters are currently identified under Federal subsistence management jurisdiction.

(3) *Cook Inlet Area.* You may not take shellfish for subsistence purposes.

(4) *Kodiak Area.* (i) You may take crab for subsistence purposes only under the authority of a subsistence crab fishing permit issued by the ADF&G.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G before subsistence shrimp fishing during a State closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) The daily harvest and possession limit is 12 male Dungeness crabs per person; only male Dungeness crabs with a shell width of 6½ inches or greater may be taken or possessed. Taking of Dungeness crab is prohibited in water 25 fathoms or more in depth during the 14 days immediately before the State opening of a commercial king or Tanner crab fishing season in the location.

(iv) In the subsistence taking of king crab:

(A) The annual limit is six crabs per household; only male king crab may be taken or possessed;

(B) All crab pots used for subsistence fishing and left in saltwater unattended

longer than a 2-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) You may not use more than five crab pots, each being no more than 75 cubic feet in capacity to take king crab;

(D) You may take king crab only from June 1–January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after State open commercial fishing seasons for red king crab, blue king crab, or Tanner crab in the location;

(E) The waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of king crab except by Federally-qualified subsistence users.

(v) In the subsistence taking of Tanner crab:

(A) You may not use more than five crab pots to take Tanner crab;

(B) You may not take Tanner crab in waters 25 fathoms or greater in depth during the 14 days immediately before the opening of a State commercial king or Tanner crab fishing season in the location;

(C) The daily harvest and possession limit is 12 male crab with a shell width 5½ inches or greater per person.

(5) *Alaska Peninsula-Aleutian Islands Area.* (i) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed State commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit shall specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(ii) The daily harvest and possession limit is 12 male Dungeness crabs per person; only crabs with a shell width of 5½ inches or greater may be taken or possessed.

(iii) In the subsistence taking of king crab:

(A) The daily harvest and possession limit is six male crabs per person; only crabs with a shell width of 6½ inches or greater may be taken or possessed;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a 2-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) You may take crabs only from June 1–January 31.

(iv) The daily harvest and possession limit is 12 male Tanner crabs per person; only crabs with a shell width of 5½ inches or greater may be taken or possessed.

(6) *Bering Sea Area.* (i) In that portion of the area north of the latitude of Cape Newenham, shellfish may only be taken by shovel, jigging gear, pots, and ring net.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit shall specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) In waters south of 60° N. lat., the daily harvest and possession limit is 12 male Dungeness crabs per person.

(iv) In the subsistence taking of king crab:

(A) In waters south of 60° N. lat., the daily harvest and possession limit is six male crabs per person;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) In waters south of 60° N. lat., you may take crab only from June 1–January 31;

(D) In the Norton Sound Section of the Northern District, you must have a subsistence permit.

(v) In waters south of 60° N. lat., the daily harvest and possession limit is 12 male Tanner crabs.

Dated: December 31, 2001.

Kenneth E. Thompson,

Acting Regional Forester, USDA-Forest Service.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

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Federal Register

Thursday,
February 7, 2002

Part III

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2002 Subsistence Taking of Fish and Shellfish Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AH77

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—2002 Subsistence Taking of Fish and Shellfish Regulations

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, and methods and means related to taking of fish and shellfish for subsistence uses during the 2002 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. This rulemaking replaces the fish and shellfish regulations included in the ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and subpart D—2001 Subsistence Taking of Fish and Wildlife Regulations,'' which expire on February 28, 2002. This rule also amends the Customary and Traditional Use Determinations of the Federal Subsistence Board (Section __.24 of Subpart C).

DATES: Section __.24(a)(2) is effective March 1, 2002. Sections __.27, and __.28 are effective March 1, 2002, through February 28, 2003.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in McDowell required the State to delete the rural preference from the subsistence statute and, therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the McDowell decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). On January 8, 1999, (64 FR 1276), the Departments published a final rule to extend jurisdiction to include waters in which there exists a Federal reserved water right.

This amended rule became effective October 1, 1999, and conformed the Federal Subsistence Management Program to the Ninth Circuit's ruling in *Alaska* v. *Babbitt.* Consistent with Subparts A, B, and C of these regulations, the Departments established a Federal Subsistence Board (Board) to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Regional Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participated in the development of regulations for Subparts A; B; and C, which pertain to general provisions of the Subsistence Program, the Program structure, and the Board determinations; and the annual Subpart D regulations, which cover harvest season and limits.

All Board members have reviewed this rule and agree with its substance. Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR part 242 and 50 CFR part 100.

Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 apply to regulations found in this subpart.

Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR 242.11 (1999) and 50 CFR 100.11 (1999), and for the purposes identified therein, we divide Alaska into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents, with personal knowledge of local conditions and resource requirements, to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Regional Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, presented their Council's recommendations at the Board meeting of December 11–12, 2001.

Summary of Changes

Section __.24 (Customary and traditional use determinations) was originally published in the **Federal Register** (57 FR 22940) on May 29, 1992. Since that time, the Board has made a number of Customary and Traditional Use Determinations at the request of subsistence users and others. Those modifications, along with some administrative corrections, were published in the **Federal Register** (59 FR 27462, published May 27, 1994; 59 FR 51855, published October 13, 1994; 60 FR 10317, published February 24, 1995; 61 FR 39698, published July 30, 1996; 62 FR 29016, published May 29,

1997; 63 FR 35332, published June 29, 1998; 63 FR 46148, published August 28, 1998; 64 FR 1276, published January 8, 1999; 64 FR 35776, published July 1, 1999; and 66 FR 10142, published February 13, 2001). During its December 11–12, 2001, meeting, the Board made additional determinations in addition to various annual season and harvest limit changes. The public has had extensive opportunity to review and comment on all changes. Additional details on the recent Board modifications are contained below in Analysis of Proposals Adopted by the Board.

Subpart D regulations are subject to an annual cycle and require development of an entire new rule each year. Customary and traditional use determinations are also subject to an annual review process providing for modification each year. Proposed Subpart D regulations for the 2002–2003 seasons and harvest limits, and methods and means were published on February 13, 2001, in the **Federal Register** (66 FR 10142). A 55-day comment period providing for public review of the proposed rule and calling for proposals was advertised by mail, radio, and newspaper. During that period, the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. The Board received a total of 51 proposals for changes to Customary and Traditional Use Determinations or to Subpart D. Subsequent to the review period, the Board prepared a booklet describing the proposals and distributed it to the public. The public had an additional 30 days in which to comment on the proposals for changes to the regulations. The ten Regional Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. Seven of the proposals were not considered, falling outside the call for proposals. Nine proposals were withdrawn before Board consideration. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments.

Analysis of Proposals Rejected by the Board

The Board rejected five proposals from the current regulatory cycle and one deferred proposal from the 2001–2002 proposal cycle. The Board also rejected parts of four other proposals. All but one of these rejections were consistent with recommendations from the respective Regional Council. For one proposal, the Board did not concur with the Regional Council recommendation to reduce size limits, increase harvest limits, and remove a bait restriction for the harvest of steelhead/rainbow trout because the proposal, if implemented, would have threatened the conservation of healthy populations.

The Board rejected six proposals that would restrict fishing in the marine portion of a bay/river area and restrict the freshwater portion of the sockeye salmon Federal subsistence fishery to Federally-qualified users only. In this case, the marine area is not under jurisdiction of the Federal Subsistence Program and the freshwater areas support sockeye salmon populations that are sufficient for subsistence and non-subsistence harvest.

Two proposals requested limiting the harvest of eulachon. These proposals were rejected because they may not have adequately provided for subsistence needs and because there is no conservation concern for this species in the affected area.

The Board rejected a proposal deferred from the 2001–2002 regulatory cycle that would have reduced the open period for harvest of sockeye salmon. This proposal was rejected because it would have been detrimental to the satisfaction of subsistence harvest.

The Board deferred action on three proposals and parts of four others in order to assemble additional fisheries data, harvest information, or to allow communities or Regional Councils additional time to review the issues and provide additional information.

Analysis of Proposals Adopted by the Board

The Board adopted 19 proposals from the current regulatory cycle and one deferred proposal from the 2001–2002 proposal cycle. Some of these proposals were adopted as submitted and others were adopted with modifications suggested by the respective Regional Council or staff or were developed during the Board's public deliberations.

All of the adopted proposals were recommended for adoption by at least one of the Regional Councils and were based on meeting customary and traditional uses, harvest practices, or protecting fish populations. Detailed information relating to justification for the action on each proposal may be found in the Board meeting transcripts, available for review at the Office of Subsistence Management, 3601 C Street, Suite 1030, Anchorage, Alaska or on the Office of Subsistence Management Web site (*http://www.r7.fws.gov/asm/home.html*). [Note: This site is not currently accessible due to court-imposed restrictions.] Additional technical clarifications and removal of excess materials have been made, which result in a more readable document.

Kotzebue Fishery Management Area

The Board adopted one proposal affecting residents of the Kotzebue Fishery Management Area resulting in the following changes to the regulations found in § __.27.

- Revised the regulations relative to blocking a stream with a net for the taking of whitefish and pike.

Norton Sound-Port Clarence Fishery Management Area

The Board adopted one proposal affecting residents of the Norton Sound-Port Clarence Fishery Management Area resulting in the following changes to the regulations found in § __.24.

- Revised the customary and traditional use determination for the Point Romanof/Canal Point area.

Yukon-Northern Fishery Management Area

The Board adopted three proposals affecting residents of the Yukon-Northern Fishery Management Area resulting in the following changes to the regulations found in § __.27.

- Relaxed the subsistence fishing regulations on Beaver Creek.
- Relaxed the subsistence fishing regulations on Birch Creek.
- Revised the language restricting the targeting of chinook salmon for dog food in the Yukon River drainage.

Cook Inlet Fishery Management Area

The Board adopted parts of four similar proposals affecting residents of the Cook Inlet Fishery Management Area resulting in the following change to the regulations found in § __.27.

- Established subsistence harvest regulations for the Cook Inlet Area.

Prince William Sound Fishery Management Area

The Board adopted six proposals affecting residents of the Prince William Sound Fishery Management Area resulting in the following changes to the regulations found in § __.24 and in § __.27.

- Established or revised the customary and traditional use determination in three parts of the Upper Copper River drainage.
- Opened the Chitina Subdistrict to the use of fishwheels, dipnets, and rod and reel for Federally-qualified users.
- Revised the marking methods for subsistence taken salmon and rainbow/steelhead trout.
- Revised the permitting requirements for the Upper Copper River District and the Batzulnetas areas.

Southeastern Alaska Fishery Management Area

The Board adopted four proposals from the current regulatory cycle and one proposal from the 2001–2002 cycle affecting residents of the Southeastern Alaska Fishery Management Area resulting in the following changes to the regulations found in § __.27.

- Established harvest limits and methods and means for coho salmon throughout the Southeastern Alaska Fishery Management Area.
- Revised the permit requirements for sockeye salmon and closed Redoubt Lake to non-Federally-qualified users.
- Provided for the use of Federal subsistence harvest permits for the taking of rainbow/steelhead trout and Dolly Varden.
- Provided for the use of Federal subsistence harvest permits for the taking of eulachon.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments, and staff analysis and examined the environmental consequences of four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture—Forest Service, implemented Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992, amended January 8, 1999, 64 FR 1276, and June 12, 2001 66 FR 31533) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

Compliance with Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

This rule contains information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below were approved by OMB under 44 U.S.C. 3501 and were assigned control number 1018–0075, which expires July 31, 2003. The information collection requirements described below will be submitted to OMB for approval beyond that date, if needed. We will not conduct or sponsor, and you are not required to respond to, a collection of information request unless it displays a currently valid OMB control number.

Currently, information is being collected by the use of a Federal Subsistence Registration Permit and Designated Harvester Application. The information collected on these two permits establishes whether an applicant qualifies to participate in a Federal subsistence fishery on public land in Alaska and provides a report of harvest and the location of harvest. The collected information is necessary to determine harvest success, harvest location, and population health in order to make management decisions relative to the conservation of healthy fish and shellfish populations. Additional harvest information is obtained from harvest reports submitted to the State of Alaska. The recordkeeping burden for this aspect of the program is negligible (1 hour or less). This information is accessed via computer data base.

Form	Estimated number of respondents	Completion time for each form (hour)	Estimated annual response	Estimated annual burden (hours)	Hourly cost for respondent	Financial burden on respondents
Federal Subsistence Registration Permit.	5,000	¼	5,000	1,250	$20.00	$5.00 each or $25,000 total.
Designated Harvester Application	1,000	¼	1,000	250	20.00	$5.00 each or $5,000 total.

Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 222 ARLSQ, Washington, DC 20240. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B. We will submit for OMB approval any changes or additional information collection requirements not included in 1018–0075.

Other Requirements

This rule was not subject to OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number

of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as tackle, boat, and gasoline dealers. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

In general, the resources harvested under this rule will be consumed by the local harvester and do not result in a dollar benefit to the economy. However, we estimate that 24 million pounds of fish (including 8.3 million pounds of salmon) are harvested by the local subsistence users annually and, if given a dollar value of $3.00 per pound for salmon [Note: $3.00 per pound is much higher than the current commercial value for salmon.] and $ 0.58 per pound for other fish, would equate to about $34 million in food value Statewide.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and no cost is involved to any State or local entities or Tribal governments.

The Service has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988 on Civil Justice Reform.

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over wildlife resources on Federal lands.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), 512 DM 2, and E.O. 13175, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not a significant regulatory action under Executive Order 13211, affecting energy supply, distribution, or use, this action is not a significant action and no Statement of Energy Effects is required.

Drafting Information

William Knauer drafted these regulations under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Federal Subsistence Board amends Title 36, part 242, and Title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR Part 242 and 50 CFR Part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § _.24(a)(2) is revised to read as follows:

§ _.24 Customary and traditional use determinations.

(a) * * *

(2) *Fish determinations.* The following communities and areas have been found to have a positive customary and traditional use determination in the listed area for the indicated species:

Area	Species	Determination
Kotzebue Area	All fish	Residents of the Kotzebue Area.
Norton Sound—Port Clarence Area:		
Norton Sound—Port Clarence Area, waters draining into Norton Sound between Point Romanof and Canal Point.	All fish	Residents of Stebbins, St. Michael, and Kotlik.
Norton Sound—Port Clarence Area, remainder	All fish	Residents of the Norton Sound-Port Clarence Area.
Yukon-Northern Area:		
Yukon River drainage	Salmon, other than fall chum salmon.	Residents of the Yukon River drainage, including the community of Stebbins.
Yukon River drainage	Fall chum salmon	Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
Yukon River drainage	Freshwater fish (other than salmon).	Residents of the Yukon-Northern Area.
Remainder of the Yukon-Northern Area	All fish	Residents of the Yukon-Northern Area, excluding the residents of the Yukon River drainage and excluding those domiciled in Unit 26–B.

Area	Species	Determination
Kuskokwim Area	Salmon	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
	Rainbow trout	Residents of the communities of Quinhagak, Goodnews Bay, Kwethluk, Eek, Akiachak, Akiak, and Platinum.
	Pacific cod	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Chefornak, Kipnuk, Mekoryuk, Kwigillingok,Kongiganak, Eek, and Tuntutuliak.
	All other fish other than herring.	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
Waters around Nunivak Island	Herring and herring roe	Residents within 20 miles of the coast between the westernmost tip of the Naskonat Peninsula and the terminus of the Ishowik River and on Nunivak Island.
Bristol Bay Area:		
Nushagak District, including drainage flowing into the district.	Salmon and freshwater fish.	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek-Kvichak District—Naknek River drainage	Salmon and freshwater fish.	Residents of the Naknek and Kvichak River drainages.
Naknek-Kvichak District—Iliamna-Lake Clark drainage.	Salmon and freshwater fish.	Residents of the Iliamna-Lake Clark drainage.
Togiak District, including drainages flowing into the district.	Salmon and freshwater fish.	Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak.
Togiak District	Herring spawn on kelp	Residents of the Togiak District.
Remainder of the Bristol Bay Area	All fish	Residents of the Bristol Bay Area.
Aleutian Islands Area	All fish	Residents of the Aleutian Islands Area and the Pribilof Islands.
Alaska Peninsula Area	Halibut	Residents of the Alaska Peninsula Area and the communities of Ivanof Bay and Perryville.
	All other fish in the Alaska Peninsula Area.	Residents of the Alaska Peninsula Area.
Chignik Area	Halibut, salmon and fish other than rainbow/steelhead trout.	Residents of the Chignik Area.
Kodiak Area—except the Mainland District, all waters along the south side of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°52′ North latitude) mid-stream Shelikof Strait, and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (57°11′22″ North latitude, 156°20′30″ W longitude).	Salmon	Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.
Kodiak Area	Fish other than rainbow/steelhead trout and salmon.	Residents of the Kodiak Area.
Cook Inlet Area	Fish other than salmon, Dolly Varden, trout, char, grayling, and burbot.	Residents of the Cook Inlet Area.
	Salmon, Dolly Varden, trout, char, grayling, and burbot.	No Determination.
Prince William Sound Area:		
South-Western District and Green Island	Salmon	Residents of the Southwestern District which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield, and Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands.
North of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.	Salmon	Residents of the villages of Tatitlek and Ellamar.
Copper River drainage upstream from Haley Creek	Freshwater fish	Residents of Cantwell, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Slana,Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.

