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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AI28

Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to implement provisions of law affecting the priority consideration program for certain displaced employees of the District of Columbia Department of Corrections seeking Federal positions. These regulations respond to comments received on the interim regulations OPM published on January 22, 2001.

DATE: This final regulation is effective on March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Jacqueline Yeatman on (202) 606–0960, FAX (202) 606–2329, TDD (202) 606–0023 or by email at *jryeatma@opm.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Capital Revitalization and Self-Government Improvement Act (part of the Balanced Budget Act of 1997, Sec. 11201, Pub. L. 105–33, 111 Stat. 738, enacted August 5, 1997) mandated that the Lorton Correctional Complex be closed by December 31, 2001. Section 11203 of this law gave priority consideration to employees of the District of Columbia (DC) Department of Corrections (DOC) displaced by this closure. The District of Columbia Courts and Justice Technical Corrections Act of 1998 (Pub. L. 105–274) modified some of the provisions of this priority consideration.

On August 4, 1998, and January 22, 2001, OPM issued interim regulations with request for comment to implement the Priority Consideration Program covering most vacancies in Federal agencies.

Comments Received on Interim Regulations

After OPM published interim regulations on January 22, 2001, we received comments from one Federal agency. This agency asked OPM to add the definition of ''agency'' in 5 CFR 330.604(a) to these regulations. Although this program includes a definition for ''vacancy'' providing essentially the same program limitations (covering only competitive service positions), we are adding the definition of ''agency'' as an additional reference aid.

The agency also suggested that OPM modify 5 CFR 330.1104(c)(b)(i) and (ii) to clarify that a DC DOC employee will lose eligibility under this program if they decline an offer, or fail to respond to an inquiry of availability, for a permanent job at *any* grade level. We agree that this suggestion will provide additional clarity and have modified § 330.1104(c)(6)(i) and (ii) accordingly.

The commenting agency asked OPM to define ''reasonable period of time'' for the purposes of 5 CFR 330.1104(c)(6)(ii). There are many factors that may determine a reasonable time frame for a candidate's response, including their location and the communication method being used. We prefer to allow each agency flexibility to consider the specifics of each situation and decide what is reasonable.

The agency was also concerned that it will be difficult for large agencies to keep track of priority eligibles who decline a job offer by an agency component. They suggested that OPM either: (1) Develop a form for DC DOC priority eligibles to complete and submit with each application specifically asking prior Federal job offers; or (2) adopt regulatory language specifying the policies, procedures and/or forms agencies may develop and use for this purpose. We believe imposing additional requirements or paperwork on either applicants or agencies would be unnecessarily burdensome since this does not appear to be a widespread problem. Agencies are free to develop internal procedures to track priority eligibles who decline agency offers, if they wish to do so.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal agencies.

List of Subjects in 5 CFR Part 330

Armed forces reserves, Government employees.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the interim rule amending 5 CFR part 330 which was published at 66 FR 6427 on January 22, 2001, is adopted as a final rule with the following changes:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 19 FR 7521, 3 CFR, 1954–58, Comp., p. 218; § 330.102 also issued under 5 U.S.C. 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310; subpart G also issued under 5 U.S.C. 8337(h) and 8456(b); subpart K also issued under sec. 11203 of Pub. L. 105–33 (111 Stat. 738) and Pub. L. 105–274 (112 Stat. 2424); subpart L also issued under sec. 1232 of Pub. L. 96–70, 93 Stat. 452.

2, In § 330.1103, paragraph (b) is redesignated as (e), paragraph (a) is redesignated as (b), and a new paragraph (a) is added to read, as follows:

§ 330.1103 Definitions.

(a) *Agency* means an Executive Department, a Government corporation, and an independent establishment as cited in 5 U.S.C. 105. For the purposes of this program, the term ''agency'' includes all components of an organization, including its Office of Inspector General.

* * * * *

3. In § 330.1104, paragraphs (c)(6)(i) and (ii) are revised to read as follows:

§ 330.1104 Eligibility.

* * * * *

(c) * * *

(6) * * *

(i) Declines a permanent appointment, at any grade level, offered by the agency (whether competitive or excepted) when the employee applied and was found qualified; or

(ii) Fails to respond within a reasonable period of time to an offer or official inquiry of availability from the agency for a permanent appointment, at any grade level, offered by the agency (whether competitive or excepted) when the employee applied and was found qualified.

[FR Doc. 02–3409 Filed 2–12–02; 8:45 am]

BILLING CODE 6325–38–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206–AJ57

Administratively Uncontrollable Overtime Pay

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations concerning the rules governing payment of administratively uncontrollable overtime (AUO) pay. AUO is a form of premium pay paid to employees in positions in which the hours of duty cannot be controlled administratively and which require substantial amounts of irregular or occasional overtime work. This interim rule permits agencies to pay AUO pay to an employee during a temporary assignment that would not otherwise warrant the payment of AUO pay, if the temporary assignment is directly related to a national emergency. In determining the average hours used in computing future AUO payments, this interim rule also excludes from consideration, the time period for which AUO pay is paid during a temporary assignment.

DATES: This interim rule is effective on September 11, 2001; comments must be received on or before April 15, 2002.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, FAX: (202) 606–0824, or email: *payleave@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Kitchelt, (202) 606–2858; FAX: (202) 606–0824; email: *payleave@opm.gov.*

SUPPLEMENTARY INFORMATION: Pay for administratively uncontrollable overtime (AUO) work is a form of premium pay paid to employees in positions in which the hours of duty cannot be controlled administratively and which require substantial amounts of irregular or occasional overtime work. Current OPM regulations at 5 CFR 550.162(c)(1) provide that an agency may continue to pay AUO pay for a period of not more than 10 consecutive workdays on a temporary assignment to other duties in which conditions do not warrant AUO pay and for a total of not more than 30 workdays in a calendar year while on such a temporary assignment. An agency must discontinue an employee's AUO pay when a temporary assignment exceeds these time limits.

In response to the terrorist attacks at the World Trade Center and the Pentagon, the President declared a national emergency. (See the Proclamation issued by the President on September 14, 2001, at *http://www.whitehouse.gov/news/releases/2001/09/20010914–4.html.)* In reaction to this emergency, Federal agencies have temporarily assigned some Federal employees who normally receive AUO pay to positions in which overtime work is generally regularly scheduled and does not warrant AUO pay. An agency has expressed concern that OPM's current regulations are too restrictive and may result in the loss of AUO pay for some employees. Since AUO pay is basic pay for retirement purposes for law enforcement officers, the suspension of AUO pay would reduce agency and employee contributions to the Thrift Savings Plan and may reduce retirement annuities for employees who are close to retirement (by reducing the ''high-3'' average rate of basic pay for these employees).

These interim regulations add a new provision at 5 CFR 550.162(g) to provide that an agency may continue to pay AUO pay, during a temporary assignment that would not otherwise warrant AUO pay, if the temporary assignment is directly related to a national emergency declared by the President. An agency may continue to pay AUO pay for a period of not more than 30 consecutive workdays for such a temporary assignment and for a total of not more than 90 workdays in a calendar year while on such a temporary assignment. These new provisions apply only during a national emergency declared by the President and only to those employees performing work directly related to the emergency.

In addition, these interim regulations add a provision at 5 CFR 550.154(c) to provide that the period of time during which an employee continues to receive AUO pay under the authority of paragraphs (c) or (g) of § 550.162 is not considered in computing the weekly average number of irregular overtime hours used in determining the amount of an employee's future AUO payments. This change is necessary since the loss of the opportunity to work irregular overtime hours during the temporary assignment otherwise could result in a reduction in future AUO payments, since these payments are based on the weekly average number of irregular overtime hours in a past period.

Waiver of Notice of Proposed Rule Making and Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and to make these regulations effective in less than 30 days. Due to the terrorist attacks at the World Trade Center and the Pentagon, agencies have temporarily assigned some Federal employees who normally receive AUO pay for irregular or occasional overtime work to positions in which overtime work is generally regularly scheduled and does not warrant AUO pay. An agency has expressed concern that current OPM regulations are too restrictive and may result in the loss of AUO pay, which could have a negative impact on affected employees' retirement benefits. Waiving the notice and the 30-day delay is justified in this national emergency.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM is amending part 550 of title 5 of the Code of Federal Regulations as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

1. The authority citation for part 550, subpart A, continues to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5545a(h)(2)(B) and (i), 5548, and 6101(c); sections 407 and 2316, Pub. L. 105–277, 112 Stat. 2681–101 and 2681–828 (5 U.S.C. 5545a); E.O. 12748, 3 CFR, 1992 Comp., p. 316.

2. In § 550.154, paragraph (c) is added to read as follows:

§ 550.154 Rates of premium pay payable under § 550.151.

* * * * *

(c) The period of time during which an employee continues to receive premium pay on an annual basis under § 550.151 under the authority of paragraphs (c) or (g) of § 550.162 is not considered in computing the average hours of irregular and occasional overtime work under this section.

3. In § 550.162, paragraph (g) is added to read as follows:

§ 550.162 Payment provisions.

* * * * *

(g) Notwithstanding paragraph (c)(1) of this section, an agency may continue to pay premium pay under § 550.151 to an employee during a temporary assignment that would not otherwise warrant the payment of AUO pay, if the temporary assignment is directly related to a national emergency. An agency may continue to pay premium pay under § 550.151 for not more than 30 consecutive workdays for such a temporary assignment and for a total of not more than 90 workdays in a calendar year while on such a temporary assignment.

[FR Doc. 02–3410 Filed 2–12–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–24FR]

Establishment of Class E Airspace; Beebe Memorial Hospital Heliport, Lewes, DE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Beebe Memorial Hospital Heliport, Lewes, DE. Development of an Area Navigation (RNAV), Helicopter Point in Space Approach, for the Beebe Memorial Hospital Heliport, has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Beebe Memorial Hospital Heliport.

EFFECTIVE DATE: 0901 UTC March 22, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On September 28, 2001 a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for an RNAV, Helicopter Point in Space approach to the Beebe Memorial Hospital Heliport, DE, was published in the **Federal Register** (66 FR 49574–49575).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before October 29, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001 and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting Instrument Flight Rules (IFR) operations at the Beebe Memorial Hospital Heliport, Lewes, DE.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA DE E5 Lewes, DE [New]

Beebe Memorial Hospital Heliport
(lat 38°47′16″ N.; long 75°08′42″ W.)
Point in Space Coordinates
(lat 38°46′14″ N.; long 75°12′05″ W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the point in space for the SIAP to the

Beebe Memorial Hospital Heliport, Lewes, DE.

Issued in Jamaica, New York on January 23, 2002.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–3549 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–33–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–26FR]

Establishment of Class E Airspace; Tipton Airport, Fort Meade, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Tipton Airport, Fort Meade, MD. Development of Standard Instrument Approach Procedures (SIAP), to serve flights operating into the Tipton Airport under Instrument Flight Rules (IFR) has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Tipton Airport.

EFFECTIVE DATE: 0901 UTC March 22, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On September 28, 2001 a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for flights executing SIAPs to the Tipton Airport, Fort Meade, MD was published in the **Federal Register** (66FR 49573–49574).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before October 29, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001 and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the Tipton Airport, Fort Meade, MD.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA MD E5 Fort Meade, MD [New]

Tipton Airport, Fort Meade, MD

(lat 39°05′04″ N.; long 75°45′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2 mile radius of the Tipton Airport, Fort Meade, MD.

Issued in Jamaica, New York on January 23, 2002.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–3550 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–31–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–19]

Establishment of Class E5 Airspace; Batesville, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Batesville, MS. A Localizer (LOC) / Distance Measuring Equipment (DME) Runway (RWY) 19, a Area Navigation (RNAV), Global Positioning System (GPS), RWY 1 and a RNAV (GPS) RWY 19 Standard Instrument Approach Procedures (SIAP), have been developed for Batesville, MS. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Panola County Airport.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. B0x 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On January 4, 2002, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Batesville, MS, (67 FR 552). This action provides adequate Class E airspace for IFR operations at Batesville, MS. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in FAA Order 7400.9J, dated August 31, 2001,

and effective September 16, 2001, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Batesville, MS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More above the Surface of the Earth.

* * * * *

ASO NC E5 Batesville, MS [New]

Panola County Airport, MS
(lat. 34°22′00″ N, long. 89°54′00″ W)

That airspace extending upward from 700 feet or more above the surface within a 6.5-mile radius of Panola County Airport.

* * * * *

Issued in College Park, Georgia, on February 6, 2002.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–3552 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–2]

Establishment of Class E Airspace; Andrews—Murphy, NC; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final rule (00–ASO–4), which was published in the **Federal Register** of March 31, 2000, (65 FR 17133), establishing Class E airspace at Andrews—Murphy, NC. This action corrects an error in the geographic coordinates for the Class E5 airspace at Andrews—Murphy, NC.

EFFECTIVE DATE: Effective 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Background

Federal Register Document 00–7959, Airspace Docket No. 00–ASO–4, published on March 31, 2000, (65 FR 17133), established Class E5 airspace at Andrews—Murphy, NC. An error was discovered in the geographic coordinates describing the Class E5 airspace area. What should have been latitude 35 degrees was published as 34 degrees. This action corrects that error.

Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Need for Correction

As published, the final rule contains an error which identifies an incorrect geographical position for the location of the Class E5 airspace area. Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Class E5 airspace area at Andrews—Murphy, NC, incorporated by reference at § 71.1, 14 CFR 71.1, and published in the **Federal Register** on March 31, 2000, (65 FR 17133), is corrected by making the following correcting amendment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

In consideration of the foregoing, the Federal Aviation Administration corrects the adopted amendment, 14 CFR Part 71, by making the following correcting amendment:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS, ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Corrected]

2. The incorporation by reference in 14 CFR 71.1. of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO NC E5 Andrews—Murphy, NC [Corrected]

Point in Space Coordinates
(lat. 35°11′10″ N, long. 83°52′57″ W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 35°11′10″ N, long. 83°52′57″ W) serving Andrews—Murphy, NC.

* * * * *

Issued in College Park, Georgia, on January 28, 2002.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–3553 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–18]

Establishment of Class E5 Airspace; Andrews, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Andrews, SC. A Non-Directional Beacon (NDB) Runway (RWY) 36 Standard Instrument Approach Procedure (SIAP) has been developed for Robert F. Swinnie Airport, Andrews, SC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Robert F. Swinnie Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On December 27, 2001, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Andrews, SC, (66 FR 66832) to provide adequate controlled airspace to contain the NDB RWY 36 SIAP and other IFR operations at Robert F. Swinnie Airport. Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E5 airspace at Andrews, SC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO SC E5 Andrews, SC [New]

Robert F. Swinnie Airport, SC
(lat 33°27′06″ N, long. 79°31′34″ W)
Andrews NDB
(lat 33°27′05″ N, long. 79°31″38″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Robert F. Swinnie Airport and within 4 miles east and 8 miles west of the 174° bearing from the Andrews NDB extending from the 6.3-mile radius to 16 miles south of the airport, excluding that airspace within the Georgetown, SC, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on January 31, 2002.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–3554 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2001–10286; Airspace Docket No. 01–AEA–11]

RIN 2120–AA66

Amendment of Restricted Area 5201, Fort Drum, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the designated altitudes for Restricted Area R–5201 (R–5201), Fort Drum, NY, by designating the ceiling of the airspace at 23,000 feet mean sea level (MSL) on a year-round basis. Currently, the upper altitude limit for the restricted area changes from 23,000 feet MSL for the period April 1 through September 30 to 20,000 feet MSL for the period October 1 through March 31. Increased training requirements at Fort Drum have resulted in a regular need for restricted airspace up to 23,000 feet MSL throughout the year. This modification does not alter the current boundaries, time of designation, or activities conducted in R–5201.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 2001, the FAA proposed to amend 14 CFR part 73 to modify the designated altitudes for Restricted Area R–5201, Fort Drum, NY (66 FR 53132). Interested parties were invited to participate in this rulemaking by submitting comments. No comments were received.

The Rule

This action amends 14 CFR part 73 by changing the designated altitudes of R–5201, Fort Drum, NY. Specifically, this action changes the designated altitudes from ''Surface to 23,000 feet MSL, April 1 through September 30; surface to 20,000 feet MSL, October 1 through March 31'' to ''Surface to 23,000 feet MSL.'' This amendment deletes the seasonal changes to the upper altitude limit of R–5201 and establishes 23,000 feet MSL as the permanent upper altitude limit on a year-round basis. The 20,000 feet MSL limit for 6 months of the year adversely affects military training at Fort Drum and requires units to alter their training profiles when the 23,000 feet MSL ceiling is not available. This limitation is disruptive to training continuity and precludes the most cost-effective accomplishment of training activities. The U.S. Army requested this modification to better accommodate existing and forecast training requirements at Fort Drum. This action does not change the current boundaries, time of designation, or activities conducted within R–5201.

Section 73.52 of 14 CFR part 73 was republished in FAA Order 7400.8J, dated September 20, 2001.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA determined that this change applies to on-going military activities occurring between 20,000 feet MSL and 23,000 feet MSL, and not over noise-sensitive areas; that there will be no significant noise increase associated with this change; and no significant air quality impacts. The FAA further determined that this action does not trigger any extraordinary circumstances that would warrant further environmental review. The FAA concluded that this action is categorically excluded from further environmental analysis in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts; and the FAA/DOD Memorandum of Understanding concerning Special Use Airspace Environmental Actions, dated January 26, 1998.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.52 [Amended]

2. Section 73.52 is amended as follows:

* * * * *

R–5201 Fort Drum, NY [Amended]

By removing ''Designated altitudes. Surface to 23,000 feet MSL, April 1 though September 30; surface to 20,000 feet MSL, October 1 through March 31'' and inserting ''Designated altitudes. Surface to 23,000 feet MSL.''

* * * * *

Issued in Washington, DC on February 6, 2002.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 02–3530 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 203 and 205

[Docket No. 92N–0297]

RIN 0905–AC81

Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is further delaying, until April 1, 2003, the effective date of certain requirements of a final rule published in the **Federal Register** of December 3, 1999 (64 FR 67720). In the **Federal Register** of May 3, 2000 (65 FR 25639), the agency delayed until October 1, 2001, the effective date of certain requirements in the final rule relating to wholesale distribution of prescription drugs by distributors that are not authorized distributors of record, and distribution of blood derivatives by entities that meet the definition of a ''health care entity'' in the final rule. In the **Federal Register** of March 1, 2001 (66 FR 12850), the agency further delayed the effective date of those requirements until April 1, 2002. This action further delays the effective date of these requirements until April 1, 2003. The final rule implements the Prescription Drug Marketing Act of 1987 (PDMA), as modified by the Prescription Drug Amendments of 1992 (PDA), and the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). The agency is taking this action to address concerns about the requirements raised by affected parties. As explained in the **SUPPLEMENTARY INFORMATION** section, the delay will allow additional time for Congress and FDA to consider whether legislative and regulatory changes are appropriate.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C.

553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. As explained in the **SUPPLEMENTARY INFORMATION** section, FDA has prepared a report for Congress and concluded that although the agency can address some of industry's concerns with the PDMA regulation through regulatory changes, other concerns would have to be addressed by Congress through legislative action. The further delay is necessary to give Congress time to consider the information and conclusions contained in the agency's report, and to determine if legislative action is appropriate. The further delay will also give the agency additional time to consider whether regulatory changes are appropriate and, if so, to initiate such changes.

DATES: The effective date for §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities, added at 64 FR 67720, December 3, 1999, is delayed until April 1, 2003. Submit written or electronic comments by April 15, 2002.

ADDRESSES: Submit written comments 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. Submit electronic comments on the Internet at http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Lee D. Korb, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: PDMA (Public Law 100–293) was enacted on April 22, 1988, and was modified by the PDA (Public Law 102–353, 106 Stat. 941) on August 26, 1992. The PDMA, as modified by the PDA, amended sections 301, 303, 503, and 801 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 331, 333, 353, 381) to, among other things, establish requirements for the wholesale distribution of prescription drugs and for the distribution of blood derived prescription drug products by health care entities.