Area	Species	Determination
Chitina Subdistrict of the Upper Copper River District	Salmon	Residents of Cantwell, Chisana, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Gakona Junction, Glennallen, Gulkana, Healy Lake, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Northway, Slana, Tanacross, Tazlina, Tetlin, Tok, Tonsina, and those individuals that live along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Glennallen Subdistrict of the Upper Copper River District.	Salmon	Residents of the Prince William Sound Area and residents of Cantwell, Chisana, Dot Lake, Healy Lake, Dot Lake, Northway, Tanacross, Tetlin, Tok and those individuals living along the Alaska Highway from the Alaskan/Canadian border to along the Tok Cutoff from Tok to Mentasta Pass, and along the Nabesna Road.
Waters of the Copper River between National Park Service regulatory markers located near the mouth of Tanada Creek, and in Tanada Creek between National Park Service regulatory markers identifying the open waters of the creek.	Salmon	Residents of Mentasta Lake and Dot Lake.
Remainder of the Prince William Sound Area	Salmon	Residents of the Prince William Sound Area.
YAKUTAT AREA:		
Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsiu River.	Salmon	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of including Knight Island.
Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to Point Manby.	Dolly Varden, steelhead trout, and smelt.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
Remainder of the Yakutat Area	Dolly Varden, trout, smelt and eulachon.	Residents of Southeastern Alaska and Yakutat Areas.
SOUTHEASTERN ALASKA AREA:		
District 1—Section 1–E in waters of the Naha River and Roosevelt Lagoon.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Saxman.
District 1—Section 1–F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Saxman.
District 2—North of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132° 20′ W. long. and east of 132° 25′ W. long.
District 3—Section 3–A	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the townsite of Hydaburg.
District 3—Section A	Halibut and bottomfish	Residents of Southeast Area.
District 3—Section 3–B in waters east of a line from Point Ildefonso to Tranquil Point.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they existed in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they existed in January 1989.
District 3—Section 3–C in waters of Sarkar Lakes	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they existed in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they existed in January 1989.
District 5—North of a line from Point Barrie to Boulder Point.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–A	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–B north of the latitude of Swain Point.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 10—West of a line from Pinta Point to False Point Pybus.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.

Area	Species	Determination
District 12—South of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30′ W. long., including Killisnoo Island.
District 13—Section 13–A south of the latitude of Cape Edward.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–B north of the latitude of Redfish Cape.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C east of the longitude of Point Elizabeth.	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30′ W. long., including Killisnoo Island.
District 14—Section 14–B and 14–C	Salmon, Dolly Varden, trout, smelt and eulachon.	Residents of the City of Hoonah and in Chichagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia.
Remainder of the Southeastern Alaska Area	Dolly Varden, trout, smelt and eulachon.	Residents of Southeastern Alaska and Yakutat Areas.

* * * * *

3. In Subpart D of 36 CFR part 242 and 50 CFR part 100, §____.27 and §____.28 are added effective March 1, 2002, through February 28, 2003, to read as follows:

§____.27 Subsistence taking of fish.

(a) *Applicability.* (1) Regulations in this section apply to the taking of fish or their parts for subsistence uses.

(2) You may take fish for subsistence uses at any time by any method unless you are restricted by the subsistence fishing regulations found in this section. The harvest limit specified in this section for a subsistence season for a species and the State harvest limit set for a State season for the same species are not cumulative. This means that if you have taken the harvest limit for a particular species under a subsistence season specified in this section, you may not, after that, take any additional fish of that species under any other harvest limit specified for a State season.

(b) *[Reserved]*

(c) *Methods, means, and general restrictions.* (1) Unless otherwise specified in this section or under terms of a required subsistence fishing permit (as may be modified by this section), you may use the following legal types of gear for subsistence fishing:

(i) A set gillnet;
(ii) A drift gillnet;
(iii) A purse seine;
(iv) A hand purse seine;
(v) A beach seine;
(vi) Troll gear;
(vii) A fish wheel;
(viii) A trawl;
(ix) A pot;
(x) A longline;
(xi) A fyke net;
(xii) A lead;
(xiii) A herring pound;
(xiv) A dip net;
(xv) Jigging gear;
(xvi) A mechanical jigging machine;
(xvii) A handline;
(xviii) A cast net;
(xix) A rod and reel; and
(xx) A spear.

(2) You must include an escape mechanism on all pots used to take fish or shellfish. The escape mechanisms are as follows:

(i) A sidewall, which may include the tunnel, of all shellfish and bottomfish pots must contain an opening equal to or exceeding 18 inches in length, except that in shrimp pots the opening must be a minimum of 6 inches in length. The opening must be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine, no larger than 30 thread. The cotton twine may be knotted at each end only. The opening must be within 6 inches of the bottom of the pot and must be parallel with it. The cotton twine may not be tied or looped around the web bars. Dungeness crab pots may have the pot lid tie-down straps secured to the pot at one end by a single loop of untreated, 100 percent cotton twine no larger than 60 thread, or the pot lid must be secured so that, when the twine degrades, the lid will no longer be securely closed;

(ii) All king crab, Tanner crab, shrimp, miscellaneous shellfish and bottomfish pots may, instead of complying with paragraph (c)(2)(i) of this section, satisfy the following: a sidewall, which may include the tunnel, must contain an opening at least 18 inches in length, except that shrimp pots must contain an opening at least 6 inches in length. The opening must be laced, sewn, or secured together by a single length of treated or untreated twine, no larger than 36 thread. A galvanic timed release device, designed to release in no more than 30 days in salt water, must be integral to the length of twine so that, when the device releases, the twine will no longer secure or obstruct the opening of the pot. The twine may be knotted only at each end and at the attachment points on the galvanic timed release device. The opening must be within 6 inches of the bottom of the pot and must be parallel with it. The twine may not be tied or looped around the web bars.

(3) For subsistence fishing for salmon, you may not use a gillnet exceeding 50 fathoms in length, unless otherwise specified in this section. The gillnet web must contain at least 30 filaments of equal diameter or at least 6 filaments, each of which must be at least 0.20 millimeter in diameter.

(4) Except as otherwise provided for in this section, you may not obstruct more than one-half the width of any stream with any gear used to take fish for subsistence uses.

(5) You may not use live non-indigenous fish as bait.

(6) You must have your first initial, last name, and address plainly and legibly inscribed on the side of your fishwheel facing midstream of the river.

(7) You may use kegs or buoys of any color but red on any permitted gear.

(8) You must have your first initial, last name, and address plainly and legibly inscribed on each keg, buoy, stakes attached to gillnets, stakes identifying gear fished under the ice, and any other unattended fishing gear

which you use to take fish for subsistence uses.

(9) You may not use explosives or chemicals to take fish for subsistence uses.

(10) You may not take fish for subsistence uses within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction, unless otherwise indicated.

(11) The limited exchange for cash of subsistence-harvested fish, their parts, or their eggs, legally taken under Federal subsistence management regulations to support personal and family needs is permitted as customary trade, so long as it does not constitute a significant commercial enterprise. The Board may recognize regional differences and define customary trade differently for separate regions of the State.

(12) Individuals, businesses, or organizations may not purchase subsistence-taken fish, their parts, or their eggs for use in, or resale to, a significant commercial enterprise.

(13) Individuals, businesses, or organizations may not receive through barter subsistence-taken fish, their parts or their eggs for use in, or resale to, a significant commercial enterprise.

(14) Except as provided elsewhere in this section, you may not take rainbow/steelhead trout.

(15) You may not use fish taken for subsistence use or under subsistence regulations in this part as bait for commercial or sport fishing purposes.

(16) You may not accumulate harvest limits authorized in this section or § __.28 with harvest limits authorized under State regulations.

(17) Unless specified otherwise in this section, you may use a rod and reel to take fish without a subsistence fishing permit. Harvest limits applicable to the use of a rod and reel to take fish for subsistence uses shall be as follows:

(i) If you are required to obtain a subsistence fishing permit for an area, that permit is required to take fish for subsistence uses with rod and reel in that area. The harvest and possession limits for taking fish with a rod and reel in those areas are the same as indicated on the permit issued for subsistence fishing with other gear types;

(ii) Except as otherwise provided for in this section, if you are not required to obtain a subsistence fishing permit for an area, the harvest and possession limits for taking fish for subsistence uses with a rod and reel are the same as for taking fish under State of Alaska subsistence fishing regulations in those same areas. If the State does not have a specific subsistence season and/or harvest limit for that particular species, the limit shall be the same as for taking fish under State of Alaska sport fishing regulations.

(18) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish for subsistence uses at any time.

(19) You may not intentionally waste or destroy any subsistence-caught fish or shellfish; however, you may use for bait or other purposes, whitefish, herring, and species for which harvest limits, seasons, or other regulatory methods and means are not provided in this section, as well as the head, tail, fins, and viscera of legally-taken subsistence fish.

(d) *Fishing by designated harvest permit.* (1) Any species of fish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user, you (beneficiary) may designate another Federally-qualified subsistence user to take fish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated fisherman may fish for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated harvest permit when taking, attempting to take, or transporting fish taken under this section, on behalf of a beneficiary.

(4) The designated fisherman may not fish with more than one legal limit of gear.

(5) You may not designate more than one person to take or attempt to take fish on your behalf at one time. You may not personally take or attempt to take fish at the same time that a designated fisherman is taking or attempting to take fish on your behalf.

(e) *Fishing permits and reports.* (1) You may take salmon only under the authority of a subsistence fishing permit, unless a permit is specifically not required in a particular area by the subsistence regulations in this part, or unless you are retaining salmon from your commercial catch consistent with paragraph (f) of this section.

(2) The U.S. Fish and Wildlife Service, Office of Subsistence Management may issue a permit to harvest fish for a qualifying cultural/educational program to an organization that has been granted a Federal subsistence permit for a similar event within the previous 5 years. A qualifying program must have instructors, enrolled students, minimum attendance requirements, and standards for successful completion of the course. Applications must be submitted to the Office of Subsistence Management 60 days prior to the earliest desired date of harvest. Permits will be issued for no more than 25 fish per culture/education camp. Appeal of a rejected request can be made to the Federal Subsistence Board. Application for an initial permit for a qualifying cultural/educational program, for a permit when the circumstances have changed significantly, when no permit has been issued within the previous 5 years, or when there is a request for harvest in excess of that provided in this paragraph (e)(2), will be considered by the Federal Subsistence Board.

(3) If a subsistence fishing permit is required by this section, the following permit conditions apply unless otherwise specified in this section:

(i) You may not take more fish for subsistence use than the limits set out in the permit;

(ii) You must obtain the permit prior to fishing;

(iii) You must have the permit in your possession and readily available for inspection while fishing or transporting subsistence-taken fish;

(iv) If specified on the permit, you shall keep accurate daily records of the catch, showing the number of fish taken by species, location and date of catch, and other such information as may be required for management or conservation purposes; and

(v) If the return of catch information necessary for management and conservation purposes is required by a fishing permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances. You must also return any tags or transmitters that have been attached to fish for management and conservation purposes.

(f) *Relation to commercial fishing activities.* (1) If you are a Federally-qualified subsistence user who also commercial fishes, you may retain fish for subsistence purposes from your lawfully-taken commercial catch.

(2) When participating in a commercial and subsistence fishery at the same time, you may not use an amount of combined fishing gear in excess of that allowed under the appropriate commercial fishing regulations.

(g) You may not possess, transport, give, receive, or barter subsistence-taken

fish or their parts which have been taken contrary to Federal law or regulation or State law or regulation (unless superseded by regulations in this part).

(h) [Reserved]

(i) *Fishery management area restrictions.* (1) *Kotzebue Area.* The Kotzebue Area includes all waters of Alaska between the latitude of the westernmost tip of Point Hope and the latitude of the westernmost tip of Cape Prince of Wales, including those waters draining into the Chukchi Sea.

(i) You may take fish for subsistence purposes without a permit.

(ii) You may take salmon only by gillnets, beach seines, or a rod and reel.

(iii) In the Kotzebue District, you may take sheefish with gillnets that are not more than 50 fathoms in length, nor more than 12 meshes in depth, nor have a mesh size larger than 7 inches.

(iv) You may not obstruct more than one-half the width of a stream, creek, or slough with any gear used to take fish for subsistence uses, except from May 15 to July 15 and August 15 to October 31 when taking whitefish or pike in streams, creeks, or sloughs within the Kobuk River drainage and from May 15 to October 31 in the Selawik River drainage. Only one gillnet 100 feet or less in length with a mesh size from 2½ to 4½ inches may be used per site. You must check your net at least once in every 24-hour period.

(2) *Norton Sound-Port Clarence Area.* The Norton Sound-Port Clarence Area includes all waters of Alaska between the latitude of the westernmost tip of Cape Prince of Wales and the latitude of Point Romanof, including those waters of Alaska surrounding St. Lawrence Island and those waters draining into the Bering Sea.

(i) Unless otherwise restricted in this section, you take fish at any time in the Port Clarence District.

(ii) In the Norton Sound District, you may take fish at any time except as follows:

(A) In Subdistricts 2 through 6, if you are a commercial fishermen, you may not fish for subsistence purposes during the weekly closures of the State commercial salmon fishing season, except that from July 15 through August 1, you may take salmon for subsistence purposes 7 days per week in the Unalakleet and Shaktoolik River drainages with gillnets which have a mesh size that does not exceed 4½ inches, and with beach seines;

(B) In the Unalakleet River from June 1 through July 15, you may take salmon only from 8:00 a.m. Monday until 8:00 p.m. Saturday;

(C) In Subdistricts 1–3, you may take salmon other than chum salmon by beach seine during periods established by emergency action.

(iii) You may take salmon only by gillnets, beach seines, fishwheel, or a rod and reel.

(iv) You may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, pot, long line, fyke net, jigging gear, spear, lead, or a rod and reel.

(v) In the Unalakleet River from June 1 through July 15, you may not operate more than 25 fathoms of gillnet in the aggregate nor may you operate an unanchored fishing net.

(vi) You must have a subsistence fishing permit for net fishing in all waters from Cape Douglas to Rocky Point.

(vii) Only one subsistence fishing permit will be issued to each household per year.

(3) *Yukon-Northern Area.* The Yukon-Northern Area includes all waters of Alaska between the latitude of Point Romanof and the latitude of the westernmost point of the Naskonat Peninsula, including those waters draining into the Bering Sea, and all waters of Alaska north of the latitude of the westernmost tip of Point Hope and west of 141° W. long., including those waters draining into the Arctic Ocean and the Chukchi Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time.

(ii) In the following locations, you may take salmon during the open weekly fishing periods of the State commercial salmon fishing season and may not take them for 24 hours before the opening of the State commercial salmon fishing season:

(A) In District 4, excluding the Koyukuk River drainage;

(B) In Subdistricts 4–B and 4–C from June 15 through September 30, salmon may be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday;

(C) In District 6, excluding the Kantishna River drainage, salmon may be taken from 6:00 p.m. Friday until 6:00 p.m. Wednesday.

(iii) During any State commercial salmon fishing season closure of greater than five days in duration, you may not take salmon during the following periods in the following districts:

(A) In District 4, excluding the Koyukuk River drainage, salmon may not be taken from 6:00 p.m. Friday until 6:00 p.m. Sunday;

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5–D, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday.

(iv) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

(v) In Districts 1, 2, 3, and Subdistrict 4–A, excluding the Koyukuk and Innoko River drainages, you may not take salmon for subsistence purposes during the 24 hours immediately before the opening of the State commercial salmon fishing season.

(vi) In Districts 1, 2, and 3:

(A) After the opening of the State commercial salmon fishing season through July 15, you may not take salmon for subsistence for 18 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period;

(B) After July 15, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period.