On December 3, 1999, the agency published final regulations in part 203 (21 CFR part 203) implementing PDMA (64 FR 67720). After publication of the final rule, the agency received letters and petitions and had other communications with industry, industry trade associations, and members of Congress objecting to the provisions in §§ 203.3(u) and 203.50. On March 29, 2000, the agency met with representatives from the wholesale drug industry and industry associations to discuss their concerns. In addition, FDA received a petition for stay of action requesting that the relevant provisions of the final rule be stayed until October 1, 2001. The agency also received a petition for reconsideration from the Small Business Administration requesting that FDA reconsider the final rule and suspend its effective date based on the severe economic impact it would have on more than 4,000 small businesses.

In addition to the submissions on wholesale distribution by unauthorized distributors, the agency received several letters on, and held several meetings to discuss, the implications of the final regulations for blood centers that distribute blood derivative products and provide health care as a service to the hospitals and patients they serve.

Based on the concerns expressed by industry, industry associations, and Congress about implementing §§ 203.3(u) and 203.50 by the December 4, 2000, effective date, the agency published a document in the **Federal Register** of May 3, 2000 (65 FR 25639), delaying the effective date for those provisions until October 1, 2001. In addition, the May 2000 action delayed the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities until October 1, 2001. The May 2000 action also reopened the administrative record and gave interested persons until July 3, 2000, to submit written comments. As stated in the May 2000 action, the purpose of delaying the effective date for these provisions was to give the agency time to obtain more information about the possible consequences of implementing them and to further evaluate the issues involved.

On May 16, 2000, the House Committee on Appropriations (the Committee) stated in its report accompanying the Agriculture, Rural Development, FDA, and Related Agencies Appropriations Bill, 2001 (H. Rept. 106–619) that it supported the ''recent FDA action to delay the effective date for implementing certain requirements of the Prescription Drug Marketing Act until October 1, 2001, and reopen the administrative record in order to receive additional comments.'' In addition, the Committee stated that it ''believes the agency should thoroughly review the potential impact of the proposed provisions on the secondary wholesale pharmaceutical industry.'' The Committee directed the agency to provide a report to the Committee summarizing the comments and issues raised and agency plans to address the concerns.

After issuing the delay of the effective date for the relevant requirements of the final rule, the agency decided to hold a public hearing to elicit comment from interested persons on the requirements. In the **Federal Register** of September 19, 2000 (65 FR 56480), the agency announced that a public hearing would be held on October 27, 2000, to discuss the requirements at issue (i.e., the requirements for unauthorized distributors and the provisions relating to distribution of blood derivatives by health care entities). The hearing was held on October 27, 2000, and comments were accepted until November 20, 2000.

In the **Federal Register** of March 1, 2001 (66 FR 12850), the agency announced that it was further delaying, until April 1, 2002, the effective date of the provisions relating to wholesale distribution of prescription drugs by unauthorized distributors (i.e., §§ 203.3(u) and 203.50). The agency also further delayed the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities. As explained by the agency, the effective date was further delayed to give FDA additional time to consider comments and testimony received on unauthorized distributor and blood derivative issues, for FDA to prepare its report to Congress, and, if appropriate, for Congress or the agency to make legislative or regulatory changes. The report was completed and submitted to Congress on June 7, 2001.

In its report to Congress, the agency concluded that it could address some, but not all, of the concerns raised by the secondary wholesale industry and the blood industry through regulatory changes. However, Congress would have to act to amend section 503(e) of the act to make the types of changes requested by the secondary wholesale industry.

FDA has decided that, in light of the fact that only legislative action can address some of the concerns raised by the secondary wholesale industry, it is appropriate to further delay the effective date of the relevant provisions of the final rule for another year until April 1, 2003. The delay will give Congress time to consider the information and conclusions contained in the agency's report and to determine if legislative action is appropriate. The further delay will also give the agency additional time to consider whether regulatory changes are appropriate and, if so, to initiate such changes.

This action is being taken under FDA's authority under 21 CFR 10.35(a). The Commissioner of Food and Drugs finds that this further delay of the effective date is in the public interest.

Dated: February 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3282 Filed 2–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–007]

RIN 2115–AE47

Drawbridge Operation Regulations: Harlem River, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations for the Madison Avenue Bridge, mile 2.3 and the Macombs Dam Bridge, at mile 3.2, both across the Harlem River at New York City, New York. This temporary rule will allow the bridges to remain in the closed position at various times to facilitate necessary bridge maintenance.

DATES: This rule is effective from February 18, 2002 through February 28, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–02–007) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Arca, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**.

These closures are not expected to impact navigation because the vessels that normally use this waterway were designed to fit under the bridges on the Harlem River without requiring bridge openings. There have been no requests to open these bridges for several years. Accordingly, an NPRM was considered unnecessary and the rule may be made effective in less than 30 days after publication.

Background and Purpose

The Madison Avenue Bridge has a vertical clearance in the closed position of 25 feet at mean high water and 29 feet at mean low water. The Macombs Dam Bridge has a vertical clearance in the closed position of 27 feet at mean high water and 32 feet at mean low water. The existing drawbridge operating regulations, listed at 33 CFR 117.789(c), require the bridges to open on signal from 10 a.m. to 5 p.m., after a four-hour advance notice is given.

The owner of the bridges, the New York City Department of Transportation (NYCDOT), requested a temporary final rule to facilitate scheduled maintenance and replacement of electrical and mechanical systems at the bridges. These bridge closures are not expected to effect vessel traffic because there have been no requests to open the bridges for several years. Vessels that can pass under the bridges without openings may do so at all times during these closures.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that keeping the bridges closed should have no impact on navigation because the bridges have not had any requests to open for several years.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. ''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 less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the closure of the bridges should have no impact on navigation because the bridges have not had any requests to open for several years.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion

Determination'' is not required for this final rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From February 18, 2002, through February 28, 2003, § 117.789 is temporarily amended by suspending paragraph (c) and adding a new paragraph (g) to read as follows:

§ 117.789 Harlem River.

* * * * *

(g) The draws of the bridges at 103rd Street, mile 0.0, Willis Avenue, mile 1.5, 3rd Avenue, mile 1.9, Madison Avenue, mile 2.3, 145th Street, mile 2.8, Macombs Dam, mile 3.2, the 207th Street, mile 6.0, and the two Broadway bridges, mile 6.8, shall open on signal from 10 a.m. to 5 p.m. if at least a four-hour advance notice is given to the New York City Highway Radio (Hotline) Room; except that the Madison Avenue Bridge, mile 2.3, need not open for vessel traffic from February 18 through May 24, 2002 and the Macombs Dam Bridge, mile 3.2, need not open for vessel traffic from April 2 through June 30, 2002 and from December 1, 2002 through February 28, 2003.

Dated: January 23, 2002.

G.N. Naccara,

Rear Admiral, U. S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–3517 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 01–022]

RIN 2115–AA97

Security Zones; Port of San Diego, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a moving and fixed security zone 100 yards around all cruise ships that enter, are moored in, or depart from the Port of San Diego. This security zone is needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port San Diego, or his designated representative.

DATES: This rule is effective from 11:59 p.m. PST on November 5, 2001 to 11:59 p.m. PDT on June 21, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP San Diego 01–022 and are available for inspection or copying at Coast Guard Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, California, 92101, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Joseph Brown, Port Safety and Security, at (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect the public, ports, and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners advising of these new regulations.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of San Diego, against cruise ships entering, departing, or moored within the port of San Diego. The terrorist acts against the United States on September 11, 2001, have increased the need for safety and security measures on U.S. ports and waterways. In response to these terrorist acts, and in order to prevent similar occurrences, the Coast Guard has established a security zone around cruise ships to protect persons, transiting vessels, adjacent waterfront facilities, and the adjacent land of the Port of San Diego. These security zones are necessary to prevent damage or injury to any vessel or waterfront facility, and to safeguard ports, harbors, or waters of the United States near San Diego, California. This zone will be enforced by the official patrol (Coast Guard commissioned, warrant or petty officers) onboard Coast Guard vessels and patrol craft. The official patrol may also be onboard patrol craft and resources of any government agency that has agreed to assist the Coast Guard in the performance of its duties.

Persons and vessels are prohibited from entering into this security zone unless authorized by the Captain of the Port or his designated representative. Each person and vessel in a security zone must obey any direction or order of the COTP. The COTP may remove any person, vessel, article, or thing from a security zone. No person may board, or take or place any article or thing on board any vessel in a security zone without the permission of the COTP.

Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than $250,000), in rem liability against the offending vessel, and license sanctions. Any person who violates this regulation, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years (class C felony).

This security zone prohibits all vessels and people from approaching cruise ships that are underway or moored near San Diego, California. Specifically, no vessel or person may close to within 100 yards of a cruise ship that is entering, moored in, or departing the Port of San Diego.

A security zone is automatically activated when a cruise ship passes the San Diego sea buoy while entering port and remains in effect while the vessel is moored within in the Port of San Diego, California. When activated, this security zone will encompass a portion of the waterway described as a 100 yard radius around a cruise ship in the Port of San Diego. This security zone is automatically deactivated when the cruise ship passes the San Diego sea buoy on its departure from port. Vessels

and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port.

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) because these zones will encompass a small portion of the waterway for a limited duration.

The Port of San Diego can accommodate only a few cruise ships moored at the same time. Most cruise ships calls at each location occur on only one day each week, and are generally less than 18 hours in duration. Also, vessels and people may be allowed to enter the zones on a case-by-case basis with authorization from the Captain of the Port.

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.

For the same reasons stated in the section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not 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)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add a new temporary § 165.T11–030 to read as follows:

§ 165.T11–030 Security Zones; Port of San Diego.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all cruise ships while entering or departing the Port of San Diego. These moving security zones are activated when the cruise ship passes the Los Angeles sea buoy while entering the Port of San Diego. Temporary fixed security zones are established 100 yards around all cruise ships docked in the Port of San Diego. This security zone is deactivated when the cruise ship passes the sea buoy on its departure from the Port of San Diego.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, the following rules apply to security zones established by this section:

(i) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(ii) Each person and vessel in a security zone must obey any direction or order of the Captain of the Port;

(iii) The Captain of the Port may take possession and control of any vessel in a security zone;

(iv) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(v) No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port; and

(vi) No person may take or place any article or thing upon any waterfront facility in a security zone without the permission of the Captain of the Port.