(vii) In Subdistrict 4–A after the opening of the State commercial salmon fishing season, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period; however, you may take king salmon during the State commercial fishing season, with drift gillnet gear only, from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday.(viii) You may not subsistence fish in the following drainages located north of the main Yukon River:

(A) Kanuti River upstream from a point 5 miles downstream of the State highway crossing;

(B) Bonanza Creek;

(C) Jim River including Prospect and Douglas Creeks.

(ix) You may not subsistence fish in the Delta River.

(x) In Beaver Creek downstream from the confluence of Moose Creek, a gillnet with mesh size not to exceed 3-inches stretch-measure may be used from June 15–September 15. You may subsistence fish for all non-salmon species but may not target salmon during this time period (retention of salmon taken incidentally to non-salmon directed fisheries is allowed). From the mouth of Nome Creek downstream to the confluence of Moose Creek, only rod and reel may be used. From the mouth of Nome Creek downstream to the confluence of O'Brien Creek, the daily harvest and possession limit is 5 grayling; from the mouth of O'Brien Creek downstream to the confluence of Moose Creek, the daily harvest and

possession limit is 10 grayling. The Nome Creek drainage of Beaver Creek is closed to subsistence fishing for grayling.

(xi) You may not subsistence fish in the Toklat River drainage from August 15 through May 15.

(xii) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(xiii) In District 4, if you are a commercial fisherman, you may not take salmon for subsistence purposes during the State commercial salmon fishing season using gillnets with mesh larger than six-inches after a date specified by ADF&G emergency order issued between July 10 and July 31.

(xiv) In Districts 4, 5, and 6, you may not take salmon for subsistence purposes by drift gillnets, except as follows:

(A) In Subdistrict 4–A upstream from the mouth of Stink Creek, you may take king salmon by drift gillnets less than 150 feet in length from June 10 through July 14, and chum salmon by drift gillnets after August 2;

(B) In Subdistrict 4–A downstream from the mouth of Stink Creek, you may take king salmon by drift gillnets less than 150 feet in length from June 10 through July 14.

(xv) Unless otherwise specified in this section, you may take fish other than salmon and halibut by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(A) During the open weekly fishing periods of the State commercial salmon fishing season, if you are a commercial fisherman, you may not operate more than one type of gear at a time, for commercial, personal use, and subsistence purposes;

(B) You may not use an aggregate length of set gillnet in excess of 150 fathoms and each drift gillnet may not exceed 50 fathoms in length;

(C) In Districts 4, 5, and 6, you may not set subsistence fishing gear within 200 feet of other operating commercial, personal use, or subsistence fishing gear except that, at the site approximately 1 mile upstream from Ruby on the south bank of the Yukon River between ADF&G regulatory markers containing the area known locally as the ''Slide,'' you may set subsistence fishing gear within 200 feet of other operating commercial or subsistence fishing gear and in District 4, from Old Paradise Village upstream to a point 4 miles upstream from Anvik, there is no minimum distance requirement between fish wheels;

(D) During the State commercial salmon fishing season, within the Yukon River and the Tanana River below the confluence of the Wood River, you may use drift gillnets and fish wheels only during open subsistence salmon fishing periods;

(E) In Birch Creek, gillnet mesh size may not exceed 3-inches stretch-measure.

(xvi) In District 4, from September 21 through May 15, you may use jigging gear from shore ice.

(xvii) You must possess a subsistence fishing permit for the following locations:

(A) For the Yukon River drainage from the mouth of Hess Creek to the mouth of the Dall River;

(B) For the Yukon River drainage from the upstream mouth of 22 Mile Slough to the U.S.-Canada border;

(C) Only for salmon in the Tanana River drainage above the mouth of the Wood River.

(xviii) Only one subsistence fishing permit will be issued to each household per year.

(xix) In Districts 1, 2, and 3, you may not possess king salmon taken for subsistence purposes unless the dorsal fin has been removed immediately after landing.

(xx) In the Yukon River drainage, chinook (king) salmon must be used primarily for human consumption and may not be targeted for dog food. Dried chinook salmon may not be used for dogfood anywhere in the Yukon River drainage. Whole fish unfit for human consumption (due to disease, deterioration, deformities), scraps, and small fish (16 inches or less) may be fed to dogs. Also, whole chinook salmon caught incidentally during a subsistence chum salmon fishery in the following time periods and locations may be fed to dogs:

(A) After July 10 in the Koyukuk River drainage;

(B) After August 10, in Subdistrict 5–D, upstream of Circle City.

(4) *Kuskokwim Area.* The Kuskokwim Area consists of all waters of Alaska between the latitude of the westernmost point of Naskonat Peninsula and the latitude of the southernmost tip of Cape Newenham, including the waters of Alaska surrounding Nunivak and St. Matthew Islands and those waters draining into the Bering Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Kuskokwim Area at any time without a subsistence fishing permit.

(ii) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokuak Slough, you may not take salmon for 16 hours before, during, and for 6 hours after, each State open commercial salmon fishing period for District 1.

(iii) In District 1, Kuskokuak Slough only from June 1 through July 31, you may not take salmon for 16 hours before and during each State open commercial salmon fishing period in the district.

(iv) In Districts 4 and 5, from June 1 through September 8, you may not take salmon for 16 hours before, during, and 6 hours after each State open commercial salmon fishing period in each district.

(v) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, from June 1 through September 8 you may not take salmon for 16 hours before, during, and 6 hours after each State open commercial salmon fishing period in the district.

(vi) You may not take subsistence fish by nets in the Goodnews River east of a line between ADF&G regulatory markers placed near the mouth of the Ufigag River and an ADF&G regulatory marker placed near the mouth of the Tunulik River 16 hours before, during, and 6 hours after each State open commercial salmon fishing period.

(vii) You may not take subsistence fish by nets in the Kanektok River upstream of ADF&G regulatory markers placed near the mouth 16 hours before, during, and 6 hours after each State open commercial salmon fishing period.

(viii) You may not take subsistence fish by nets in the Arolik River upstream of ADF&G regulatory markers placed near the mouth 16 hours before, during, and 6 hours after each State open commercial salmon fishing period.

(ix) You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Holitna, Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.

(x) You may not use an aggregate length of set gillnets or drift gillnets in excess of 50 fathoms for taking salmon.

(xi) You may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, pot, long line, fyke net, dip net, jigging gear, spear, lead, handline, or rod and reel.

(xii) You must attach to the bank each subsistence gillnet operated in tributaries of the Kuskokwim River and fish it substantially perpendicular to the bank and in a substantially straight line.

(xiii) Within a tributary to the Kuskokwim River in that portion of the Kuskokwim River drainage from the

north end of Eek Island upstream to the mouth of the Kolmakoff River, you may not set or operate any part of a set gillnet within 150 feet of any part of another set gillnet.

(xiv) The maximum depth of gillnets is as follows:

(A) Gillnets with 6-inch or smaller mesh may not be more than 45 meshes in depth;

(B) Gillnets with greater than 6-inch mesh may not be more than 35 meshes in depth.

(xv) You may take halibut only by a single hand-held line with no more than two hooks attached to it.

(xvi) You may not use subsistence set and drift gillnets exceeding 15 fathoms in length in Whitefish Lake in the Ophir Creek drainage. You may not operate more than one subsistence set or drift gillnet at a time in Whitefish Lake in the Ophir Creek drainage. You must check the net at least once every 24 hours.

(xvii) Rainbow trout may be taken by only residents of Goodnews Bay, Platinum, Quinhagak, Eek, Kwethluk, Akiachak, and Akiak. The following restrictions apply:

(A) You may take rainbow trout only by the use of gillnets, dip nets, fyke nets, handline, spear, rod and reel, or jigging through the ice;

(B) You may not use gillnets, dip nets, or fyke nets for targeting rainbow trout from March 15–June 15;

(C) If you take rainbow trout incidentally in other subsistence net fisheries and through the ice, you may retain them for subsistence purposes;

(D) There are no harvest limits with handline, spear, rod and reel, or jigging.

(5) *Bristol Bay Area.* The Bristol Bay Area includes all waters of Bristol Bay including drainages enclosed by a line from Cape Newenham to Cape Menshikof.

(i) Unless restricted in this section, or unless under the terms of a subsistence fishing permit, you may take fish at any time in the Bristol Bay area.

(ii) In all State commercial salmon districts, from May 1 through May 31 and October 1 through October 31, you may subsistence fish for salmon only from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, you may take salmon only during State open commercial salmon fishing periods.

(iii) In the Egegik River from 9:00 a.m. June 23 through 9:00 a.m. July 17, you may take salmon only from 9:00 a.m. Tuesday to 9:00 a.m. Wednesday and 9:00 a.m. Saturday to 9:00 a.m. Sunday.

(iv) You may not take fish from waters within 300 feet of a stream mouth used by salmon.

(v) You may not subsistence fish with nets in the Tazimina River and within one-fourth mile of the terminus of those waters during the period from September 1 through June 14.

(vi) Within any district, you may take salmon, herring, and capelin only by drift and set gillnets.

(vii) Outside the boundaries of any district, you may take salmon only by set gillnet, except that you may also take salmon by spear in the Togiak River excluding its tributaries.

(viii) The maximum lengths for set gillnets used to take salmon are as follows:

(A) You may not use set gillnets exceeding 10 fathoms in length in the Egegik, River;

(B) In the remaining waters of the area, you may not use set gillnets exceeding 25 fathoms in length.

(ix) You may not operate any part of a set gillnet within 300 feet of any part of another set gillnet.

(x) You must stake and buoy each set gillnet. Instead of having the identifying information on a keg or buoy attached to the gillnet, you may plainly and legibly inscribe your first initial, last name, and subsistence permit number on a sign at or near the set gillnet.

(xi) You may not operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(xii) During State closed commercial herring fishing periods, you may not use gillnets exceeding 25 fathoms in length for the subsistence taking of herring or capelin.

(xiii) You may take fish other than salmon, herring, capelin, and halibut by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(xiv) You may take salmon and char only under authority of a subsistence fishing permit.

(xv) Only one subsistence fishing permit may be issued to each household per year.

(xvi) In the Togiak River section and the Togiak River drainage, you may not possess coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

(6) *Aleutian Islands Area.* The Aleutian Islands Area includes all waters of Alaska west of the longitude of the tip of Cape Sarichef, east of 172° East longitude, and south of 54°36′ North latitude.

(i) You may take fish, other than salmon and rainbow/steelhead trout, at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) In the Unalaska District, you may take salmon for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through December 31, except:

(A) That from June 1 through September 15, you may not use a salmon seine vessel to take salmon for subsistence 24 hours before, during, or 24 hours after a State open commercial salmon fishing period within a 50–mile radius of the area open to commercial salmon fishing;

(B) That from June 1 through September 15, you may use a purse seine vessel to take salmon only with a gillnet and you may not have any other type of salmon gear on board the vessel while subsistence fishing; or

(C) As may be specified on a subsistence fishing permit.

(iii) In the Adak, Akutan, Atka-Amlia, and Umnak Districts, you may take salmon at any time.

(iv) You may not subsistence fish for salmon in the following waters:

(A) The waters of Unalaska Lake, its tributaries and outlet stream;

(B) The waters between Unalaska and Amaknak Islands, including Margaret's Bay, west of a line from the ''Bishop's House'' at 53°52.64′ N. lat., 166°32.30′ W. long. to a point on Amaknak Island at 53°52.82′ N. lat., 166°32.13′ W. long., and north of line from a point south of Agnes Beach at 53°52.28′ N. lat., 166°32.68′ W. long. to a point at 53°52.35′ N. lat., 166°32.95′ W. long. on Amaknak Island;

(C) Within Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point, waters within 250 yards of any anadromous stream, except the outlet stream of Unalaska Lake, which is closed under paragraph (i)(6)(iv)(A) of this section;

(D) The waters of Summers and Morris Lakes and their tributaries and outlet streams;

(E) All streams supporting anadromous fish runs that flow into Unalaska Bay south of a line from the northern tip of Cape Cheerful to the northern tip of Kalekta Point;

(F) Waters of McLees Lake and its tributaries and outlet stream;

(G) Waters in Reese Bay from July 1 through July 9, within 500 yards of the outlet stream terminus to McLees Lake;

(H) All freshwater on Adak Island and Kagalaska Island in the Adak District.

(v) You may take salmon by seine and gillnet, or with gear specified on a subsistence fishing permit.

(vi) In the Unalaska District, if you fish with a net, you must be physically

present at the net at all times when the net is being used.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may take salmon, trout, and char only under the terms of a subsistence fishing permit, except that you do not need a permit in the Akutan, Umnak, and Atka-Amlia Islands Districts.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit, except that in the Unalaska and Adak Districts, you may take no more than 25 salmon plus an additional 25 salmon for each member of your household listed on the permit. You may obtain an additional permit.

(x) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(xi) The daily harvest limit for halibut is two fish, and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(7) *Alaska Peninsula Area.* The Alaska Peninsula Area includes all Pacific Ocean waters of Alaska between a line extending southeast (135°) from the tip of Kupreanof Point and the longitude of the tip of Cape Sarichef, and all Bering Sea waters of Alaska east of the longitude of the tip of Cape Sarichef and south of the latitude of the tip of Cape Menshikof.

(i) You may take fish, other than salmon and rainbow/steelhead trout, at any time unless restricted under the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries or through the ice, you may retain them for subsistence purposes.

(ii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.

(iii) You must keep a record on the reverse side of the permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(iv) You may take salmon at any time except within 24 hours before and within 12 hours following each State open weekly commercial salmon fishing period within a 50-mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence fishing permit.

(v) You may not subsistence fish for salmon in the following waters:

(A) Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;

(B) Trout Creek and within 500 yards outside its mouth.

(vi) You may take salmon by seine, gillnet, rod and reel, or with gear specified on a subsistence fishing permit.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may not use a set gillnet exceeding 100 fathoms in length.

(ix) You may take halibut for subsistence purposes only by a single handheld line with no more than two hooks attached.

(x) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on your subsistence fishing permit.

(xi) The daily harvest limit for halibut is two fish and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(8) *Chignik Area.* The Chignik Area includes all waters of Alaska on the south side of the Alaska Peninsula enclosed by 156°20.22′ West longitude (the longitude of the southern entrance to Imuya Bay near Kilokak Rocks) and a line extending southeast (135°) from the tip of Kupreanof Point.

(i) You may take fish, other than rainbow/steelhead trout, at any time, except as may be specified by a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) You may not take salmon in the Chignik River, upstream from the ADF&G weir site or counting tower, in Black Lake, or any tributary to Black and Chignik Lakes.

(iii) You may take salmon, trout, and char only under the authority of a subsistence fishing permit.

(iv) You must keep a record on your permit of subsistence-caught fish. You must complete the record immediately upon taking subsistence-caught fish and must return it no later than October 31.

(v) If you hold a commercial fishing license, you may not subsistence fish for salmon from 48 hours before the first State commercial salmon fishing opening in the Chignik Area through September 30.

(vi) You may take salmon by seines, gillnets, rod and reel, or with gear specified on a subsistence fishing permit, except that in Chignik Lake you may not use purse seines.

(vii) You may take fish other than salmon by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(viii) You may take halibut for subsistence purposes only by a single handheld line with no more than two hooks attached.

(ix) You may take no more than 250 salmon for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(x) The daily harvest limit for halibut is two fish, and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(9) *Kodiak Area.* The Kodiak Area includes all waters of Alaska south of a line extending east from Cape Douglas (58°51.10′ N. lat.), west of 150° W. long., north of 55°30.00′ N. lat.; and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (156°20.22′ W. long.).

(i) You may take fish, other than salmon and rainbow/steelhead trout, at any time unless restricted by the terms of a subsistence fishing permit. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) You may take salmon for subsistence purposes 24 hours a day from January 1 through December 31, with the following exceptions:

(A) From June 1 through September 15, you may not use salmon seine vessels to take subsistence salmon for 24 hours before, during, and for 24 hours after any State open commercial salmon fishing period. The use of skiffs from any type of vessel is allowed;

(B) From June 1 through September 15, you may use purse seine vessels to take salmon only with gillnets, and you may have no other type of salmon gear on board the vessel.

(iii) You may not subsistence fish for salmon in the following locations:

(A) Womens Bay closed waters—all waters inside a line from the tip of the Nyman Peninsula (57°43.23′ N. lat., 152°31.51′ W long.), to the northeastern tip of Mary's Island (57°42.40' N. lat., 152°32.00′ W. long.), to the southeastern shore of Womens Bay at 57°41.95′ N. lat., 152°31.50' W. long.;

(B) Buskin River closed waters—all waters inside of a line running from a marker on the bluff north of the mouth of the Buskin River at approximately 57°45.80′ N. lat, 152°28.38′ W. long., to a point offshore at 57°45.35′ N. lat, 152°28.15′ W. long., to a marker located onshore south of the river mouth at approximately 57°45.15′ N. lat., 152°28.65′ W. long.;

(C) All waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek;

(D) In Afognak Bay north and west of a line from the tip of Last Point to the tip of River Mouth Point;

(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;

(F) All freshwater systems of Afognak Island.

(iv) You must have a subsistence fishing permit for taking salmon, trout, and char for subsistence purposes. You must have a subsistence fishing permit for taking herring and bottomfish for subsistence purposes during the State commercial herring sac roe season from April 15 through June 30.

(v) With a subsistence salmon fishing permit you may take 25 salmon plus an additional 25 salmon for each member of your household whose names are listed on the permit. You may obtain an additional permit if you can show that more fish are needed.

(vi) You must record on your subsistence permit the number of subsistence fish taken. You must complete the record immediately upon landing subsistence-caught fish, and must return it by February 1 of the year following the year the permit was issued.

(vii) You may take fish other than salmon and halibut by gear listed in this part unless restricted under the terms of a subsistence fishing permit.(viii) You may take salmon only by gillnet, rod and reel, or seine.

(ix) You must be physically present at the net when the net is being fished.

(x) You may take halibut only by a single hand-held line with not more than two hooks attached to it.

(xi) The daily harvest limit for halibut is two fish, and the possession limit is two daily harvest limits. You may not possess sport-taken and subsistence-taken halibut on the same day.

(10) *Cook Inlet Area.* The Cook Inlet Area includes all waters of Alaska enclosed by a line extending east from Cape Douglas (58° 51′06'' N. lat.) and a line extending south from Cape Fairfield (148°50′ 15'' W. long.).

(i) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time in the Cook Inlet Area. If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes.

(ii) You may not take grayling or burbot for subsistence purposes.

(iii) You may take fish by gear listed in this part unless restricted in this section or under the terms of a subsistence fishing permit (as may be modified by this section).

(iv) You may only take salmon, Dolly Varden, trout, and char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56).

(v) You may only take smelt with dip nets or gillnets in fresh water from April 1 through June 15. You may not use a gillnet exceeding 20 feet in length and 2 inches in mesh size. You must attend the net at all times when it is being used. There are no harvest or possession limits for smelt.

(vi) Gillnets may not be used in freshwater, except for the taking of whitefish in the Tyone River drainage or for the taking of smelt.

(11) *Prince William Sound Area.* The Prince William Sound Area includes all waters of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, you may take fish, other than rainbow/steelhead trout, at any time in the Prince William Sound Area.

(ii) You may take salmon in the Glennallen and Chitina Subdistricts only from May 15 through September 30.

(iii) You may take salmon in the vicinity of the former Native village of Batzulnetas only under the authority of a Batzulnetas subsistence salmon fishing permit available from the National Park Service under the following conditions:

(A) You may take salmon only in those waters of the Copper River between National Park Service regulatory markers located near the mouth of Tanada Creek and approximately one-half mile downstream from that mouth and in Tanada Creek between National Park Service regulatory markers identifying the open waters of the creek;

(B) You may use only fish wheels, dip nets, and rod and reel on the Copper River and only dip nets, spears, and rod and reel in Tanada Creek;

(C) You may take salmon only from May 15 through September 30 or until the season is closed by special action;

(D) You may retain chinook salmon taken in a fishwheel in the Copper River. You may not take chinook salmon in Tanada Creek;

(E) You must return the permit to the National Park Service no later than October 15.

(iv) You may take salmon for subsistence purposes with no harvest or possession limits in those waters of the Southwestern District and along the northwestern shore of Green Island from the westernmost tip of the island to the northernmost tip, only as follows:

(A) You may use seines up to 50 fathoms in length and 100 meshes deep with a maximum mesh size of 4 inches, or gillnets up to 150 fathoms in length, except that you may only take pink salmon in fresh water using dip nets;

(B) You may take salmon only from May 15 until 2 days before the State commercial opening of the Southwestern District, 7 days per week; during the State commercial salmon fishing season, only during State open commercial salmon fishing periods; and from 2 days following the closure of the State commercial salmon season until September 30, 7 days per week;

(C) You may not fish within the closed waters areas for commercial salmon fisheries.

(v) You may take salmon for subsistence purposes with no harvest or possession limits in those waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point, only as follows:

(A) You may use seines up to 50 fathoms in length and 100 meshes deep with a maximum mesh size of 4 inches, or gillnets up to 150 fathoms in length with a maximum mesh size of 6¼ inches, except that you may only take pink salmon in fresh water using dip nets;

(B) You may take salmon only from May 15 until 2 days before the State commercial opening of the Eastern District, 7 days per week; during the State commercial salmon fishing season, only during State open commercial salmon fishing periods; and from 2 days following the closure of the State commercial salmon season until October 31, 7 days per week;

(C) You may not fish within the closed waters areas for commercial salmon fisheries.

(vi) If you take rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, except when taken by dip net in the Upper Copper River District, where they must be immediately released, unharmed to the water. Rainbow/steelhead trout caught incidental to other species by fish wheel may be retained. Rainbow/steelhead trout retained for subsistence purposes will have the anal (ventral) fin removed immediately.

(vii) In the upper Copper River drainage, you may only take salmon in

the waters of the Glennallen and Chitina Subdistricts, or in the vicinity of the Native Village of Batzulnetas.

(viii) You may take fish by gear listed in this part unless restricted in this section or under the terms of a subsistence fishing permit.

(ix) In the Glennallen and Chitina Subdistricts, you may take salmon only by fish wheels, rod and reel, or dip nets.

(x) You may not rent, lease, or otherwise use your fish wheel used for subsistence fishing for personal gain. You must register your fish wheel with ADF&G or the National Park Service. Your registration number and name and address must be permanently affixed and plainly visible on the fish wheel when the fish wheel is in the water; only the current year's registration number may be affixed to the fish wheel; you must remove any other registration number from the fish wheel. You must remove the fish wheel from the water at the end of the permit period. You may operate only one fish wheel at any one time. You may not set or operate a fish wheel within 75 feet of another fish wheel. No fish wheel may have more than two baskets. If you are a permittee other than the owner, a wood or metal plate at least 12 inches high by 12 inches wide, bearing your name and address in letters and numerals at least 1 inch high, must be attached to each fish wheel so that the name and address are plainly visible.

(xi) You must personally operate the fish wheel or dip net. You may not loan or transfer a subsistence fish wheel or dip net permit except as permitted.

(xii) Except as provided in this section, you may take fish other than salmon for subsistence purposes without a subsistence fishing permit.

(xiii) You may take salmon only under authority of a subsistence fishing permit.

(xiv) Only one Federal subsistence fishing permit per subdistrict will be issued to each household per year. If a household has been issued permits for both subdistricts in the same year, both permits must be in your possession and readily available for inspection while fishing or transporting subsistence-taken fish in either subdistrict. A qualified household may also be issued a Batzulnetas salmon fishery permit in the same year.

(xv) The following apply to Upper Copper River District Federal subsistence salmon fishing permits:

(A) Multiple types of gear may be specified on a permit, although only one unit of gear may be operated at any one time;

(B) You must return your permit no later than October 31, or you may be denied a permit for the following year;

(C) A fish wheel may be operated only by one permit holder at one time; that permit holder must have the fish wheel marked as required by this section and during fishing operations;

(D) Only the permit holder and the authorized member of the household listed on the subsistence permit may take salmon;

(E) A permit holder must record on the appropriate form all salmon taken immediately after landing the salmon.

(xvi) The total annual harvest limit for salmon in combination for the Glennallen Subdistrict and the Chitina Subdistrict is as follows:

(A) For a household with 1 person, 30 salmon, of which no more than 5 may be chinook salmon if taken by dip net;

(B) For a household with 2 persons, 60 salmon, of which no more than 5 may be chinook salmon if taken by dip net; plus 10 salmon for each additional person in a household over 2 persons, except that the household's limit for chinook salmon taken by dip net does not increase;

(C) Upon request, permits for additional salmon will be issued for no more than a total of 200 salmon for a permit issued to a household with 1 person, of which no more than 5 may be chinook salmon if taken by dip net; or no more than a total of 500 salmon for a permit issued to a household with 2 or more persons, of which no more than 5 may be chinook salmon if taken by dip net.

(xvii) A subsistence fishing permit may be issued to a village council, or other similarly qualified organization whose members operate fish wheels for subsistence purposes in the Upper Copper River District, to operate fish wheels on behalf of members of its village or organization. A permit may only be issued following approval by ADF&G or the Federal Subsistence Board of a harvest assessment plan to be administered by the permitted council or organization. The harvest assessment plan must include: provisions for recording daily catches for each fish wheel; sample data collection forms; location and number of fish wheels; the full legal name of the individual responsible for the lawful operation of each fish wheel; and other information determined to be necessary for effective resource management. The following additional provisions apply to subsistence fishing permits issued under this paragraph (i)(11)(xvii):

(A) The permit will list all households and household members for whom the fish wheel is being operated;

(B) The allowable harvest may not exceed the combined seasonal limits for the households listed on the permit; the permittee will notify the ADF&G or the Federal Subsistence Board when households are added to the list, and the seasonal limit may be adjusted accordingly;

(C) Members of households listed on a permit issued to a village council or other similarly qualified organization, are not eligible for a separate household subsistence fishing permit for the Upper Copper River District.

(xviii) You may not possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit unless the anal (ventral) fin has been immediately removed from the salmon.

(xix) In locations open to State commercial salmon fishing other than described for the Upper Copper River District, the annual subsistence salmon limit is as follows:

(A) 15 salmon for a household of 1 person;

(B) 30 salmon for a household of 2 persons and 10 salmon for each additional person in a household;

(C) No more than five king salmon may be taken per permit.

(12) *Yakutat Area.* The Yakutat Area includes all waters of Alaska between the longitude of Cape Suckling and the longitude of Cape Fairweather.

(i) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time in the Yakutat Area.

(ii) You may not take salmon during the period commencing 48 hours before a State opening of commercial salmon net fishing season until 48 hours after the closure. This applies to each river or bay fishery individually.

(iii) When the length of the weekly State commercial salmon net fishing period exceeds two days in any Yakutat Area salmon net fishery, the subsistence fishing period is from 6:00 a.m. to 6:00 p.m. on Saturday in that location.

(iv) You may take salmon, trout (other than steelhead,) and char only under authority of a subsistence fishing permit. You may only take steelhead trout in the Situk and Ahrnklin Rivers and only under authority of a Federal subsistence fishing permit.

(v) If you take salmon, trout, or char incidentally by gear operated under the terms of a subsistence permit for salmon, you may retain them for subsistence purposes. You must report any salmon, trout, or char taken in this manner on your permit calendar.

(vi) You may take fish by gear listed in this part unless restricted in this

section or under the terms of a subsistence fishing permit.

(vii) In the Situk River, each subsistence salmon fishing permit holder shall attend his or her gill net at all times when it is being used to take salmon.

(viii) You may block up to two-thirds of a stream with a gillnet or seine used for subsistence fishing.

(ix) You must remove the dorsal fin from subsistence-caught salmon when taken.

(x) You may not possess subsistence-taken and sport-taken salmon on the same day.

(xi) With a subsistence fishing permit, you may harvest at any time up to 10 Dolly Varden with no minimum size.

(13) *Southeastern Alaska Area.* The Southeastern Alaska Area includes all waters between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance.

(i) Unless restricted in this section or under the terms of a subsistence fishing permit, you may take fish, other than rainbow/steelhead trout, in the Southeastern Alaska Area at any time.

(ii) From July 7 through July 31, you may take sockeye salmon in the waters of the Klawock River and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.

(iii) You must possess a subsistence fishing permit to take salmon. You must possess a Federal subsistence fishing permit to take coho salmon, trout, or char. You must possess a Federal subsistence fishing permit to take steelhead in Hamilton Bay and Kadake Bay Rivers. You must possess a Federal subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1–C or 1–D.

(iv) You may take steelhead trout on Prince of Wales Island only under the terms of a Federal subsistence fishing permit. The annual harvest limit is two fish, 36 inches or larger. You may use only a dip net or rod and reel with artificial lure or fly. You may not use bait.

(v) You may take coho salmon in Subdistricts 3 (A), (B), and (C) only under the terms of a Federal subsistence fishing permit. There is no closed season. The daily harvest limit is 20 fish per household. Only spears, dip net, and rod and reel may be used. Bait may be used only from September 15 through November 15.

(vi) In the Southeastern Alaska Area, except for sections 3A, 3B, and 3C, you may take coho salmon in Southeast Alaska waters under Federal jurisdiction under the terms of a Federal subsistence fishing permit. There is no closed season. The daily harvest limit is 20 coho salmon per household, and the annual limit is 40 coho salmon per household. Only dipnets, spears, gaffs, and rod and reel may be used. Bait may only be used from September 15 through November 15. You may not retain incidentally caught trout and sockeye salmon unless taken by gaff or spear.

(vii) If you take salmon, trout, or char incidentally with gear operated under terms of a subsistence permit for other salmon, they may be kept for subsistence purposes. You must report any salmon, trout, or char taken in this manner on your permit calendar.

(viii) No permits for the use of nets will be issued for the salmon streams flowing across or adjacent to the road systems within the city limits of Petersburg, Wrangell, and Sitka.

(ix) You shall immediately remove the pelvic fins of all salmon when taken.

(x) You may not possess subsistence-taken and sport-taken salmon on the same day.

(xi) For the Salmon Bay Lake system, the daily harvest and season limit per household is 30 sockeye salmon.

(xii) For Virginia Lake (Mill Creek), the daily harvest limit per household is 20 sockeye salmon, and the season limit per household is 40 sockeye salmon.

(xiii) For Thoms Creek, the daily harvest limit per household is 20 sockeye salmon, and the season limit per household is 40 sockeye salmon.

(xiv) The Sarkar River system above the bridge is closed to the use of all nets by both Federally-qualified and non-Federally qualified users.

(xv) Only Federally-qualified subsistence users may harvest sockeye salmon in streams draining into Falls Lake Bay, Gut Bay, or Pillar Bay. In the Falls Lake Bay and Gut Bay drainages, the possession limit is 10 sockeye salmon per household. In the Pillar Bay drainage, the individual possession limit is 15 sockeye salmon with a household possession limit of 25 sockeye salmon.

(xvi) The Redoubt Lake watershed is closed to sockeye salmon fishing except by Federally-qualified subsistence fishermen. You may fish for sockeye salmon in these waters only under the terms of a Federal subsistence permit. Open season is from June 1 to August 15. For the Redoubt Lake watershed, the possession limit per individual is 10 sockeye, and the possession limit per household is 10 sockeye salmon per household. Only spears, gaffs, dip net and rod and reel may be used. Steelhead incidentally speared or gaffed may be retained.

(xvii) In Baranof Lake, Florence Lake, Hasselborg Lake and River, Mirror Lake, Virginia Lake, and Wilson Lake, in addition to the requirement for a Federal subsistence fishing permit, the following restrictions for the harvest of Dolly Varden, cutthroat, and rainbow trout apply:

(A) You may harvest at any time up to 10 Dolly Varden of any size;

(B) You may harvest at any time six cutthroat or rainbow trout in combination. You may only retain fish between 11″ and 22″. You may only use a rod and reel without bait.

(xviii) In all waters, other than those identified in paragraph (i)(13)(xvii) of this section, in addition to the requirement for a subsistence fishing permit, you may harvest Dolly Varden and cutthroat and rainbow trout in accordance with the seasons and harvest limits delineated in the Alaska Administrative Code, 5 AAC 47. You may only use a rod and reel without bait unless the use of bait is specifically permitted in 5 AAC 47.

§ ____.28 Subsistence taking of shellfish.

(a) Regulations in this section apply to subsistence taking of Dungeness crab, king crab, Tanner crab, shrimp, clams, abalone, and other shellfish or their parts.

(b) [*Reserved*]

(c) You may take shellfish for subsistence uses at any time in any area of the public lands by any method unless restricted by this section.

(d) Methods, means, and general restrictions. (1) The harvest limit specified in this section for a subsistence season for a species and the State harvest limit set for a State season for the same species are not cumulative. This means that if you have taken the harvest limit for a particular species under a subsistence season specified in this section, you may not, after that, take any additional shellfish of that species under any other harvest limit specified for a State season.