(2) The Captain of the Port will notify the public, via local broadcast notice to mariners, upon activation of security zone around cruise ships transiting San Diego Harbor.

(3) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from complying with the rules of the road and safe navigation practice.

(4) The regulations of this section will be enforced by the Captain of the Port San Diego, or his authorized representative, and the San Diego Harbor Police.

(c) *Dates.* This section becomes effective at 11:59 p.m. PST on November 5, 2001, and will terminate at 11:59 p.m. PDT on June 21, 2002.

Dated: November 4, 2001.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 02–3512 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 02–004]

RIN 2115–AA97

Security Zones; Liquefied Natural Gas Tanker Transits and Operations in Cook Inlet, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary 1000-yard radius security zones in the navigable waters around liquefied natural gas (LNG) tankers while they are moored and loading at Phillips Petroleum LNG Pier and while they are transiting outbound and inbound through the waters of Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. These security zones temporarily close all navigable waters within a 1000-yard radius of the tankers. This action is necessary to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community against sabotage or subversive acts.

DATES: This temporary final rule is effective from 12:01 a.m. January 28, 2002, until 12:01 a.m. April 30, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP Western Alaska 02–004 and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, Alaska between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mark McManus, USCG Marine Safety Detachment Kenai, at (907) 283–3292 or Lieutenant Commander Chris Woodley, USCG Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), we find that good cause exists for not publishing an NPRM, and that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Because of the terrorist activities on September 11, 2001 and subsequent heightened security alerts, any delay in the effective date of this rule would be contrary to the public interest, as immediate action is needed to protect the liquefied natural gas (LNG) tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. In addition, the Coast Guard will make public notifications prior to an LNG transit via marine information broadcasts to advise the maritime community when the security zones will be activated.

Background and Purpose

In light of the terrorist attacks in New York City and Washington, DC on September 11, 2001, the Coast Guard is establishing security zones on the navigable waters of Cook Inlet, Alaska to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. These security zones prohibit movement within or entry into the specified areas.

This rule establishes temporary 1000-yard radius security zones in the navigable waters around LNG tankers while moored and loading at Phillips Petroleum LNG Pier, Nikiski, Alaska and during their outbound and inbound transits through Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. The security zones are designed to permit the safe and timely loading and transit of the tankers. The security zones' 1000-yard standoff distance also aids the safety of these LNG tankers by minimizing potential waterborne threats to the operation. The limited size of the zones are designed to minimize impact on other mariners transiting through the area while ensuring public safety by preventing interference with the safe and secure loading and transit of the tankers.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12886, 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zones and

that vessels may still transit through the waters of Cook Inlet. Vessels may dock at other Nikiski marine terminals only with prior approval of the Captain of the Port, Western Alaska.

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the Phillips Petroleum LNG Pier during the time these zones are activated.

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Marine traffic will still be able to transit through Cook Inlet during the zones' activation. Additionally, vessels with prior approval from the Captain of the Port, Western Alaska will not be precluded from mooring at or getting underway from other Nikiski marine terminals in the vicinity of the zones.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Consultation and Coordination With 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes security zones. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T17–006 to read as follows:

§ 165.T17–006 Security Zones: Liquefied Natural Gas (LNG) Tanker Transits and Operations at Phillips Petroleum LNG Pier, Cook Inlet, Alaska.

(a) *Location.* The following areas are security zones: All navigable waters within a 1000-yard radius of liquefied natural gas (LNG) tankers while moored at Phillips Petroleum LNG Pier, 60°40′43″N and 151°24′10″W and all navigable waters within a 1000-yard radius of the tankers during their outbound and inbound transits through Cook Inlet, Alaska between Homer Pilot Station at 59°34′86″N and 151°25′74″W and Phillips Petroleum LNG Pier.

(b) *Effective period.* This section is effective from 12:01 a.m. January 28, 2002, until 12:01 a.m. April 30, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port representative or the designated on-scene patrol personnel. These personnel are comprised of commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: January 18, 2002.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 02–3514 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP MIAMI–01–116]

RIN 2116–AA97

Security Zones; Port of Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary fixed security zones. One security zone encompasses the waterway located between MacArthur Causeway and Dodge Island in the Port of Miami. Another security zone encompasses the port area west of the Intracoastal Waterway in the north portion of Port Everglades in Fort Lauderdale, Florida. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative.

DATES: This rule is effective from 11:59 p.m. on October 7, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP Miami 01–116 and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139, between 7:30 p.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Warren Weedon, Coast Guard Marine Safety Office Miami, at (305) 535–8701.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity to advise mariners of the zone.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of Miami and Port Everglades against tank vessels and cruise ships entering, departing and moored within these ports. There will be Coast Guard and local police department patrol vessels on scene to monitor traffic through these areas. The Captain of the Port has previously established a temporary moving security zone for cruise ships and vessels carrying cargoes of particular hazard for both ports under docket numbers COTP Miami-01–115 [(67 FR 1101, January 9, 2002)] and COTP Miami-01–093 [(no longer effective, to be published in quarterly notice of temporary rules issued)].

Discussion of Rule

We are creating two security zones: One in the Port of Miami, Florida and one in Port Everglades, Fort Lauderdale, Florida. These temporary fixed security zones are activated when cruise ships and vessels carrying cargoes of particular hazard are moored within these zones.

The Port of Miami fixed security zone encompasses all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami on Dodge Island. The western boundary is formed by an imaginary line from points 25°46.76′ N, 080°10.87′ W, to 25°46.77′ N, 080°10.92′ W to 25°46.88′ N, 080°10.84′ W and ending on Watson Park at 25°47.00′ N, 080°10.67′ W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, which leads to Star Island on MacArthur Causeway directly extending across the Government Cut channel to Lummus Island, at 25° 46.32′ N, 080°09.23′ W.

The Port Everglades fixed security zone includes all port waters west of a line starting at the northern most point 26°05.98′ N, 080°07.15′ W, near the west side of the 17th Street Bridge, to the southern most point 26°05.41′ N, 080°06.97′ W on the tip of the pier near Burt and Jacks Restaurant, Port Everglades, Florida.

The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz). Entry into these security zones is prohibited unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative. Local and federal law enforcement officials will be patrolling these security zones.

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) this is a temporary zone and vessels may be allowed to enter the security zone on a case by case basis with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. ''Small entities'' include 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.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter the zone on a case by case basis with authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

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 relationships 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 Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T07–116 is added to read as follows:

§ 165.T07–116 Security Zones; Ports Everglades and the Port of Miami, Florida.

(a) *Port of Miami regulated area.* A temporary fixed security zone is established encompassing all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami on Dodge Island. The western boundary is formed by an imaginary line from points 25°46.76′ N, 080°10.87′ W, to 25°46.77′ N, 080°10.92′ W to 25°46.88′ N, 080°10.84′ W and ending on Watson Park at 25°47.00′ N, 080°10.67′ W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, which leads to Star Island on MacArthur Causeway directly extending across the Government Cut channel to Lummus Island, at 25°46.32′ N, 080°09.23′ W.

(b) *Port Everglades regulated area.* A temporary fixed security zone is established encompassing all waters west of an imaginary line starting at the northern most point 26°05.98′ N, 080°07.15′ W, near the west side of the 17th Street Bridge, to the southern most point 26°05.41' N, 080°06.97' W on the tip of the pier near Burt and Jacks Restaurant, Port Everglades, Florida.

(c) *Regulations.* These temporary fixed security zones are activated when cruise ships and vessels carrying cargoes of particular hazard are moored within these zones. In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, a Coast Guard commissioned, warrant, or petty officer, or other law enforcement officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(d) *Dates.* This section becomes effective at 11:59 p.m. on October 7, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

Dated: October 7, 2001.

J.A. Watson, IV,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 02–3513 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Elizabeth River, Virginia

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending its regulations, which establish a restricted area on the Elizabeth River in the vicinity of the Craney Island Refueling Station at Portsmouth, Virginia. The regulations are necessary to safeguard Navy vessels and United States Government facilities

from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

EFFECTIVE DATE: March 15, 2002.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441–7653.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by adding Section 334.440 which establishes a restricted area on the Elizabeth River in the vicinity of the Craney Island Refueling Station at Portsmouth, Virginia.

Procedural Requirements

(a) Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive order 12866 do not apply.

(b) Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal will have no significant economic impact on small entities.

(c) Review Under the National Environmental Policy Act

The Norfolk District has prepared an environmental assessment (EA) for this action. We have concluded, based on the minor nature of the proposed restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the Norfolk District office listed at the end of **FOR FURTHER INFORMATION CONTACT,** above.

(d) Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

(e) Submission to Congress and the Government Accounting Office

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This Rule is not a major Rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Navigation (water), Waterways.

For the reasons set out in the preamble, the Corps is amending 33 CFR Part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.293 is added to read as follows:

§ 334.293 Elizabeth River, Craney Island Refueling Pier Restricted Area, Portsmouth VA; Naval Restricted Area.

(a) *The area.* (1) The waters within an area beginning at a point on the shore at latitude 36°53′17.4″ N, longitude 76°20′21″ W; thence easterly to latitude 36°53′16.8″ N, longitude 76°20′14.4″ W: thence southwesterly to latitude 36°53′00″ N, longitude 76°20′18″ W; thence southeasterly to latitude 36°52′55.2″ N, longitude 76°20′16.5″ W: thence southwesterly to latitude 36°52′52.2″ N, longitude 76°20′18″ W; thence southwesterly to latitude 36°52′49.8″ N, longitude 76°20′25.8″ W: thence northwesterly to latitude 36°52′58.2″ N, longitude 76°20′33.6″ W; thence northeasterly to a point on the shore at latitude 36°53′00″ N, longitude 76°20′30″ W; thence northerly along the shoreline to the point of beginning.

(b). *The regulation.* No vessel or persons may enter the restricted area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c). *Enforcement.* The regulation in this section, promulgated by the Corps of Engineers, shall be enforced by the Commander, Navy Region, Mid-Atlantic, and such agencies or persons as he/she may designate.

Dated: January 14, 2002.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 02–3556 Filed 2–12–02; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AK99

Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve for fiscal year 2002 (October 1, 2001, through September 30, 2002) are changed to show a 3.4% increase in these rates.

DATES: *Effective Date:* This final rule is effective February 13, 2002.

Applicability Date: The changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education

Adviser, Education Service, Veterans Benefits Administration (202) 273–7187.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 10 U.S.C. 16131(b) for fiscal year 2002, the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time, three-quarter time, and half time must be increased by 3.4%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 2000, through June 30, 2001, exceeds the total of the monthly Consumer Price Index-W for July 1, 1999, through June 30, 2000.

10 U.S.C. 16131(b) requires that full-time, three-quarter time, and half-time rates be increased as noted above. In addition, 10 U.S.C. 16131(d) requires that monthly rates payable to reservists in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 3.4% raise for such training as well.

10 U.S.C. 16131(b) also requires that the Department of Veterans Affairs (VA) pay reservists training less than half time at an appropriately reduced rate. Since payment for less than half-time training became available under the Montgomery GI Bill—Selected Reserve in fiscal year 1990, VA has paid less than half-time students at 25% of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied from October 1, 2001, in accordance with the applicable statutory provisions discussed above.

Administrative Procedure Act

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Regulatory Flexibility Act

The Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance Program Numbers

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 13, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

Approved: December 27, 2001.

Craig W. Duehring,

Principal Deputy, Office of the Assistant Secretary of Defense for Reserve Affairs.

Approved: January 31, 2002.

F.L. Ames,

Rear Admiral, United States Coast Guard, Assistant Commandant for Human Resources.

For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L, continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

2. Section 21.7636 is amended by:

a. Removing ''September 30, 2000'' in paragraph (a)(3) and adding, in its place, ''September 30, 2001'', and by removing ''October 1, 2001'' and adding, in its place, ''October 1, 2002'';

b. Revising paragraphs (a)(1) and (a)(2)(i).

The revisions read as follows:

§ 21.7636 Rates of payment.

(a) *Monthly rate of educational assistance.* (1) Except as otherwise provided in this section or in § 21.7639, the monthly rate of educational assistance payable for training that occurs after September 30, 2001, and before October 1, 2002, to a reservist pursuing a program of education is the rate stated in this table:

Training	Monthly rate
Full time	$272.00
¾ time	204.00
½ time	135.00
¼ time	68.00

(2) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time that occurs after September 30, 2001, and before October 1, 2002, is the rate stated in this table:

Training period	Monthly rate
First six months of pursuit of training	$204.00
Second six months of pursuit of training	149.60
Remaining pursuit of training	95.20

* * * * *

[FR Doc. 02–3456 Filed 2–12–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 0147–1147; FRL–7141–7]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is announcing approval of a revision to the State Implementation Plan (SIP) for the control of the volatility of gasoline during the summertime in the Kansas portion of the Kansas City area. This action approves amendments to Kansas' control on the summertime Reid Vapor Pressure (RVP) of gasoline distributed in

Johnson and Wyandotte Counties. This revision changes the RVP limit from 7.2 pounds per square inch (psi) to 7.0 psi, and from 8.2 psi to 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. This is a part of the State's plan to maintain clean air quality in Kansas City.

DATES: This rule is effective on March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'', ''us'', or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What are the criteria for SIP approval?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations limiting emissions and control strategies to ensure that state air quality meets the national ambient air quality standards (NAAQS) established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Are the Criteria for SIP Approval?

In order to be approved into a SIP, the submittal must meet the requirements of section 110. In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and our regulations, as found in section 110 and part D of Title I of the CAA amendments and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

The CAA has additional requirements for the approval of SIPs containing certain state fuel controls. Section 211(c)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce regulations respecting fuel characteristics or components if EPA has adopted Federal controls under section 211(c)(1) applicable to such fuel characteristics or components, unless the state control is identical to the Federal control. Section 211(c)(4) includes two exceptions to this prohibition. First, under section 211(c)(4)(B), California is not subject to the preemption in section 211(c)(4)(A). Second, a State may prescribe or enforce such otherwise preempted fuel controls if the measure is approved into a SIP.

Under section 211(c)(4)(C), we may approve such state fuel controls into a SIP, if the state demonstrates that the measure is necessary to achieve the NAAQS. Section 211(c)(4)(C) specifies that a state fuel requirement is ''necessary'' if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. As discussed in more detail below, the State rule approved today merely amends the State fuel control that has already been approved into the SIP and addresses emissions reductions shortfalls that EPA has already determined are required under the Act. Therefore, a new demonstration of necessity under section 211(c)(4)(C) is not required.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Fuel Volatility

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits volatile organic compounds (VOCs), an ozone forming pollutant. VOCs are an important component in the production of ground-level ozone in the hot summer months. RVP is directly proportional to the rate of evaporation. Consequently, the lower the RVP, the lower the rate of evaporation. Lowering the RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOCs. Reduction of the RVP will help the state's effort to maintain the NAAQS for ozone.

State Submittal

On May 2, 2001, KDHE requested that we revise the SIP to reflect its amendments to the State RVP controls. The amendments further lower the fuel volatility standard from 7.2 psi to 7.0 psi (for certain ethanol blended fuels, the standard was lowered from 8.2 psi to 8.0 psi). Included in the submittal was a letter from Secretary Clyde D. Graeber, KDHE, to William W. Rice, Acting EPA Region 7 Administrator, requesting authorization to implement a lower RVP requirement in the Kansas City area; new regulation K.A.R. 29–19–719; revoked regulation K.A.R. 28–19–79; and a technical support document demonstrating the need to lower the RVP standard for the area. The state held a public hearing on March 14,

2001; the rule was adopted on April 3, 2001; and the rule became effective on April 27, 2001.

Analysis of the SIP

As mentioned above, section 211(c)(4) of the CAA prohibits states from adopting or attempting to enforce controls or prohibitions respecting certain fuel characteristics or components unless the SIP for the State so provides. The CAA specifies that we may approve such state fuel controls into a SIP only upon a finding that the control is ''necessary'' to achieve a NAAQS as defined under section 211(c)(4)(C). Section 211(c)(4)(C) does not, however, address the ability of states to modify fuel control programs that have already been deemed necessary and approved into a SIP.

Kansas is not seeking approval of a new control or prohibition respecting a fuel characteristic or component. Instead, Kansas is seeking approval of a change to the approved RVP control to adjust the level of the standard. Given the original 1997 determination that the State RVP control was necessary to respond to the violations of the NAAQS, the violation and the additional exceedances which occurred after the implementation of the 7.2 psi RVP control, and the fact that the necessary reductions called for in the State's maintenance plan have still not been achieved, we believe it is reasonable to approve the amendments to the RVP standard without a new demonstration of necessity under section 211(c)(4)(C). This action approves the State's amendments to its RVP standards and revises the SIP.

Have the Requirements for Approval of a SIP Revision Been Met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and part D of Title I and implementing regulations. Our proposed rulemaking, which included a detailed discussion of our rationale for proposing to approve the rule, was published November 19, 2001 (66 FR 57911) and no comments were received on the proposal.

What Action Is EPA Taking?

We are approving this revision to the Kansas SIP concerning regulation K.A.R. 28–19–719 as it meets the requirements of the CAA. We are also rescinding regulation K.A.R. 28–19–79, which was revised and replaced by K.A.R. 28–19–719.

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 13211, ''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 CAA. 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 CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 29, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 R—Kansas

2. In § 52.870 the table in paragraph (c) is amended under the heading for ''Volatile Organic Compound Emissions'' by:

a. Removing the entry for K.A.R. 28–19–79.

b. Adding an entry in numerical order for K.A.R. 28–19–719.

The addition reads as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Comments
Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control				
*	*	*	*	*
Volatile Organic Compound Emissions				
*	*	*	*	*
K.A.R. 28–19–719	Fuel Volatility	4/27/01	2/13/02 [insert FR cite]	
*	*	*	*	*

[FR Doc. 02–3361 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0148–1148; FRL–7141–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is announcing approval of a revision to the State Implementation Plan (SIP) for the control of the volatility of gasoline during the summertime in the Missouri portion of the Kansas City area. This action approves amendments to Missouri's control on the summertime Reid Vapor Pressure (RVP) of gasoline distributed in Clay, Jackson, and Platte Counties. This revision changes the RVP limit from 7.2 pounds per square inch (psi) to 7.0 psi, and from 8.2 psi to 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. This is a part of the State's plan to maintain clean air quality in Kansas City.

DATES: This rule is effective on March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'', ''us'', or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What are the criteria for SIP approval?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations limiting emissions and control strategies to ensure that state air quality meets the national ambient air quality standards (NAAQS) established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of

Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Are the Criteria for SIP Approval?

In order to be approved into a SIP, the submittal must meet the requirements of section 110. In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and our regulations, as found in section 110 and part D of Title I of the CAA amendments and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

The CAA has additional requirements for the approval of SIPs containing certain state fuel controls. Section 211(c)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce regulations respecting fuel characteristics or components if EPA has adopted Federal controls under section 211(c)(1) applicable to such fuel characteristics or components, unless the state control is identical to the Federal control. Section 211(c)(4) includes two exceptions to this prohibition. First, under section 211(c)(4)(B), California is not subject to the preemption in section 211(c)(4)(A). Second, a State may prescribe or enforce such otherwise preempted fuel controls if the measure is approved into a SIP.

Under section 211(c)(4)(C), we may approve such state fuel controls into a SIP, if the state demonstrates that the measure is necessary to achieve the NAAQS. Section 211(c)(4)(C) specifies that a state fuel requirement is ''necessary'' if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. As discussed in more detail below, the State rule approved today merely amends the State fuel control that has already been approved into the SIP and addresses emissions reductions shortfalls that EPA has already determined are required under the Act. Therefore, a new demonstration of necessity under section 211(c)(4)(C) is not required.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Fuel Volatility

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits volatile organic compounds (VOCs), an ozone forming pollutant. VOCs are an important component in the production of ground-level ozone in the hot summer months. RVP is directly proportional to the rate of evaporation. Consequently, the lower the RVP, the lower the rate of evaporation. Lowering the RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOCs. Reduction of the RVP will help the state's effort to maintain the NAAQS for ozone.