(2) Unless otherwise provided in this section or under terms of a required subsistence fishing permit (as may be modified by this section), you may use the following legal types of gear to take shellfish:

(i) Abalone iron;

(ii) Diving gear;

(iii) A grappling hook;

(iv) A handline;

(v) A hydraulic clam digger;

(vi) A mechanical clam digger;

(vii) A pot;

(viii) A ring net;

(ix) A scallop dredge;

(x) A sea urchin rake;

(xi) A shovel; and

(xii) A trawl.

(3) You are prohibited from buying or selling subsistence-taken shellfish, their parts, or their eggs, unless otherwise specified.

(4) You may not use explosives and chemicals, except that you may use chemical baits or lures to attract shellfish.

(5) Marking requirements for subsistence shellfish gear are as follows:

(i) You shall plainly and legibly inscribe your first initial, last name, and address on a keg or buoy attached to unattended subsistence fishing gear, except when fishing through the ice, you may substitute for the keg or buoy, a stake inscribed with your first initial, last name, and address inserted in the ice near the hole; subsistence fishing gear may not display a permanent ADF&G vessel license number;

(ii) kegs or buoys attached to subsistence crab pots also must be inscribed with the name or United States Coast Guard number of the vessel used to operate the pots.

(6) Pots used for subsistence fishing must comply with the escape mechanism requirements found in § ____.27(c)(2).

(7) You may not mutilate or otherwise disfigure a crab in any manner which would prevent determination of the minimum size restrictions until the crab has been processed or prepared for consumption.

(e) Taking shellfish by designated harvest permit. (1) Any species of shellfish that may be taken by subsistence fishing under this part may be taken under a designated harvest permit.

(2) If you are a Federally-qualified subsistence user (beneficiary), you may designate another Federally-qualified subsistence user to take shellfish on your behalf. The designated fisherman must obtain a designated harvest permit prior to attempting to harvest shellfish and must return a completed harvest report. The designated fisherman may harvest for any number of beneficiaries but may have no more than two harvest limits in his/her possession at any one time.

(3) The designated fisherman must have in possession a valid designated harvest permit when taking, attempting to take, or transporting shellfish taken under this section, on behalf of a beneficiary.

(4) You may not fish with more than one legal limit of gear as established by this section.

(5) You may not designate more than one person to take or attempt to take shellfish on your behalf at one time. You may not personally take or attempt to take shellfish at the same time that a designated fisherman is taking or attempting to take shellfish on your behalf.

(f) If a subsistence shellfishing permit is required by this section, the following conditions apply unless otherwise specified by the subsistence regulations in this section:

(1) You may not take shellfish for subsistence in excess of the limits set out in the permit unless a different limit is specified in this section;

(2) You must obtain a permit prior to subsistence fishing;

(3) You must have the permit in your possession and readily available for inspection while taking or transporting the species for which the permit is issued;

(4) The permit may designate the species and numbers of shellfish to be harvested, time and area of fishing, the type and amount of fishing gear and other conditions necessary for management or conservation purposes;

(5) If specified on the permit, you shall keep accurate daily records of the catch involved, showing the number of shellfish taken by species, location and date of the catch, and such other information as may be required for management or conservation purposes;

(6) You must complete and submit subsistence fishing reports at the time specified for each particular area and fishery;

(7) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit and you fail to comply with such reporting requirements, you are ineligible to receive a subsistence permit for that activity during the following calendar year, unless you demonstrate that failure to report was due to loss in the mail, accident, sickness, or other unavoidable circumstances.

(g) Subsistence take by commercial vessels. No fishing vessel which is commercially licensed and registered for shrimp pot, shrimp trawl, king crab, Tanner crab, or Dungeness crab fishing may be used for subsistence take during the period starting 14 days before an opening until 14 days after the closure of a respective open season in the area or areas for which the vessel is registered. However, if you are a commercial fisherman, you may retain shellfish for your own use from your lawfully taken commercial catch.

(h) You may not take or possess shellfish smaller than the minimum legal size limits.

(i) Unlawful possession of subsistence shellfish. You may not possess, transport, give, receive, or barter shellfish or their parts taken in violation of Federal or State regulations.

(j) (1) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or guide services may not furnish to a client or guest of that enterprise, shellfish that has been taken under this section, unless:

(i) The shellfish has been taken with gear deployed and retrieved by the client or guest who is a federally-qualified subsistence user;

(ii) The gear has been marked with the client's or guest's name and address; and

(iii) The shellfish is to be consumed by the client or guest or is consumed in the presence of the client or guest.

(2) The captain and crewmembers of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence shellfish fishery when that vessel is being chartered.

(k) Subsistence shellfish areas and pertinent restrictions. (1) *Southeastern Alaska-Yakutat Area.* No marine waters are currently identified under Federal subsistence management jurisdiction.

(2) *Prince William Sound Area.* No marine waters are currently identified under Federal subsistence management jurisdiction.

(3) *Cook Inlet Area.* You may not take shellfish for subsistence purposes.

(4) *Kodiak Area.* (i) You may take crab for subsistence purposes only under the authority of a subsistence crab fishing permit issued by the ADF&G.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G before subsistence shrimp fishing during a State closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) The daily harvest and possession limit is 12 male Dungeness crabs per person; only male Dungeness crabs with a shell width of 6½ inches or greater may be taken or possessed. Taking of Dungeness crab is prohibited in water 25 fathoms or more in depth during the 14 days immediately before the State opening of a commercial king or Tanner crab fishing season in the location.

(iv) In the subsistence taking of king crab:

(A) The annual limit is six crabs per household; only male king crab may be taken or possessed;

(B) All crab pots used for subsistence fishing and left in saltwater unattended

longer than a 2-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) You may not use more than five crab pots, each being no more than 75 cubic feet in capacity to take king crab;

(D) You may take king crab only from June 1–January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after State open commercial fishing seasons for red king crab, blue king crab, or Tanner crab in the location;

(E) The waters of the Pacific Ocean enclosed by the boundaries of Womens Bay, Gibson Cove, and an area defined by a line ½ mile on either side of the mouth of the Karluk River, and extending seaward 3,000 feet, and all waters within 1,500 feet seaward of the shoreline of Afognak Island are closed to the harvest of king crab except by Federally-qualified subsistence users.

(v) In the subsistence taking of Tanner crab:

(A) You may not use more than five crab pots to take Tanner crab;

(B) You may not take Tanner crab in waters 25 fathoms or greater in depth during the 14 days immediately before the opening of a State commercial king or Tanner crab fishing season in the location;

(C) The daily harvest and possession limit is 12 male crab with a shell width 5½ inches or greater per person.

(5) *Alaska Peninsula-Aleutian Islands Area.* (i) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed State commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit shall specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(ii) The daily harvest and possession limit is 12 male Dungeness crabs per person; only crabs with a shell width of 5½ inches or greater may be taken or possessed.

(iii) In the subsistence taking of king crab:

(A) The daily harvest and possession limit is six male crabs per person; only crabs with a shell width of 6½ inches or greater may be taken or possessed;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a 2-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) You may take crabs only from June 1–January 31.

(iv) The daily harvest and possession limit is 12 male Tanner crabs per person; only crabs with a shell width of 5½ inches or greater may be taken or possessed.

(6) *Bering Sea Area.* (i) In that portion of the area north of the latitude of Cape Newenham, shellfish may only be taken by shovel, jigging gear, pots, and ring net.

(ii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the ADF&G prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection; the permit shall specify the area and the date the vessel operator intends to fish; no more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iii) In waters south of 60° N. lat., the daily harvest and possession limit is 12 male Dungeness crabs per person.

(iv) In the subsistence taking of king crab:

(A) In waters south of 60° N. lat., the daily harvest and possession limit is six male crabs per person;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) In waters south of 60° N. lat., you may take crab only from June 1–January 31;

(D) In the Norton Sound Section of the Northern District, you must have a subsistence permit.

(v) In waters south of 60° N. lat., the daily harvest and possession limit is 12 male Tanner crabs.

Dated: December 31, 2001.

Kenneth E. Thompson,

Acting Regional Forester, USDA-Forest Service.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

[FR Doc. 02–1919 Filed 2–6–02; 8:45 am]

BILLING CODE 3410–11–P and 4310–55–P

Federal Register

Thursday,
February 7, 2002

Part IV

Department of Education

Privacy Act of 1974; System of Records; Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Chief Financial Officer, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (the Department) publishes this notice of a new system of records entitled Travel Manager System. The system will contain information on employee official travel and related expenses. The system is designed to prepare, edit, and manage travel documents including travel authorizations, travel vouchers, and local travel vouchers. It supports the capability to facilitate electronic signatures, automatic document routing, tracking, auditing, and importing and exporting of data. Travel Manager interfaces travel authorization and voucher information with the Department's core accounting system.

DATES: The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before March 11, 2002. The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 4, 2002. This new system of records will become effective at the later date of: (1) The expiration of the 40-day period for OMB review on March 15, 2002 or at the expiration of a 30-day OMB review period on March 5, 2002 if OMB grants the Department's request for a ten day waiver of the review period, or (2) March 11, 2002, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Jeanne Johnson, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., room 4E121, Washington, DC 20202–4445. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term Travel Manager in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 4E121, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Jeanne Johnson. Telephone: (202) 401–8512. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) (Privacy Act) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to information about individuals that contain individually identifiable information and that are retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a record and the system, whether manual or computer-based, is called a system of records. The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new system of records.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Dated: February 4, 2002.

Mark Carney,

Deputy Chief Financial Officer.

The Office of the Chief Financial Officer of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–03–05

SYSTEM NAME:

Travel Manager System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Financial Management Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, room 4W202, Washington, DC 20202.

See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on employees, former employees and other individuals authorized to travel at government expense for the Department of Education (the Department).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains a variety of records related to travel expenditures and related expenses in order to reimburse employees, former employees and other individuals authorized to travel at the expense of the government for the Department. This system also includes names, social security numbers, residential addresses, office locations, phone numbers, itineraries, mode of travel, purpose of travel, dates of travel, amounts claimed and amounts reimbursed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 57.

PURPOSE(S):

The records in this system are used to provide the Department with (1) necessary information on the travel and transportation costs and (2) management information reports for expense control purposes. The records in this system also will be used to ensure that travel reimbursements are appropriately processed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Contractor Disclosure.*If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative or Judicial Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaints, grievances, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the

functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on a database server and in file folders in the Principal Offices of the traveler.

RETRIEVABILITY:

Records are retrieved by social security number and by name of individual.

SAFEGUARDS:

The system of records will be secured by permitting only designated individuals within the Department to access the database. Furthermore, the designated individual's access to personal computers, the network, and the system of records will require personal identifiers and unique passwords, which will be periodically changed to prevent unauthorized access. The building in which the system of records is housed is monitored by security personnel during business and non-business hours.

RETENTION AND DISPOSAL:

All records are to be retained for six years after which time they will be destroyed in accordance with the National Archives and Records Administration's General Records Schedule (GRS) 9, Item 3.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief Financial Officer, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the system manager. A request for information pertaining to an individual should be in writing and should contain: name, address, social security number and particulars involved.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in this system, provide the system manager with your name, date of birth, and social security number. Your request must meet the regulatory requirements of 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record, contact the system manager. Your request must meet the regulatory requirements of 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from individuals who submit travel vouchers for reimbursement after travel is performed. Some of the information is obtained from the payroll and personnel systems maintained by the Department of the Interior.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18–03–05

Additional System Locations

Capitol Place, 555 New Jersey Avenue, NW, Washington, DC 20208.

Federal Building No. 6, 400 Maryland Avenue, SW Washington, DC 20202.

L'Enfant Plaza, 2100 Corridor, Washington, DC 20202.

Mary E. Switzer Building, 330 C Street, SW, Washington, DC 20202.

1990 K Street, NW, Washington, DC 20006.

Regional Office Building, 7th and D Streets, SW, Washington, DC 20202.

2100 M Street, NW, Washington, DC 20037.

1775 I Street, NW, Washington, DC 20006.

1255 22nd Street, NW, Washington, DC 20037.

400 Virginia Avenue, SW, Washington, DC 20202.

800 North Capitol Street, NW, Washington, DC 20001.

525 School Street, SW, 6th Street Entrance, Washington, DC 20407.

Union Center Plaza, 830 First Street, NE, Washington, DC 20202.

Region I McCormack PO & Ct Hs, Boston, MA 02109–4557.

Region II 65 Court St., Brooklyn, NY 11201–4916.

Region II Federal Building 150 Carlos Chardon Avenue Hato Rey, Puerto Rico 00918–1721.

Region III 100 Penn Square East, Suite 505, Philadelphia, PA 19107.

Region IV 61 Forsyth Street, SW, Atlanta, GA 30303.

Region IV 7890 Peters Road, Suite G–100, Plantation, FL 33324.

Region V 600 Superior Avenue, E Cleveland, OH 44114.

Region V 111 North Canal Street, Chicago, IL 60606.

Region VI 1999 Bryan Street, Suite 2700, Dallas, TX 75201.

Region VII 10220 N. Executive Hills Blvd, Suite 720, Kansas City, MO 64153–1367.

Region VIII Federal Building, 1244 Speer Blvd. Suite 310, Denver, CO 80204–3582.

Region IX 50 United Nations Plaza, San Francisco, CA 94102–4987.

Region X Jackson Federal Bldg. 915 Second Avenue, Seattle, WA 98174–1099.

[FR Doc. 02–2995 Filed 2–6–02; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Thursday,
February 7, 2002

Part IV

Department of Education

Privacy Act of 1974; System of Records; Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Chief Financial Officer, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (the Department) publishes this notice of a new system of records entitled Travel Manager System. The system will contain information on employee official travel and related expenses. The system is designed to prepare, edit, and manage travel documents including travel authorizations, travel vouchers, and local travel vouchers. It supports the capability to facilitate electronic signatures, automatic document routing, tracking, auditing, and importing and exporting of data. Travel Manager interfaces travel authorization and voucher information with the Department's core accounting system.

DATES: The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before March 11, 2002. The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 4, 2002. This new system of records will become effective at the later date of: (1) The expiration of the 40-day period for OMB review on March 15, 2002 or at the expiration of a 30-day OMB review period on March 5, 2002 if OMB grants the Department's request for a ten day waiver of the review period, or (2) March 11, 2002, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Jeanne Johnson, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., room 4E121, Washington, DC 20202–4445. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term Travel Manager in the subject line of the electronic message.

During and after the comment period, you may inspect all comments about this notice in room 4E121, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Jeanne Johnson. Telephone: (202) 401–8512. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) (Privacy Act) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's regulations implementing the Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to information about individuals that contain individually identifiable information and that are retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a record and the system, whether manual or computer-based, is called a system of records. The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new system of records.

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Dated: February 4, 2002.

Mark Carney,

Deputy Chief Financial Officer.

The Office of the Chief Financial Officer of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–03–05

SYSTEM NAME:

Travel Manager System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Financial Management Operations, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, room 4W202, Washington, DC 20202.

See the Appendix at the end of this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on employees, former employees and other individuals authorized to travel at government expense for the Department of Education (the Department).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains a variety of records related to travel expenditures and related expenses in order to reimburse employees, former employees and other individuals authorized to travel at the expense of the government for the Department. This system also includes names, social security numbers, residential addresses, office locations, phone numbers, itineraries, mode of travel, purpose of travel, dates of travel, amounts claimed and amounts reimbursed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 57.

PURPOSE(S):

The records in this system are used to provide the Department with (1) necessary information on the travel and transportation costs and (2) management information reports for expense control purposes. The records in this system also will be used to ensure that travel reimbursements are appropriately processed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Contractor Disclosure.*If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(3) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative or Judicial Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaints, grievances, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the

functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(12) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on a database server and in file folders in the Principal Offices of the traveler.

RETRIEVABILITY:

Records are retrieved by social security number and by name of individual.

SAFEGUARDS:

The system of records will be secured by permitting only designated individuals within the Department to access the database. Furthermore, the designated individual's access to personal computers, the network, and the system of records will require personal identifiers and unique passwords, which will be periodically changed to prevent unauthorized access. The building in which the system of records is housed is monitored by security personnel during business and non-business hours.

RETENTION AND DISPOSAL:

All records are to be retained for six years after which time they will be destroyed in accordance with the National Archives and Records Administration's General Records Schedule (GRS) 9, Item 3.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief Financial Officer, Office of the Chief Financial Officer, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the system manager. A request for information pertaining to an individual should be in writing and should contain: name, address, social security number and particulars involved.

RECORD ACCESS PROCEDURE:

If you wish to gain access to your record in this system, provide the system manager with your name, date of birth, and social security number. Your request must meet the regulatory requirements of 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record, contact the system manager. Your request must meet the regulatory requirements of 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from individuals who submit travel vouchers for reimbursement after travel is performed. Some of the information is obtained from the payroll and personnel systems maintained by the Department of the Interior.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18–03–05

Additional System Locations

Capitol Place, 555 New Jersey Avenue, NW, Washington, DC 20208.

Federal Building No. 6, 400 Maryland Avenue, SW Washington, DC 20202.

L'Enfant Plaza, 2100 Corridor, Washington, DC 20202.

Mary E. Switzer Building, 330 C Street, SW, Washington, DC 20202.

1990 K Street, NW, Washington, DC 20006.

Regional Office Building, 7th and D Streets, SW, Washington, DC 20202.

2100 M Street, NW, Washington, DC 20037.

1775 I Street, NW, Washington, DC 20006.

1255 22nd Street, NW, Washington, DC 20037.

400 Virginia Avenue, SW, Washington, DC 20202.

800 North Capitol Street, NW, Washington, DC 20001.

525 School Street, SW, 6th Street Entrance, Washington, DC 20407.

Union Center Plaza, 830 First Street, NE, Washington, DC 20202.

Region I McCormack PO & Ct Hs, Boston, MA 02109–4557.

Region II 65 Court St., Brooklyn, NY 11201–4916.

Region II Federal Building 150 Carlos Chardon Avenue Hato Rey, Puerto Rico 00918–1721.

Region III 100 Penn Square East, Suite 505, Philadelphia, PA 19107.

Region IV 61 Forsyth Street, SW, Atlanta, GA 30303.

Region IV 7890 Peters Road, Suite G–100, Plantation, FL 33324.

Region V 600 Superior Avenue, E Cleveland, OH 44114.

Region V 111 North Canal Street, Chicago, IL 60606.

Region VI 1999 Bryan Street, Suite 2700, Dallas, TX 75201.

Region VII 10220 N. Executive Hills Blvd, Suite 720, Kansas City, MO 64153–1367.

Region VIII Federal Building, 1244 Speer Blvd. Suite 310, Denver, CO 80204–3582.

Region IX 50 United Nations Plaza, San Francisco, CA 94102–4987.

Region X Jackson Federal Bldg. 915 Second Avenue, Seattle, WA 98174–1099.

[FR Doc. 02–2995 Filed 2–6–02; 8:45 am]

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Federal Register

Thursday,
February 7, 2002

Part V

Department of Transportation

Coast Guard

33 CFR Part 140

Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 140

[USCG–2001–9045]

RIN 2115–AG14

Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: We are authorizing the Minerals Management Service (MMS), on behalf of the Coast Guard, to perform inspections on fixed facilities engaged in Outer Continental Shelf activities and to enforce Coast Guard regulations applicable to those facilities. MMS already performs inspections on those facilities to determine whether they comply with MMS regulations. By authorizing MMS to also check for compliance with Coast Guard regulations, we avoid duplicating functions, reduce Federal costs, and increase oversight for Coast Guard compliance without increasing the frequency of inspections.

DATES: This final rule is effective June 7, 2002, except for § 140.103(c), which contains a collection-of-information requirement that has not been approved by the Office of Management and Budget. We will publish a document in the **Federal Register** announcing the effective date of that paragraph.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2001–9045 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact James M. Magill, Vessel and Facility Operating Standards Division (G-MSO–2), telephone 202–267–1082 or fax 202–267–4570. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

On May 10, 2001, we published a notice of proposed rulemaking (NPRM) entitled ''Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service'' in the **Federal Register** (66 FR 23871). We received five letters commenting on the proposed rule. Three letters contained requests for a public meeting and two contained requests for an extension to the comment period.

Background and Purpose

This rule authorizes the Minerals Management Service (MMS) to perform inspections on fixed Outer Continental Shelf (OCS) facilities engaged in OCS activities and to enforce Coast Guard regulations applicable to those facilities in 33 CFR chapter I, subchapter N. The Coast Guard and MMS regulate safety on fixed OCS facilities. MMS regulates the structural integrity of fixed OCS facilities, in addition to enforcing all regulations pertaining to production, exploration, drilling, well workover, and well servicing operations for hydrocarbons and other minerals on the OCS. The Coast Guard regulates marine systems, such as lifesaving and navigation equipment and workplace safety and health.

At least annually, MMS visits all of the fixed OCS facilities to inspect for violations in the area of its responsibility. The Coast Guard, with fewer inspectors at its disposal, visits less than 10 percent of these facilities annually. On December 18, 1998, MMS and the Coast Guard agreed to review the regulations of both agencies to ensure consistency and to eliminate duplication. As part of this review, MMS and the Coast Guard decided that, because MMS was already visiting all of the fixed OCS facilities at least once a year, it would be beneficial to both agencies if MMS was authorized, on behalf of the Coast Guard, to inspect and enforce the Coast Guard's regulations for fixed OCS facilities. Such an authorization is allowed under the Outer Continental Shelf Lands Act, which, in 43 U.S.C. 1348(a), allows the Coast Guard to use the services and personnel of other Federal agencies for the enforcement of its OCS regulations.

Future Workshop

The Coast Guard and MMS are aware that industry has concerns regarding how this agreement between the Coast Guard and MMS will be implemented. To alleviate these concerns, the agencies have decided to hold a workshop after the publication of this final rule. The workshop will be held to inform industry and the public of the implementation of MMS inspection and answer any questions that industry or the public may have. Notice of the workshop will be published in the **Federal Register**.

Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001

We received a total of five letters containing 23 comments in response to our notice of proposed rulemaking (NPRM) (66 FR 23871, May 10, 2001). Comments received in the five letters are discussed below. Non-substantive or editorial comments and comments concerning issues not related to this rulemaking are not discussed in this preamble.

I. General comments to the NPRM.

1. Three comments requested that a public meeting be held to answer questions related to the proposed rulemaking and to provide additional detailed information on the delegation of inspection responsibilities to MMS.

After consultation with MMS, the Coast Guard decided that a public meeting would not aid this rulemaking. There are no new standards proposed in this rulemaking, only an authorization for MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce the Coast Guard's regulations on those facilities. The process for handling civil penalties will not change, as the current process under 33 CFR 140.40 requires the Coast Guard to refer civil penalty proceedings to MMS for assessing and collecting penalties. There are no additional inspections required of the owner or operator by this rulemaking. The annual self-inspection by the owner or operator under 33 CFR 140.103 is still the main method for inspecting fixed facilities to ensure compliance with Coast Guard regulations. MMS will be acting on behalf of the Coast Guard to assist in performing spot inspections as required under 33 CFR 140.101. The only additional burden required by this rulemaking is for the owner or operator to retain copies of self-inspection form CG–5432 for each manned and unmanned fixed OCS facility for at least 2 years after the self-inspection.

2. Two commenters requested that the comment period be extended to allow for a public meeting.

Since we intend to hold a workshop shortly after the final rule is published, such an extension would not be needed.

3. One commenter was concerned that turning the enforcement of Coast Guard

lifesaving and firefighting regulations on fixed facilities over to another agency would remove the Coast Guard from any involvement over what occurs on the OCS and would endanger commercial mariners who work at, visit, tie to, use, or interact with fixed OCS facilities.

We disagree with the comment. The Coast Guard will still be conducting the initial inspection of all new fixed OCS facilities and, thereafter, will be conducting some spot inspections of these facilities as time and funds allow. By authorizing MMS to also check for compliance with Coast Guard regulations, the frequency of inspections will be increased to at least once a year. This should reduce the chance that lifesaving and firefighting equipment is not in compliance with the Coast Guard regulations and, thus, increase the safety of workers on fixed OCS facilities and associated vessels.

II. Comments to specific sections of the NPRM 33 CFR 140.101(f)

1. One commenter requested that the ''June 27, 1988'' be eliminated from § 140.101(f) since that date has already passed.

We agree with this comment and have deleted the date.

33 CFR 140.103

1. One commenter requested that § 140.103 on annual self-inspections of fixed OCS facilities by owners or operators be eliminated. No reason was given.

We disagree with this comment. By eliminating that section, we would be eliminating the self-inspection program. Such a recommendation is outside of the scope of this rulemaking.

33 CFR 140.103(c)

1. One commenter asked if the completed copy of form CG–5432 required to be kept on the facility was in addition to the copy required by 33 CFR 140.103(c) to be submitted to the Officer in Charge, Marine Inspections, (OCMI) within 30 days after completion of the inspection.

We have eliminated the requirement to submit a copy of form CG–5432 to the Coast Guard. Instead, we require that the latest 2 years of completed forms CG–5432 be kept onboard manned fixed OCS facilities and, for unmanned fixed OCS facilities, to be kept on the nearest manned fixed OCS facility or the nearest field office of the owner or operator. We have changed § 140.103(c) accordingly.

2. One commenter was concerned that, since MMS would only be furnished with a copy of form CG–5432 when on the facility, it would possibly not have full and complete access to all CG–5432 forms generated.

As indicated in our response to comment 1 on § 140.103(c), we have eliminated the requirement that a copy of form CG–5432 be submitted to the Coast Guard. Instead, we require that the latest two forms be kept onboard the facility or in a specified location near the facility. MMS inspectors will now have access to all completed CG–5432 forms during their inspection visits and be able to readily compare the MMS inspection with the last 2 years of self-inspections by the owner or operator.

3. One commenter said that some platforms do not have storage facilities to keep self-inspection records and suggested that they should be allowed to keep the records in a field office close to the fixed platform.

We partially agree with this comment. Manned facilities should have no problem in storing the self-inspection records onboard. However, some small, unmanned platforms may not have facilities to store the records. We have modified § 140.103(c) to allow the self-inspection reports for unmanned platforms to be kept in a location close to the platform.

33 CFR 140.103(d)

1. One commenter pointed out that the ''June 27, 1988'' date should be removed because all fixed facilities installed before this rulemaking should have already had an initial inspection.

We agree with this comment. The entire paragraph is no longer needed, so it has been removed.

33 CFR 140.105(a)

1. One commenter was concerned that, if both the Coast Guard and MMS inspect facilities, a clear reporting chain-of-command might be lacking, which could lead to no one checking on important lifesaving and firefighting equipment.

We disagree with the comment. The initial Coast Guard inspection under § 140.101(f), and the annual self-inspection of fixed facilities by the owner or operator required under § 140.103 is the primary method of inspection to ensure compliance with Coast Guard regulations. This will be augmented by the Coast Guard and, now, by MMS spot inspections. This should increase the number of inspections and reduce the risk of lifesaving and firefighting equipment not being in compliance with the Coast Guard regulations.

2. One commenter commended MMS and the Coast Guard for working together to reduce the duplication of efforts and costs of inspections but believed the proposed rulemaking to be overly broad and vague. The commenter asked when inspections will be conducted, how inspections will be conducted, and for details on the enforcement and appeal processes.

The purpose of this rulemaking is to authorize MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce Coast Guard regulations. No inspections, other than the annual self-inspection under § 140.103, will be required of the owner or operator. MMS will be acting on behalf of the Coast Guard in performing spot inspections under § 140.101(b). The Coast Guard will work with MMS to train its inspectors in Coast Guard inspection procedures. The awarding and enforcement of civil penalties will not change, as the current process under § 140.40 requires MMS to administer civil penalty proceedings. The appeal process will not change. Appeals relating to deficiencies or hazards remaining uncorrected after the expiration of the time period specified under 33 CFR 140.105 by Coast Guard marine inspectors will be handled by the Coast Guard under 33 CFR 140.25 and 140.105(d). Appeals relating to deficiencies found by MMS inspectors will be processed by MMS under 30 CFR part 290, and 30 CFR part 250, subpart N.

3. One commenter was unclear on when MMS inspections would occur and if only Coast Guard inspectors would conduct the initial inspection. The commenter suggested that MMS should conduct the initial inspection along with the initial MMS inspection so that double inspections would not occur.

The MMS inspectors may inspect fixed OCS facilities on behalf of the Coast Guard anytime they are on board and have time to perform Coast Guard inspections. Coast Guard inspectors will perform initial inspections of all fixed OCS facilities as required in § 140.101(f) and MMS inspectors may or may not accompany the Coast Guard inspectors on the initial inspection.

4. One commenter asked if MMS would conduct full annual inspections on all fixed OCS facilities or conduct enough inspections to provide oversight of the self-inspection program.

MMS does not plan on performing full inspections on a scheduled annual basis, but plans to conduct a sufficient number of inspections to provide oversight of the self-inspection program.

5. One commenter asked if the MMS would conduct the inspection on behalf of the Coast Guard at the same time it conducts the annual MMS inspection, at

anytime its inspectors were on board, or on a separate schedule.

MMS may perform spot inspections for violations of Coast Guard regulations anytime its inspectors are on board and have time available and not on a separate schedule. Since MMS visits all OCS fixed facilities at least annually to inspect for violations in the area of its regulatory responsibilities, it is likely that most of the MMS inspections will be conducted at that time.

6. One commenter recommended that the Coast Guard remain in charge of the self-inspection program and review all requests for extension of time to correct a deficiency.

The Coast Guard is not relinquishing its oversight authority. Since MMS conducts the majority of the inspections on fixed OCS facilities, MMS and the Coast Guard decided that it would enhance safety for MMS to receive and be responsible for self-inspection extension requests associated with deficiencies in lifesaving and firefighting equipment.

7. One commenter thought the rulemaking was not clear on what MMS was going to inspect and that this should be specified in the regulations.

Under §§ 140.101(b), (c), and (d), MMS will be inspecting fixed facilities to determine whether the requirements in 33 CFR chapter I, subchapter N, are met, just as if the inspection was conducted by the Coast Guard.

8. One commenter asked what inspection standards would be used for equipment, such as lifeboats or survival capsules, that is on board and in addition to the number required by regulations.

Section 144.01–1 of 33 CFR requires approved life floats and, under § 144.01–15(a), approved lifeboats, approved life rafts, or approved inflatable life rafts may be used instead of approved life floats. Extra lifeboats or other extra equipment would also have to meet the Coast Guard's regulations for that piece of equipment.

33 CFR 140.105(c)

1. One commenter thought the regulations on the correction of deficiencies and hazards was vague and asked whether MMS or Coast Guard would establish timeframes for correction of the deficiencies or hazards.

We agree that § 140.105(c), as proposed, may be confusing in that it does not plainly distinguish between the requirements for deficiencies for lifesaving and firefighting equipment and those for all other equipment. We have modified § 140.105 by moving the requirements for deficiencies in lifesaving and firefighting equipment from paragraph (c) to new paragraph (d). Proposed paragraph (d) has been redesignated as new paragraph (e). Under § 140.105(c), MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards. Therefore, MMS would establish timeframes for correction of deficiencies or hazards.

2. One commenter recommended that the timeframes for correction of deficiencies or hazards continue to be established by the Coast Guard, since only the Coast Guard is set up to receive the form CG–5432 self-inspection report.

We disagree with the comment. Since MMS will be conducting the majority of the inspections on fixed OCS facilities, both agencies agree that MMS should be responsible for establishing self-inspection timeframes for the correction of deficiencies or hazards. The Coast Guard has decided to stop requiring that all CG–5432 forms be sent to the Coast Guard. After the effective date of this final rule, only those forms that contain outstanding deficiencies or hazards will be required to be sent to MMS. Sections 140.103(c) and 140.105(c) have been revised to reflect this change. Now that a copy of each form must be kept on the manned facility or in a convenient place ashore, there is no added value in having them sent to the Coast Guard. This should be more efficient than the previous process.

3. One commenter asked that, if MMS discovers a deficiency or hazard, will it issue its own Incident of Non Compliance (INC) or will it notify the Coast Guard to issue a Coast Guard form CG–835, Notice of Merchant Marine Inspection Requirements.

Deficiencies found by MMS during its inspections will be processed according to MMS regulations and INC's will be issued. Deficiencies found by the Coast Guard during its inspections will be processed according to Coast Guard regulations in 33 CFR 140.105, which involves the issuance of a CG–835 notice for correction.

4. One commenter recommended that MMS report all deficiencies it discovers to the Coast Guard for handling.

We disagree with this comment. The Coast Guard and MMS feel that deficiencies and hazards found during inspection by each agency should be processed by the agency conducting the inspection.

5. One commenter stated that the regulations do not provide for appeals of determinations of deficiencies or hazards.

Decisions by the Coast Guard are appealed under 33 CFR 140.25. Decisions by MMS are appealed under 30 CFR parts 250 and 290.