State Submittal

On May 17, 2001, MDNR requested that we revise the SIP to reflect its amendments to the State RVP controls. On June 13, 2001, Missouri submitted an addendum. Included in the submittal was a letter from Roger Randolph, Director, Air Pollution Control Program, MDNR, to William W. Rice, Acting EPA Region 7 Administrator, requesting a SIP revision, the regulation 10 CSR 10–2.330, and supporting documentation. The state held a public hearing on December 7, 2000; the rule was adopted on February 6, 2001, and the rule became effective on May 30, 2001.

Analysis of the SIP

As mentioned above, section 211(c)(4) of the CAA prohibits states from adopting or attempting to enforce controls or prohibitions respecting certain fuel characteristics or components unless the SIP for the State so provides. The CAA specifies that we may approve such state fuel controls into a SIP only upon a finding that the control is ''necessary'' to achieve a NAAQS as defined under section 211(c)(4)(C). Section 211(c)(4)(C) does not, however, address the ability of states to modify fuel control programs that have already been deemed necessary and approved into a SIP.

Missouri is not seeking approval of a new control or prohibition respecting a fuel characteristic or component. Instead, Missouri is seeking approval of a change to the approved RVP control to adjust the level of the standard. Given the original 1998 (final approval) determination that the State RVP control was necessary to respond to the violations of the NAAQS, the violation and the additional exceedances which occurred after the implementation of the 7.2 psi RVP control, and the fact that the necessary reductions called for in the State's maintenance plan have still not been achieved, we believe it is reasonable to approve the amendments to the RVP standard without a new demonstration of necessity under section 211(c)(4)(C). This action approves the State's amendments to its RVP standards and revises the SIP.

Have the Requirements for Approval of a SIP Revision Been Met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and part D of Title I and implementing regulations. Our proposed rulemaking, which included a detailed discussion of our rationale for proposing to approve the rule, was published November 16, 2001 (66 FR 57693), and no comments were received on the proposal.

What Action Is EPA Taking?

We are approving this revision to the Missouri SIP concerning 10 CSR 10–2.330 as it meets the requirements of the CAA.

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 13211, ''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 CAA. 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 CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 29, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10–2.330, under Chapter 2, to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.330	Control of Gasoline Reid Vapor Pressure.	5/30/01	2–13–02 [insert FR cite]	
*	*	*	*	*

[FR Doc. 02–3362 Filed 2–12–02; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–7142–2]

RIN 2060–AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From Los Alamos National Laboratories for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at Los Alamos National Laboratories (LANL) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents (Item II-A2–37, Docket A–98–49) are available for review in the public dockets listed in **ADDRESSES**. EPA will conduct an inspection of waste characterization systems and processes for waste characterization at LANL to verify that the site can characterize transuranic waste in accordance with EPA's WIPP compliance criteria. EPA will perform this inspection the week of February 25, 2002. This notice of the inspection and comment period accords with 40 CFR 194.8.

DATES: EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before March 15, 2002.

ADDRESSES: Comments should be submitted to: Docket No. A–98–49, Air Docket, Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Mail Code 6102, Washington, DC 20460. The DOE documents are available for review in the official EPA Air Docket in Washington, DC, Docket No. A–98–49, Category II–A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10am–9pm, Friday–Saturday, 10am–6pm, and Sunday 1pm–5pm; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9am–5pm.

As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying. Air Docket A–98–49 in Washington, DC, accepts comments sent electronically or by fax (fax: 202–260–4400; e-mail: *a-and-r-docket@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Ed Feltcorn, Office of Radiation and Indoor Air, (202) 564–9422. You can also call EPA's toll-free WIPP Information Line, 1–800–331–WIPP or visit our website at *http://www.epa/gov/radiation/wipp.*

SUPPLEMENTARY INFORMATION:

Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. No. 102–579), as amended (Pub. L. No. 104–201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, Subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratories (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of Appendix A to 40 CFR part 194); and (2) (with the exception of specific, limited waste streams and equipment at LANL) prohibit shipment of TRU waste for disposal at WIPP (from LANL or any other site) until EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of Appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision-making process, the DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, DC, and informational dockets in the State of New Mexico for public review and comment.

EPA will perform an inspection of LANL's waste characterization systems and processes for TRU waste in accordance with Conditions 2 and 3 of the WIPP certification. More specifically, we will be focusing on the performance of a variety of new equipment (neutron, gamma, and other NDA-related systems) as well as their acceptable knowledge (AK) and WIPP Waste Information System (WWIS) interface used to characterize TRU waste. The inspection is scheduled to take place the week of February 25, 2002.

EPA has placed a number of documents pertinent to the inspection in the public docket described in **ADDRESSES**. The documents are listed as Item II-A2–37 in Docket A–98–49. In accordance with 40 CFR 194.8, as amended by the final certification decision, EPA is providing the public 30 days to comment on these documents.

If EPA determines as a result of the inspection that the proposed processes, systems, and equipment at LANL adequately control the characterization of transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to ship TRU waste to WIPP using the approved characterization processes. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: February 6, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 02–3546 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 020802A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season amount of the Pacific cod total allowable catch (TAC) apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 9, 2002, until 1200 hrs, A.l.t., September 1, 2002.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA is 1,011 metric tons (mt) as established by an emergency interim rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season amount of the Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA will be reached. In accordance with § 679.20(a)(11)(iii), Pacific cod bycatch taken between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,011 mt. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2002 A season Pacific cod TAC specified for the offshore component in the Western Regulatory Area of the GOA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2002 A season Pacific cod TAC specified for the offshore component in the Western Regulatory Area of the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: February 8, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–3521 Filed 2–8–02; 4:03 pm]

BILLING CODE 3510–22–S

Rules and Regulations

Federal Register
Vol. 67, No. 30
Wednesday, February 13, 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.

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AI28

Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to implement provisions of law affecting the priority consideration program for certain displaced employees of the District of Columbia Department of Corrections seeking Federal positions. These regulations respond to comments received on the interim regulations OPM published on January 22, 2001.

DATE: This final regulation is effective on March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Jacqueline Yeatman on (202) 606–0960, FAX (202) 606–2329, TDD (202) 606–0023 or by email at *jryeatma@opm.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Capital Revitalization and Self-Government Improvement Act (part of the Balanced Budget Act of 1997, Sec. 11201, Pub. L. 105–33, 111 Stat. 738, enacted August 5, 1997) mandated that the Lorton Correctional Complex be closed by December 31, 2001. Section 11203 of this law gave priority consideration to employees of the District of Columbia (DC) Department of Corrections (DOC) displaced by this closure. The District of Columbia Courts and Justice Technical Corrections Act of 1998 (Pub. L. 105–274) modified some of the provisions of this priority consideration.

On August 4, 1998, and January 22, 2001, OPM issued interim regulations with request for comment to implement the Priority Consideration Program covering most vacancies in Federal agencies.

Comments Received on Interim Regulations

After OPM published interim regulations on January 22, 2001, we received comments from one Federal agency. This agency asked OPM to add the definition of ''agency'' in 5 CFR 330.604(a) to these regulations. Although this program includes a definition for ''vacancy'' providing essentially the same program limitations (covering only competitive service positions), we are adding the definition of ''agency'' as an additional reference aid.

The agency also suggested that OPM modify 5 CFR 330.1104(c)(b)(i) and (ii) to clarify that a DC DOC employee will lose eligibility under this program if they decline an offer, or fail to respond to an inquiry of availability, for a permanent job at *any* grade level. We agree that this suggestion will provide additional clarity and have modified § 330.1104(c)(6)(i) and (ii) accordingly.

The commenting agency asked OPM to define ''reasonable period of time'' for the purposes of 5 CFR 330.1104(c)(6)(ii). There are many factors that may determine a reasonable time frame for a candidate's response, including their location and the communication method being used. We prefer to allow each agency flexibility to consider the specifics of each situation and decide what is reasonable.

The agency was also concerned that it will be difficult for large agencies to keep track of priority eligibles who decline a job offer by an agency component. They suggested that OPM either: (1) Develop a form for DC DOC priority eligibles to complete and submit with each application specifically asking prior Federal job offers; or (2) adopt regulatory language specifying the policies, procedures and/or forms agencies may develop and use for this purpose. We believe imposing additional requirements or paperwork on either applicants or agencies would be unnecessarily burdensome since this does not appear to be a widespread problem. Agencies are free to develop internal procedures to track priority eligibles who decline agency offers, if they wish to do so.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains only to Federal agencies.

List of Subjects in 5 CFR Part 330

Armed forces reserves, Government employees.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the interim rule amending 5 CFR part 330 which was published at 66 FR 6427 on January 22, 2001, is adopted as a final rule with the following changes:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 19 FR 7521, 3 CFR, 1954–58, Comp., p. 218; § 330.102 also issued under 5 U.S.C. 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310; subpart G also issued under 5 U.S.C. 8337(h) and 8456(b); subpart K also issued under sec. 11203 of Pub. L. 105–33 (111 Stat. 738) and Pub. L. 105–274 (112 Stat. 2424); subpart L also issued under sec. 1232 of Pub. L. 96–70, 93 Stat. 452.

2, In § 330.1103, paragraph (b) is redesignated as (e), paragraph (a) is redesignated as (b), and a new paragraph (a) is added to read, as follows:

§ 330.1103 Definitions.

(a) *Agency* means an Executive Department, a Government corporation, and an independent establishment as cited in 5 U.S.C. 105. For the purposes of this program, the term ''agency'' includes all components of an organization, including its Office of Inspector General.

* * * * *

3. In § 330.1104, paragraphs (c)(6)(i) and (ii) are revised to read as follows:

§ 330.1104 Eligibility.

* * * * *

(c) * * *

(6) * * *

(i) Declines a permanent appointment, at any grade level, offered by the agency (whether competitive or excepted) when the employee applied and was found qualified; or

(ii) Fails to respond within a reasonable period of time to an offer or official inquiry of availability from the agency for a permanent appointment, at any grade level, offered by the agency (whether competitive or excepted) when the employee applied and was found qualified.

[FR Doc. 02–3409 Filed 2–12–02; 8:45 am]

BILLING CODE 6325–38–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206–AJ57

Administratively Uncontrollable Overtime Pay

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations concerning the rules governing payment of administratively uncontrollable overtime (AUO) pay. AUO is a form of premium pay paid to employees in positions in which the hours of duty cannot be controlled administratively and which require substantial amounts of irregular or occasional overtime work. This interim rule permits agencies to pay AUO pay to an employee during a temporary assignment that would not otherwise warrant the payment of AUO pay, if the temporary assignment is directly related to a national emergency. In determining the average hours used in computing future AUO payments, this interim rule also excludes from consideration, the time period for which AUO pay is paid during a temporary assignment.

DATES: This interim rule is effective on September 11, 2001; comments must be received on or before April 15, 2002.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, FAX: (202) 606–0824, or email: *payleave@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Kitchelt, (202) 606–2858; FAX: (202) 606–0824; email: *payleave@opm.gov.*

SUPPLEMENTARY INFORMATION: Pay for administratively uncontrollable overtime (AUO) work is a form of premium pay paid to employees in positions in which the hours of duty cannot be controlled administratively and which require substantial amounts of irregular or occasional overtime work. Current OPM regulations at 5 CFR 550.162(c)(1) provide that an agency may continue to pay AUO pay for a period of not more than 10 consecutive workdays on a temporary assignment to other duties in which conditions do not warrant AUO pay and for a total of not more than 30 workdays in a calendar year while on such a temporary assignment. An agency must discontinue an employee's AUO pay when a temporary assignment exceeds these time limits.

In response to the terrorist attacks at the World Trade Center and the Pentagon, the President declared a national emergency. (See the Proclamation issued by the President on September 14, 2001, at *http://www.whitehouse.gov/news/releases/2001/09/20010914–4.html.)* In reaction to this emergency, Federal agencies have temporarily assigned some Federal employees who normally receive AUO pay to positions in which overtime work is generally regularly scheduled and does not warrant AUO pay. An agency has expressed concern that OPM's current regulations are too restrictive and may result in the loss of AUO pay for some employees. Since AUO pay is basic pay for retirement purposes for law enforcement officers, the suspension of AUO pay would reduce agency and employee contributions to the Thrift Savings Plan and may reduce retirement annuities for employees who are close to retirement (by reducing the ''high-3'' average rate of basic pay for these employees).

These interim regulations add a new provision at 5 CFR 550.162(g) to provide that an agency may continue to pay AUO pay, during a temporary assignment that would not otherwise warrant AUO pay, if the temporary assignment is directly related to a national emergency declared by the President. An agency may continue to pay AUO pay for a period of not more than 30 consecutive workdays for such a temporary assignment and for a total of not more than 90 workdays in a calendar year while on such a temporary assignment. These new provisions apply only during a national emergency declared by the President and only to those employees performing work directly related to the emergency.

In addition, these interim regulations add a provision at 5 CFR 550.154(c) to provide that the period of time during which an employee continues to receive AUO pay under the authority of paragraphs (c) or (g) of § 550.162 is not considered in computing the weekly average number of irregular overtime hours used in determining the amount of an employee's future AUO payments. This change is necessary since the loss of the opportunity to work irregular overtime hours during the temporary assignment otherwise could result in a reduction in future AUO payments, since these payments are based on the weekly average number of irregular overtime hours in a past period.

Waiver of Notice of Proposed Rule Making and Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and to make these regulations effective in less than 30 days. Due to the terrorist attacks at the World Trade Center and the Pentagon, agencies have temporarily assigned some Federal employees who normally receive AUO pay for irregular or occasional overtime work to positions in which overtime work is generally regularly scheduled and does not warrant AUO pay. An agency has expressed concern that current OPM regulations are too restrictive and may result in the loss of AUO pay, which could have a negative impact on affected employees' retirement benefits. Waiving the notice and the 30-day delay is justified in this national emergency.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM is amending part 550 of title 5 of the Code of Federal Regulations as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

1. The authority citation for part 550, subpart A, continues to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5545a(h)(2)(B) and (i), 5548, and 6101(c); sections 407 and 2316, Pub. L. 105–277, 112 Stat. 2681–101 and 2681–828 (5 U.S.C. 5545a); E.O. 12748, 3 CFR, 1992 Comp., p. 316.

2. In § 550.154, paragraph (c) is added to read as follows:

§ 550.154 Rates of premium pay payable under § 550.151.

* * * * *

(c) The period of time during which an employee continues to receive premium pay on an annual basis under § 550.151 under the authority of paragraphs (c) or (g) of § 550.162 is not considered in computing the average hours of irregular and occasional overtime work under this section.

3. In § 550.162, paragraph (g) is added to read as follows:

§ 550.162 Payment provisions.

* * * * *

(g) Notwithstanding paragraph (c)(1) of this section, an agency may continue to pay premium pay under § 550.151 to an employee during a temporary assignment that would not otherwise warrant the payment of AUO pay, if the temporary assignment is directly related to a national emergency. An agency may continue to pay premium pay under § 550.151 for not more than 30 consecutive workdays for such a temporary assignment and for a total of not more than 90 workdays in a calendar year while on such a temporary assignment.

[FR Doc. 02–3410 Filed 2–12–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–24FR]

Establishment of Class E Airspace; Beebe Memorial Hospital Heliport, Lewes, DE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Beebe Memorial Hospital Heliport, Lewes, DE. Development of an Area Navigation (RNAV), Helicopter Point in Space Approach, for the Beebe Memorial Hospital Heliport, has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Beebe Memorial Hospital Heliport.

EFFECTIVE DATE: 0901 UTC March 22, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On September 28, 2001 a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for an RNAV, Helicopter Point in Space approach to the Beebe Memorial Hospital Heliport, DE, was published in the **Federal Register** (66 FR 49574–49575).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before October 29, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001 and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting Instrument Flight Rules (IFR) operations at the Beebe Memorial Hospital Heliport, Lewes, DE.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA DE E5 Lewes, DE [New]

Beebe Memorial Hospital Heliport
(lat 38°47′16″ N.; long 75°08′42″ W.)
Point in Space Coordinates
(lat 38°46′14″ N.; long 75°12′05″ W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the point in space for the SIAP to the

Beebe Memorial Hospital Heliport, Lewes, DE.

Issued in Jamaica, New York on January 23, 2002.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–3549 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–33–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–26FR]

Establishment of Class E Airspace; Tipton Airport, Fort Meade, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Tipton Airport, Fort Meade, MD. Development of Standard Instrument Approach Procedures (SIAP), to serve flights operating into the Tipton Airport under Instrument Flight Rules (IFR) has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Tipton Airport.

EFFECTIVE DATE: 0901 UTC March 22, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On September 28, 2001 a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for flights executing SIAPs to the Tipton Airport, Fort Meade, MD was published in the **Federal Register** (66FR 49573–49574).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before October 29, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001 and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the Tipton Airport, Fort Meade, MD.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (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) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

AEA MD E5 Fort Meade, MD [New]

Tipton Airport, Fort Meade, MD

(lat 39°05′04″ N.; long 75°45′20″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2 mile radius of the Tipton Airport, Fort Meade, MD.

Issued in Jamaica, New York on January 23, 2002.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–3550 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–31–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–19]

Establishment of Class E5 Airspace; Batesville, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Batesville, MS. A Localizer (LOC) / Distance Measuring Equipment (DME) Runway (RWY) 19, a Area Navigation (RNAV), Global Positioning System (GPS), RWY 1 and a RNAV (GPS) RWY 19 Standard Instrument Approach Procedures (SIAP), have been developed for Batesville, MS. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Panola County Airport.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. B0x 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On January 4, 2002, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Batesville, MS, (67 FR 552). This action provides adequate Class E airspace for IFR operations at Batesville, MS. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in FAA Order 7400.9J, dated August 31, 2001,

and effective September 16, 2001, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Batesville, MS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More above the Surface of the Earth.

* * * * *

ASO NC E5 Batesville, MS [New]

Panola County Airport, MS
(lat. 34°22′00″ N, long. 89°54′00″ W)

That airspace extending upward from 700 feet or more above the surface within a 6.5-mile radius of Panola County Airport.

* * * * *

Issued in College Park, Georgia, on February 6, 2002.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–3552 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–2]

Establishment of Class E Airspace; Andrews—Murphy, NC; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final rule (00–ASO–4), which was published in the **Federal Register** of March 31, 2000, (65 FR 17133), establishing Class E airspace at Andrews—Murphy, NC. This action corrects an error in the geographic coordinates for the Class E5 airspace at Andrews—Murphy, NC.

EFFECTIVE DATE: Effective 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Background

Federal Register Document 00–7959, Airspace Docket No. 00–ASO–4, published on March 31, 2000, (65 FR 17133), established Class E5 airspace at Andrews—Murphy, NC. An error was discovered in the geographic coordinates describing the Class E5 airspace area. What should have been latitude 35 degrees was published as 34 degrees. This action corrects that error.

Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Need for Correction

As published, the final rule contains an error which identifies an incorrect geographical position for the location of the Class E5 airspace area. Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Class E5 airspace area at Andrews—Murphy, NC, incorporated by reference at § 71.1, 14 CFR 71.1, and published in the **Federal Register** on March 31, 2000, (65 FR 17133), is corrected by making the following correcting amendment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

In consideration of the foregoing, the Federal Aviation Administration corrects the adopted amendment, 14 CFR Part 71, by making the following correcting amendment:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS, ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Corrected]

2. The incorporation by reference in 14 CFR 71.1. of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO NC E5 Andrews—Murphy, NC [Corrected]

Point in Space Coordinates
(lat. 35°11′10″ N, long. 83°52′57″ W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 35°11′10″ N, long. 83°52′57″ W) serving Andrews—Murphy, NC.