6. One commenter recommended that all appeals be directed to the Coast Guard for action.

We disagree with this comment. Appeals are processed by the agency performing the inspection. MMS and Coast Guard decided it would be best for the agency performing the inspection to handle any deficiency violations, timeframes, and appeals stemming from a particular inspection.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

The net effect of this rule is not expected to result in additional costs to the owners of facilities being inspected. Owners or operators of each facility will be required to keep the self-inspection form CG–5432 on the facility or at another specified location for review by MMS inspectors, furthermore, the requirement that the self-inspection form be sent to the Coast Guard has been eliminated.

We expect the combined effect of both actions not to result in an increase of the collection of information burden placed on the affected entities. The impact of this rule is therefore different from the one described in the NPRM. The burden created by having to submit form CG–5432 to the Coast Guard has been eliminated.

Furthermore, authorizing MMS to check for compliance with Coast Guard regulations will avoid duplicating functions and enhance the enforcement of regulations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit

organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The net effect of this rule is not expected to result in additional costs to the inspected facilities. This rule will authorize MMS to inspect the facilities for compliance with Coast Guard regulations. Coast Guard personnel currently perform these inspections, and authorizing MMS to do so does not reduce the number of inspections, nor increase the burden placed on the affected entities. Though this rule affects all small entities involved, we expect that the elimination of the requirement to submit form CG–5432 to the OCMI will result in a decrease of burden to each small entity.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rule requires that copies of form CG–5432, the annual self-inspection report, be kept on each manned fixed OCS facility, or, for unmanned facilities, either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. This form is already required to be completed annually and be submitted to the Coast Guard. This rule also eliminates the currently approved requirement of submitting form CG–5432 to the Coast Guard.

We presented, for public comment, an estimate of the burden this rulemaking would have caused as proposed in the NPRM. We proposed that a copy of form CG–5432 be kept on the facility in addition to submitting the form to the Coast Guard.

In the NPRM, we estimated that the total annual burden of requiring that the forms be kept for two years would be 15 minutes per facility or 872 hours for all of the 3,489 fixed OCS facilities. However, the final rule will reduce the previous burden by eliminating the submission to the Coast Guard. The net effect of these actions do not result in an increase of the collection of information burden.

Three comments were received on the proposed collection of information. The comments are summarized in this preamble in the ''Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001'' section. We reconsidered the proposed collection and decided to eliminate the submission of form CG–5432 to the OCMI. Instead, facilities will only keep the form on board to be presented to MMS inspectors.

The information-collection requirements of the rule are addressed in the previously approved OMB collection titled ''Self-Inspection of Fixed OCS Facilities'' (OMB 2115–0569).

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has not yet completed its review of, or approved, the collection. Therefore, § 140.103(c) in this final rule, will not become effective until approved by OMB. We will publish a document in the **Federal Register** announcing OMB's approval and the effective date of that section. In the meantime, § 140.103(c) as it appears in the current edition of title 33, Code of Federal Regulations, continues to apply and requires submission of forms CG–5432 to the Officer in Charge, Marine Inspection.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(b), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The rule is excluded under paragraph (34)(b) because it is administrative in nature and has no environmental effect. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and record keeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 140 as follows:

PART 140—GENERAL

1. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; 49 CFR 1.46.

2. In § 140.10, add, in alphabetical order, the definition of ''Minerals Management Service inspector'' to read as follows:

§ 140.10 Definitions.

* * * * *

Minerals Management Service inspector or *MMS inspector* means an individual employed by the Minerals Management Service who inspects fixed OCS facilities on behalf of the Coast Guard to determine whether the requirements of this subchapter are met.

* * * * *

3. In § 140.101—

a. Revise the section heading to read as set forth below;

b. Redesignate paragraphs (b) through (e) as paragraphs (c) through (f);

c. Add a new paragraph (b) to read as set forth below;

d. In newly redesignated paragraph (c), before the words ''marine inspectors'', add the words ''Coast Guard''; following the words ''OCS activities'', add the words '', and MMS inspectors may inspect fixed OCS facilities,''; and, at the end of the second sentence, add the words ',or MMS'';

e. In newly redesignated paragraph (d), remove the words ''a marine inspector'' and add, in their place, the words ''a Coast Guard marine inspector or an MMS inspector''; and remove the words ''The marine inspector'' and add, in their place, the words ''The Coast Guard marine inspector or the MMS inspector''; and

f. In newly redesignated paragraph (f), remove the words ''installed after June 27, 1988,'':

§ 140.101 Inspection by Coast Guard marine inspectors or Minerals Management Service inspectors.

* * * * *

(b) On behalf of the Coast Guard, each fixed OCS facility engaged in OCS activities is subject to inspection by the Minerals Management Service (MMS).

* * * * *

4. In § 140.103—

a. In paragraph (b), remove ''140.101(e)'' and add, in its place, ''140.101(f)''; and remove the words ''Marine inspectors'' and add, in their place, the words ''marine inspectors and Minerals Management Service (MMS) inspectors'';

b. Revise paragraph (c) as set forth below; and

c. Remove paragraph (d):

§ 140.103 Annual inspection of fixed OCS facilities.

* * * * *

(c) Except for initial inspections under § 140.101(f), the results of the inspection under paragraph (a) of this section must be recorded on form CG–5432. Forms CG–5432 may be obtained from the Officer in Charge, Marine Inspection. A copy of the completed form must be kept for 2 years after the inspection under paragraph (a) of this section is conducted and the form made available to the Coast Guard and MMS on request. For manned fixed OCS facilities, the copy of the completed form must be kept on the facility. For unmanned fixed OCS facilities, the copy of the completed form must be kept either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. In addition, the owner or operator must submit, to the appropriate MMS District office, a copy of each completed form CG–5432 that indicates outstanding deficiencies or hazards, within 30 days after completion of the inspection.

5. In § 140.105—

a. In paragraph (a), after the words ''during an inspection'', add the words ''by a Coast Guard marine inspector or a Minerals Management Service (MMS) inspector'';

b. In paragraph (b), before the words ''is reported to'', add the words ''or an MMS inspector''; and, after the words ''time specified by the'', remove the words ''Coast Guard marine'';

c. Revise paragraph (c) to read as set forth below;

d. Redesignate paragraph (d) as paragraph (e);

e. Add a new paragraph (d) to read as set forth below; and

f. In newly redesignated paragraph (e), after the words ''Marine Inspection,'' add the words ''or MMS (for deficiencies or hazards discovered by MMS during an inspection of a fixed OCS facility)'':

§ 140.105 Correction of deficiencies and hazards.

* * * * *

(c) Deficiencies and hazards discovered during an inspection of a fixed OCS facility under § 140.103(a) must be corrected or eliminated, if practicable, before the form CG–5432 is completed. Deficiencies and hazards that are not corrected or eliminated by the time the form is completed must be indicated on the form as ''outstanding'' and the form submitted to the appropriate MMS District office. Upon receipt of a form CG–5432 indicating outstanding deficiencies or hazards, MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards.

(d) For lifesaving and fire fighting equipment deficiencies on fixed OCS facilities that cannot be corrected before the submission of form CG–5432, the owner or operator must contact the appropriate MMS District Supervisor to request a time period for repair of the item.

The owner or operator must include a description of the deficiency and the time period approved by MMS for correction of the deficiency in the comment section of form CG–5432.

* * * * *

Dated: January 4, 2002.

Paul J. Pluta,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 02–2757 Filed 2–6–02; 8:45 am]

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Federal Register

Thursday,
February 7, 2002

Part V

Department of Transportation

Coast Guard

33 CFR Part 140

Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 140

[USCG–2001–9045]

RIN 2115–AG14

Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: We are authorizing the Minerals Management Service (MMS), on behalf of the Coast Guard, to perform inspections on fixed facilities engaged in Outer Continental Shelf activities and to enforce Coast Guard regulations applicable to those facilities. MMS already performs inspections on those facilities to determine whether they comply with MMS regulations. By authorizing MMS to also check for compliance with Coast Guard regulations, we avoid duplicating functions, reduce Federal costs, and increase oversight for Coast Guard compliance without increasing the frequency of inspections.

DATES: This final rule is effective June 7, 2002, except for § 140.103(c), which contains a collection-of-information requirement that has not been approved by the Office of Management and Budget. We will publish a document in the **Federal Register** announcing the effective date of that paragraph.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2001–9045 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact James M. Magill, Vessel and Facility Operating Standards Division (G-MSO–2), telephone 202–267–1082 or fax 202–267–4570. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

On May 10, 2001, we published a notice of proposed rulemaking (NPRM) entitled ''Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service'' in the **Federal Register** (66 FR 23871). We received five letters commenting on the proposed rule. Three letters contained requests for a public meeting and two contained requests for an extension to the comment period.

Background and Purpose

This rule authorizes the Minerals Management Service (MMS) to perform inspections on fixed Outer Continental Shelf (OCS) facilities engaged in OCS activities and to enforce Coast Guard regulations applicable to those facilities in 33 CFR chapter I, subchapter N. The Coast Guard and MMS regulate safety on fixed OCS facilities. MMS regulates the structural integrity of fixed OCS facilities, in addition to enforcing all regulations pertaining to production, exploration, drilling, well workover, and well servicing operations for hydrocarbons and other minerals on the OCS. The Coast Guard regulates marine systems, such as lifesaving and navigation equipment and workplace safety and health.

At least annually, MMS visits all of the fixed OCS facilities to inspect for violations in the area of its responsibility. The Coast Guard, with fewer inspectors at its disposal, visits less than 10 percent of these facilities annually. On December 18, 1998, MMS and the Coast Guard agreed to review the regulations of both agencies to ensure consistency and to eliminate duplication. As part of this review, MMS and the Coast Guard decided that, because MMS was already visiting all of the fixed OCS facilities at least once a year, it would be beneficial to both agencies if MMS was authorized, on behalf of the Coast Guard, to inspect and enforce the Coast Guard's regulations for fixed OCS facilities. Such an authorization is allowed under the Outer Continental Shelf Lands Act, which, in 43 U.S.C. 1348(a), allows the Coast Guard to use the services and personnel of other Federal agencies for the enforcement of its OCS regulations.

Future Workshop

The Coast Guard and MMS are aware that industry has concerns regarding how this agreement between the Coast Guard and MMS will be implemented. To alleviate these concerns, the agencies have decided to hold a workshop after the publication of this final rule. The workshop will be held to inform industry and the public of the implementation of MMS inspection and answer any questions that industry or the public may have. Notice of the workshop will be published in the **Federal Register**.

Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001

We received a total of five letters containing 23 comments in response to our notice of proposed rulemaking (NPRM) (66 FR 23871, May 10, 2001). Comments received in the five letters are discussed below. Non-substantive or editorial comments and comments concerning issues not related to this rulemaking are not discussed in this preamble.

I. General comments to the NPRM.

1. Three comments requested that a public meeting be held to answer questions related to the proposed rulemaking and to provide additional detailed information on the delegation of inspection responsibilities to MMS.

After consultation with MMS, the Coast Guard decided that a public meeting would not aid this rulemaking. There are no new standards proposed in this rulemaking, only an authorization for MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce the Coast Guard's regulations on those facilities. The process for handling civil penalties will not change, as the current process under 33 CFR 140.40 requires the Coast Guard to refer civil penalty proceedings to MMS for assessing and collecting penalties. There are no additional inspections required of the owner or operator by this rulemaking. The annual self-inspection by the owner or operator under 33 CFR 140.103 is still the main method for inspecting fixed facilities to ensure compliance with Coast Guard regulations. MMS will be acting on behalf of the Coast Guard to assist in performing spot inspections as required under 33 CFR 140.101. The only additional burden required by this rulemaking is for the owner or operator to retain copies of self-inspection form CG–5432 for each manned and unmanned fixed OCS facility for at least 2 years after the self-inspection.

2. Two commenters requested that the comment period be extended to allow for a public meeting.

Since we intend to hold a workshop shortly after the final rule is published, such an extension would not be needed.

3. One commenter was concerned that turning the enforcement of Coast Guard

lifesaving and firefighting regulations on fixed facilities over to another agency would remove the Coast Guard from any involvement over what occurs on the OCS and would endanger commercial mariners who work at, visit, tie to, use, or interact with fixed OCS facilities.

We disagree with the comment. The Coast Guard will still be conducting the initial inspection of all new fixed OCS facilities and, thereafter, will be conducting some spot inspections of these facilities as time and funds allow. By authorizing MMS to also check for compliance with Coast Guard regulations, the frequency of inspections will be increased to at least once a year. This should reduce the chance that lifesaving and firefighting equipment is not in compliance with the Coast Guard regulations and, thus, increase the safety of workers on fixed OCS facilities and associated vessels.

II. Comments to specific sections of the NPRM 33 CFR 140.101(f)

1. One commenter requested that the ''June 27, 1988'' be eliminated from § 140.101(f) since that date has already passed.

We agree with this comment and have deleted the date.

33 CFR 140.103

1. One commenter requested that § 140.103 on annual self-inspections of fixed OCS facilities by owners or operators be eliminated. No reason was given.

We disagree with this comment. By eliminating that section, we would be eliminating the self-inspection program. Such a recommendation is outside of the scope of this rulemaking.

33 CFR 140.103(c)

1. One commenter asked if the completed copy of form CG–5432 required to be kept on the facility was in addition to the copy required by 33 CFR 140.103(c) to be submitted to the Officer in Charge, Marine Inspections, (OCMI) within 30 days after completion of the inspection.

We have eliminated the requirement to submit a copy of form CG–5432 to the Coast Guard. Instead, we require that the latest 2 years of completed forms CG–5432 be kept onboard manned fixed OCS facilities and, for unmanned fixed OCS facilities, to be kept on the nearest manned fixed OCS facility or the nearest field office of the owner or operator. We have changed § 140.103(c) accordingly.

2. One commenter was concerned that, since MMS would only be furnished with a copy of form CG–5432 when on the facility, it would possibly not have full and complete access to all CG–5432 forms generated.

As indicated in our response to comment 1 on § 140.103(c), we have eliminated the requirement that a copy of form CG–5432 be submitted to the Coast Guard. Instead, we require that the latest two forms be kept onboard the facility or in a specified location near the facility. MMS inspectors will now have access to all completed CG–5432 forms during their inspection visits and be able to readily compare the MMS inspection with the last 2 years of self-inspections by the owner or operator.

3. One commenter said that some platforms do not have storage facilities to keep self-inspection records and suggested that they should be allowed to keep the records in a field office close to the fixed platform.

We partially agree with this comment. Manned facilities should have no problem in storing the self-inspection records onboard. However, some small, unmanned platforms may not have facilities to store the records. We have modified § 140.103(c) to allow the self-inspection reports for unmanned platforms to be kept in a location close to the platform.

33 CFR 140.103(d)

1. One commenter pointed out that the ''June 27, 1988'' date should be removed because all fixed facilities installed before this rulemaking should have already had an initial inspection.

We agree with this comment. The entire paragraph is no longer needed, so it has been removed.

33 CFR 140.105(a)

1. One commenter was concerned that, if both the Coast Guard and MMS inspect facilities, a clear reporting chain-of-command might be lacking, which could lead to no one checking on important lifesaving and firefighting equipment.

We disagree with the comment. The initial Coast Guard inspection under § 140.101(f), and the annual self-inspection of fixed facilities by the owner or operator required under § 140.103 is the primary method of inspection to ensure compliance with Coast Guard regulations. This will be augmented by the Coast Guard and, now, by MMS spot inspections. This should increase the number of inspections and reduce the risk of lifesaving and firefighting equipment not being in compliance with the Coast Guard regulations.

2. One commenter commended MMS and the Coast Guard for working together to reduce the duplication of efforts and costs of inspections but believed the proposed rulemaking to be overly broad and vague. The commenter asked when inspections will be conducted, how inspections will be conducted, and for details on the enforcement and appeal processes.

The purpose of this rulemaking is to authorize MMS to inspect fixed OCS facilities on behalf of the Coast Guard and to enforce Coast Guard regulations. No inspections, other than the annual self-inspection under § 140.103, will be required of the owner or operator. MMS will be acting on behalf of the Coast Guard in performing spot inspections under § 140.101(b). The Coast Guard will work with MMS to train its inspectors in Coast Guard inspection procedures. The awarding and enforcement of civil penalties will not change, as the current process under § 140.40 requires MMS to administer civil penalty proceedings. The appeal process will not change. Appeals relating to deficiencies or hazards remaining uncorrected after the expiration of the time period specified under 33 CFR 140.105 by Coast Guard marine inspectors will be handled by the Coast Guard under 33 CFR 140.25 and 140.105(d). Appeals relating to deficiencies found by MMS inspectors will be processed by MMS under 30 CFR part 290, and 30 CFR part 250, subpart N.

3. One commenter was unclear on when MMS inspections would occur and if only Coast Guard inspectors would conduct the initial inspection. The commenter suggested that MMS should conduct the initial inspection along with the initial MMS inspection so that double inspections would not occur.

The MMS inspectors may inspect fixed OCS facilities on behalf of the Coast Guard anytime they are on board and have time to perform Coast Guard inspections. Coast Guard inspectors will perform initial inspections of all fixed OCS facilities as required in § 140.101(f) and MMS inspectors may or may not accompany the Coast Guard inspectors on the initial inspection.

4. One commenter asked if MMS would conduct full annual inspections on all fixed OCS facilities or conduct enough inspections to provide oversight of the self-inspection program.

MMS does not plan on performing full inspections on a scheduled annual basis, but plans to conduct a sufficient number of inspections to provide oversight of the self-inspection program.

5. One commenter asked if the MMS would conduct the inspection on behalf of the Coast Guard at the same time it conducts the annual MMS inspection, at

anytime its inspectors were on board, or on a separate schedule.

MMS may perform spot inspections for violations of Coast Guard regulations anytime its inspectors are on board and have time available and not on a separate schedule. Since MMS visits all OCS fixed facilities at least annually to inspect for violations in the area of its regulatory responsibilities, it is likely that most of the MMS inspections will be conducted at that time.

6. One commenter recommended that the Coast Guard remain in charge of the self-inspection program and review all requests for extension of time to correct a deficiency.

The Coast Guard is not relinquishing its oversight authority. Since MMS conducts the majority of the inspections on fixed OCS facilities, MMS and the Coast Guard decided that it would enhance safety for MMS to receive and be responsible for self-inspection extension requests associated with deficiencies in lifesaving and firefighting equipment.

7. One commenter thought the rulemaking was not clear on what MMS was going to inspect and that this should be specified in the regulations.

Under §§ 140.101(b), (c), and (d), MMS will be inspecting fixed facilities to determine whether the requirements in 33 CFR chapter I, subchapter N, are met, just as if the inspection was conducted by the Coast Guard.

8. One commenter asked what inspection standards would be used for equipment, such as lifeboats or survival capsules, that is on board and in addition to the number required by regulations.

Section 144.01–1 of 33 CFR requires approved life floats and, under § 144.01–15(a), approved lifeboats, approved life rafts, or approved inflatable life rafts may be used instead of approved life floats. Extra lifeboats or other extra equipment would also have to meet the Coast Guard's regulations for that piece of equipment.

33 CFR 140.105(c)

1. One commenter thought the regulations on the correction of deficiencies and hazards was vague and asked whether MMS or Coast Guard would establish timeframes for correction of the deficiencies or hazards.

We agree that § 140.105(c), as proposed, may be confusing in that it does not plainly distinguish between the requirements for deficiencies for lifesaving and firefighting equipment and those for all other equipment. We have modified § 140.105 by moving the requirements for deficiencies in lifesaving and firefighting equipment from paragraph (c) to new paragraph (d). Proposed paragraph (d) has been redesignated as new paragraph (e). Under § 140.105(c), MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards. Therefore, MMS would establish timeframes for correction of deficiencies or hazards.

2. One commenter recommended that the timeframes for correction of deficiencies or hazards continue to be established by the Coast Guard, since only the Coast Guard is set up to receive the form CG–5432 self-inspection report.

We disagree with the comment. Since MMS will be conducting the majority of the inspections on fixed OCS facilities, both agencies agree that MMS should be responsible for establishing self-inspection timeframes for the correction of deficiencies or hazards. The Coast Guard has decided to stop requiring that all CG–5432 forms be sent to the Coast Guard. After the effective date of this final rule, only those forms that contain outstanding deficiencies or hazards will be required to be sent to MMS. Sections 140.103(c) and 140.105(c) have been revised to reflect this change. Now that a copy of each form must be kept on the manned facility or in a convenient place ashore, there is no added value in having them sent to the Coast Guard. This should be more efficient than the previous process.

3. One commenter asked that, if MMS discovers a deficiency or hazard, will it issue its own Incident of Non Compliance (INC) or will it notify the Coast Guard to issue a Coast Guard form CG–835, Notice of Merchant Marine Inspection Requirements.

Deficiencies found by MMS during its inspections will be processed according to MMS regulations and INC's will be issued. Deficiencies found by the Coast Guard during its inspections will be processed according to Coast Guard regulations in 33 CFR 140.105, which involves the issuance of a CG–835 notice for correction.

4. One commenter recommended that MMS report all deficiencies it discovers to the Coast Guard for handling.

We disagree with this comment. The Coast Guard and MMS feel that deficiencies and hazards found during inspection by each agency should be processed by the agency conducting the inspection.

5. One commenter stated that the regulations do not provide for appeals of determinations of deficiencies or hazards.

Decisions by the Coast Guard are appealed under 33 CFR 140.25. Decisions by MMS are appealed under 30 CFR parts 250 and 290.

6. One commenter recommended that all appeals be directed to the Coast Guard for action.

We disagree with this comment. Appeals are processed by the agency performing the inspection. MMS and Coast Guard decided it would be best for the agency performing the inspection to handle any deficiency violations, timeframes, and appeals stemming from a particular inspection.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

The net effect of this rule is not expected to result in additional costs to the owners of facilities being inspected. Owners or operators of each facility will be required to keep the self-inspection form CG–5432 on the facility or at another specified location for review by MMS inspectors, furthermore, the requirement that the self-inspection form be sent to the Coast Guard has been eliminated.

We expect the combined effect of both actions not to result in an increase of the collection of information burden placed on the affected entities. The impact of this rule is therefore different from the one described in the NPRM. The burden created by having to submit form CG–5432 to the Coast Guard has been eliminated.

Furthermore, authorizing MMS to check for compliance with Coast Guard regulations will avoid duplicating functions and enhance the enforcement of regulations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit

organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The net effect of this rule is not expected to result in additional costs to the inspected facilities. This rule will authorize MMS to inspect the facilities for compliance with Coast Guard regulations. Coast Guard personnel currently perform these inspections, and authorizing MMS to do so does not reduce the number of inspections, nor increase the burden placed on the affected entities. Though this rule affects all small entities involved, we expect that the elimination of the requirement to submit form CG–5432 to the OCMI will result in a decrease of burden to each small entity.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).

Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rule requires that copies of form CG–5432, the annual self-inspection report, be kept on each manned fixed OCS facility, or, for unmanned facilities, either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. This form is already required to be completed annually and be submitted to the Coast Guard. This rule also eliminates the currently approved requirement of submitting form CG–5432 to the Coast Guard.

We presented, for public comment, an estimate of the burden this rulemaking would have caused as proposed in the NPRM. We proposed that a copy of form CG–5432 be kept on the facility in addition to submitting the form to the Coast Guard.

In the NPRM, we estimated that the total annual burden of requiring that the forms be kept for two years would be 15 minutes per facility or 872 hours for all of the 3,489 fixed OCS facilities. However, the final rule will reduce the previous burden by eliminating the submission to the Coast Guard. The net effect of these actions do not result in an increase of the collection of information burden.

Three comments were received on the proposed collection of information. The comments are summarized in this preamble in the ''Discussion of Comments on and Changes to the Notice of Proposed Rulemaking (NPRM) of May 10, 2001'' section. We reconsidered the proposed collection and decided to eliminate the submission of form CG–5432 to the OCMI. Instead, facilities will only keep the form on board to be presented to MMS inspectors.

The information-collection requirements of the rule are addressed in the previously approved OMB collection titled ''Self-Inspection of Fixed OCS Facilities'' (OMB 2115–0569).

As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has not yet completed its review of, or approved, the collection. Therefore, § 140.103(c) in this final rule, will not become effective until approved by OMB. We will publish a document in the **Federal Register** announcing OMB's approval and the effective date of that section. In the meantime, § 140.103(c) as it appears in the current edition of title 33, Code of Federal Regulations, continues to apply and requires submission of forms CG–5432 to the Officer in Charge, Marine Inspection.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(b), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. The rule is excluded under paragraph (34)(b) because it is administrative in nature and has no environmental effect. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and record keeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 140 as follows:

PART 140—GENERAL

1. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; 49 CFR 1.46.

2. In § 140.10, add, in alphabetical order, the definition of ''Minerals Management Service inspector'' to read as follows:

§ 140.10 Definitions.

* * * * *

Minerals Management Service inspector or *MMS inspector* means an individual employed by the Minerals Management Service who inspects fixed OCS facilities on behalf of the Coast Guard to determine whether the requirements of this subchapter are met.

* * * * *

3. In § 140.101—

a. Revise the section heading to read as set forth below;

b. Redesignate paragraphs (b) through (e) as paragraphs (c) through (f);

c. Add a new paragraph (b) to read as set forth below;

d. In newly redesignated paragraph (c), before the words ''marine inspectors'', add the words ''Coast Guard''; following the words ''OCS activities'', add the words '', and MMS inspectors may inspect fixed OCS facilities,''; and, at the end of the second sentence, add the words ',or MMS'';

e. In newly redesignated paragraph (d), remove the words ''a marine inspector'' and add, in their place, the words ''a Coast Guard marine inspector or an MMS inspector''; and remove the words ''The marine inspector'' and add, in their place, the words ''The Coast Guard marine inspector or the MMS inspector''; and

f. In newly redesignated paragraph (f), remove the words ''installed after June 27, 1988,'':

§ 140.101 Inspection by Coast Guard marine inspectors or Minerals Management Service inspectors.

* * * * *

(b) On behalf of the Coast Guard, each fixed OCS facility engaged in OCS activities is subject to inspection by the Minerals Management Service (MMS).

* * * * *

4. In § 140.103—

a. In paragraph (b), remove ''140.101(e)'' and add, in its place, ''140.101(f)''; and remove the words ''Marine inspectors'' and add, in their place, the words ''marine inspectors and Minerals Management Service (MMS) inspectors'';

b. Revise paragraph (c) as set forth below; and

c. Remove paragraph (d):

§ 140.103 Annual inspection of fixed OCS facilities.

* * * * *

(c) Except for initial inspections under § 140.101(f), the results of the inspection under paragraph (a) of this section must be recorded on form CG–5432. Forms CG–5432 may be obtained from the Officer in Charge, Marine Inspection. A copy of the completed form must be kept for 2 years after the inspection under paragraph (a) of this section is conducted and the form made available to the Coast Guard and MMS on request. For manned fixed OCS facilities, the copy of the completed form must be kept on the facility. For unmanned fixed OCS facilities, the copy of the completed form must be kept either at the nearest manned fixed OCS facility or, if there is no manned fixed OCS facility in the area, at the nearest field office of the owner or operator. In addition, the owner or operator must submit, to the appropriate MMS District office, a copy of each completed form CG–5432 that indicates outstanding deficiencies or hazards, within 30 days after completion of the inspection.

5. In § 140.105—

a. In paragraph (a), after the words ''during an inspection'', add the words ''by a Coast Guard marine inspector or a Minerals Management Service (MMS) inspector'';

b. In paragraph (b), before the words ''is reported to'', add the words ''or an MMS inspector''; and, after the words ''time specified by the'', remove the words ''Coast Guard marine'';

c. Revise paragraph (c) to read as set forth below;

d. Redesignate paragraph (d) as paragraph (e);

e. Add a new paragraph (d) to read as set forth below; and

f. In newly redesignated paragraph (e), after the words ''Marine Inspection,'' add the words ''or MMS (for deficiencies or hazards discovered by MMS during an inspection of a fixed OCS facility)'':

§ 140.105 Correction of deficiencies and hazards.

* * * * *

(c) Deficiencies and hazards discovered during an inspection of a fixed OCS facility under § 140.103(a) must be corrected or eliminated, if practicable, before the form CG–5432 is completed. Deficiencies and hazards that are not corrected or eliminated by the time the form is completed must be indicated on the form as ''outstanding'' and the form submitted to the appropriate MMS District office. Upon receipt of a form CG–5432 indicating outstanding deficiencies or hazards, MMS informs, by letter, the owner or operator of the fixed OCS facility of the deficiencies or hazards and the time period specified to correct or eliminate the deficiencies or hazards.

(d) For lifesaving and fire fighting equipment deficiencies on fixed OCS facilities that cannot be corrected before the submission of form CG–5432, the owner or operator must contact the appropriate MMS District Supervisor to request a time period for repair of the item.

The owner or operator must include a description of the deficiency and the time period approved by MMS for correction of the deficiency in the comment section of form CG–5432.

* * * * *

Dated: January 4, 2002.

Paul J. Pluta,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 02–2757 Filed 2–6–02; 8:45 am]

BILLING CODE 4910–15–U

Federal Register

Thursday,
February 7, 2002

Part VI

The President

Proclamation 7523—National Consumer Protection Week, 2002

Federal Register
Vol. 67, No. 26
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Presidential Documents

Title 3—

The President

Proclamation 7523 of February 4, 2001

National Consumer Protection Week, 2002

By the President of the United States of America

A Proclamation

Each year, we recognize the important role played by public and private organizations in ensuring that the American consumer is protected from unfair practices. The theme of this year's National Consumer Protection Week is ''Consumer Confidential: The Privacy Story.'' By focusing on consumer privacy and the protection of personal information, this week will help Americans learn more about securing their personal information and preserving privacy.

Advances in computer technology have enabled the more efficient use of information, which has benefitted society as a whole and individual consumers in particular. Americans now enjoy better access to credit and financial services, shopping choices, and educational resources. However, as personal information becomes more accessible, consumers, corporations, and government agencies must take precautions against the misuse of that information.

One of the most harmful abuses of personal information is identity theft. This occurs when someone steals a Social Security number, a birth date, or some other important piece of personal information to open new, fraudulent charge accounts, to order merchandise, or to borrow money. Victims usually find out about such frauds when collection agencies pursue them for payment on these illegally created accounts, or they are denied credit because of unpaid debts accrued by identity thieves.

While vigorous law enforcement is vital to preventing the misuse of personal information, consumer education is the first line of defense against this kind of fraud and deception. An educated consumer is a confident consumer; and it is confident consumers who drive the economy of our Nation.

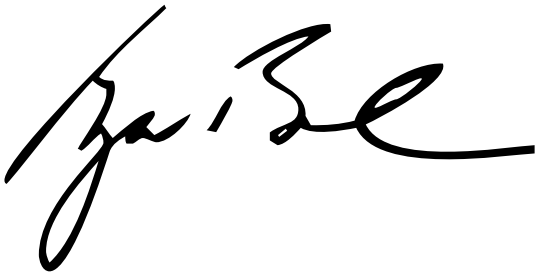
A number of public and private entities are joining forces this year to highlight consumer education efforts throughout the Nation. These efforts will help consumers learn more about securing personal information and privacy issues. The entities involved include the following: the Federal Trade Commission, the National Association of Consumer Agency Administrators, the National Consumers League, the American Association of Retired Persons, the Better Business Bureau, the Consumer Federation of America, the U.S. Postal Service, the U.S. Postal Inspection Service, the National Association of Attorneys General, and the Federal Consumer Information Center. These groups will help consumers understand how information and privacy issues affect their lives and the decisions they make in the marketplace.

During National Consumer Protection Week, I encourage all Americans to learn more about ways to safeguard their personal information, recognize fraudulent telemarketers, and identify fraudulent e-mail. Through these measures, individuals can better protect their financial security and ultimately contribute to the long-term strength of our economy.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 3 through

9, 2002, as National Consumer Protection Week. I call upon Government officials, industry leaders, and consumer advocates to provide consumers information about the use and misuse of personal information. This will help safeguard the economic future of all Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of February, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-sixth.



[FR Doc. 02–3158
Filed 02–06–01; 8:45 am]
Billing code 3195–01–P

Federal Register

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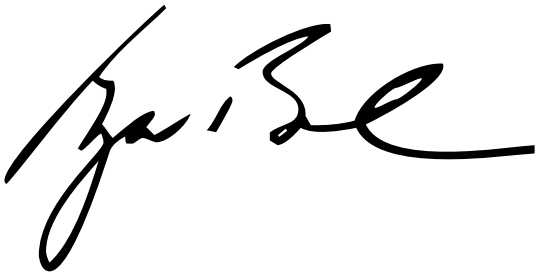

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