* * * * *

Issued in College Park, Georgia, on January 28, 2002.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–3553 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–18]

Establishment of Class E5 Airspace; Andrews, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Andrews, SC. A Non-Directional Beacon (NDB) Runway (RWY) 36 Standard Instrument Approach Procedure (SIAP) has been developed for Robert F. Swinnie Airport, Andrews, SC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Robert F. Swinnie Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On December 27, 2001, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Andrews, SC, (66 FR 66832) to provide adequate controlled airspace to contain the NDB RWY 36 SIAP and other IFR operations at Robert F. Swinnie Airport. Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E5 airspace at Andrews, SC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (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) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO SC E5 Andrews, SC [New]

Robert F. Swinnie Airport, SC
(lat 33°27′06″ N, long. 79°31′34″ W)
Andrews NDB
(lat 33°27′05″ N, long. 79°31″38″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Robert F. Swinnie Airport and within 4 miles east and 8 miles west of the 174° bearing from the Andrews NDB extending from the 6.3-mile radius to 16 miles south of the airport, excluding that airspace within the Georgetown, SC, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on January 31, 2002.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–3554 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2001–10286; Airspace Docket No. 01–AEA–11]

RIN 2120–AA66

Amendment of Restricted Area 5201, Fort Drum, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the designated altitudes for Restricted Area R–5201 (R–5201), Fort Drum, NY, by designating the ceiling of the airspace at 23,000 feet mean sea level (MSL) on a year-round basis. Currently, the upper altitude limit for the restricted area changes from 23,000 feet MSL for the period April 1 through September 30 to 20,000 feet MSL for the period October 1 through March 31. Increased training requirements at Fort Drum have resulted in a regular need for restricted airspace up to 23,000 feet MSL throughout the year. This modification does not alter the current boundaries, time of designation, or activities conducted in R–5201.

EFFECTIVE DATE: 0901 UTC, April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 2001, the FAA proposed to amend 14 CFR part 73 to modify the designated altitudes for Restricted Area R–5201, Fort Drum, NY (66 FR 53132). Interested parties were invited to participate in this rulemaking by submitting comments. No comments were received.

The Rule

This action amends 14 CFR part 73 by changing the designated altitudes of R–5201, Fort Drum, NY. Specifically, this action changes the designated altitudes from ''Surface to 23,000 feet MSL, April 1 through September 30; surface to 20,000 feet MSL, October 1 through March 31'' to ''Surface to 23,000 feet MSL.'' This amendment deletes the seasonal changes to the upper altitude limit of R–5201 and establishes 23,000 feet MSL as the permanent upper altitude limit on a year-round basis. The 20,000 feet MSL limit for 6 months of the year adversely affects military training at Fort Drum and requires units to alter their training profiles when the 23,000 feet MSL ceiling is not available. This limitation is disruptive to training continuity and precludes the most cost-effective accomplishment of training activities. The U.S. Army requested this modification to better accommodate existing and forecast training requirements at Fort Drum. This action does not change the current boundaries, time of designation, or activities conducted within R–5201.

Section 73.52 of 14 CFR part 73 was republished in FAA Order 7400.8J, dated September 20, 2001.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA determined that this change applies to on-going military activities occurring between 20,000 feet MSL and 23,000 feet MSL, and not over noise-sensitive areas; that there will be no significant noise increase associated with this change; and no significant air quality impacts. The FAA further determined that this action does not trigger any extraordinary circumstances that would warrant further environmental review. The FAA concluded that this action is categorically excluded from further environmental analysis in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts; and the FAA/DOD Memorandum of Understanding concerning Special Use Airspace Environmental Actions, dated January 26, 1998.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.52 [Amended]

2. Section 73.52 is amended as follows:

* * * * *

R–5201 Fort Drum, NY [Amended]

By removing ''Designated altitudes. Surface to 23,000 feet MSL, April 1 though September 30; surface to 20,000 feet MSL, October 1 through March 31'' and inserting ''Designated altitudes. Surface to 23,000 feet MSL.''

* * * * *

Issued in Washington, DC on February 6, 2002.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 02–3530 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 203 and 205

[Docket No. 92N–0297]

RIN 0905–AC81

Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is further delaying, until April 1, 2003, the effective date of certain requirements of a final rule published in the **Federal Register** of December 3, 1999 (64 FR 67720). In the **Federal Register** of May 3, 2000 (65 FR 25639), the agency delayed until October 1, 2001, the effective date of certain requirements in the final rule relating to wholesale distribution of prescription drugs by distributors that are not authorized distributors of record, and distribution of blood derivatives by entities that meet the definition of a ''health care entity'' in the final rule. In the **Federal Register** of March 1, 2001 (66 FR 12850), the agency further delayed the effective date of those requirements until April 1, 2002. This action further delays the effective date of these requirements until April 1, 2003. The final rule implements the Prescription Drug Marketing Act of 1987 (PDMA), as modified by the Prescription Drug Amendments of 1992 (PDA), and the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). The agency is taking this action to address concerns about the requirements raised by affected parties. As explained in the **SUPPLEMENTARY INFORMATION** section, the delay will allow additional time for Congress and FDA to consider whether legislative and regulatory changes are appropriate.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C.

553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. As explained in the **SUPPLEMENTARY INFORMATION** section, FDA has prepared a report for Congress and concluded that although the agency can address some of industry's concerns with the PDMA regulation through regulatory changes, other concerns would have to be addressed by Congress through legislative action. The further delay is necessary to give Congress time to consider the information and conclusions contained in the agency's report, and to determine if legislative action is appropriate. The further delay will also give the agency additional time to consider whether regulatory changes are appropriate and, if so, to initiate such changes.

DATES: The effective date for §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities, added at 64 FR 67720, December 3, 1999, is delayed until April 1, 2003. Submit written or electronic comments by April 15, 2002.

ADDRESSES: Submit written comments 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. Submit electronic comments on the Internet at http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Lee D. Korb, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: PDMA (Public Law 100–293) was enacted on April 22, 1988, and was modified by the PDA (Public Law 102–353, 106 Stat. 941) on August 26, 1992. The PDMA, as modified by the PDA, amended sections 301, 303, 503, and 801 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 331, 333, 353, 381) to, among other things, establish requirements for the wholesale distribution of prescription drugs and for the distribution of blood derived prescription drug products by health care entities.

On December 3, 1999, the agency published final regulations in part 203 (21 CFR part 203) implementing PDMA (64 FR 67720). After publication of the final rule, the agency received letters and petitions and had other communications with industry, industry trade associations, and members of Congress objecting to the provisions in §§ 203.3(u) and 203.50. On March 29, 2000, the agency met with representatives from the wholesale drug industry and industry associations to discuss their concerns. In addition, FDA received a petition for stay of action requesting that the relevant provisions of the final rule be stayed until October 1, 2001. The agency also received a petition for reconsideration from the Small Business Administration requesting that FDA reconsider the final rule and suspend its effective date based on the severe economic impact it would have on more than 4,000 small businesses.

In addition to the submissions on wholesale distribution by unauthorized distributors, the agency received several letters on, and held several meetings to discuss, the implications of the final regulations for blood centers that distribute blood derivative products and provide health care as a service to the hospitals and patients they serve.

Based on the concerns expressed by industry, industry associations, and Congress about implementing §§ 203.3(u) and 203.50 by the December 4, 2000, effective date, the agency published a document in the **Federal Register** of May 3, 2000 (65 FR 25639), delaying the effective date for those provisions until October 1, 2001. In addition, the May 2000 action delayed the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities until October 1, 2001. The May 2000 action also reopened the administrative record and gave interested persons until July 3, 2000, to submit written comments. As stated in the May 2000 action, the purpose of delaying the effective date for these provisions was to give the agency time to obtain more information about the possible consequences of implementing them and to further evaluate the issues involved.

On May 16, 2000, the House Committee on Appropriations (the Committee) stated in its report accompanying the Agriculture, Rural Development, FDA, and Related Agencies Appropriations Bill, 2001 (H. Rept. 106–619) that it supported the ''recent FDA action to delay the effective date for implementing certain requirements of the Prescription Drug Marketing Act until October 1, 2001, and reopen the administrative record in order to receive additional comments.'' In addition, the Committee stated that it ''believes the agency should thoroughly review the potential impact of the proposed provisions on the secondary wholesale pharmaceutical industry.'' The Committee directed the agency to provide a report to the Committee summarizing the comments and issues raised and agency plans to address the concerns.

After issuing the delay of the effective date for the relevant requirements of the final rule, the agency decided to hold a public hearing to elicit comment from interested persons on the requirements. In the **Federal Register** of September 19, 2000 (65 FR 56480), the agency announced that a public hearing would be held on October 27, 2000, to discuss the requirements at issue (i.e., the requirements for unauthorized distributors and the provisions relating to distribution of blood derivatives by health care entities). The hearing was held on October 27, 2000, and comments were accepted until November 20, 2000.

In the **Federal Register** of March 1, 2001 (66 FR 12850), the agency announced that it was further delaying, until April 1, 2002, the effective date of the provisions relating to wholesale distribution of prescription drugs by unauthorized distributors (i.e., §§ 203.3(u) and 203.50). The agency also further delayed the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities. As explained by the agency, the effective date was further delayed to give FDA additional time to consider comments and testimony received on unauthorized distributor and blood derivative issues, for FDA to prepare its report to Congress, and, if appropriate, for Congress or the agency to make legislative or regulatory changes. The report was completed and submitted to Congress on June 7, 2001.

In its report to Congress, the agency concluded that it could address some, but not all, of the concerns raised by the secondary wholesale industry and the blood industry through regulatory changes. However, Congress would have to act to amend section 503(e) of the act to make the types of changes requested by the secondary wholesale industry.

FDA has decided that, in light of the fact that only legislative action can address some of the concerns raised by the secondary wholesale industry, it is appropriate to further delay the effective date of the relevant provisions of the final rule for another year until April 1, 2003. The delay will give Congress time to consider the information and conclusions contained in the agency's report and to determine if legislative action is appropriate. The further delay will also give the agency additional time to consider whether regulatory changes are appropriate and, if so, to initiate such changes.

This action is being taken under FDA's authority under 21 CFR 10.35(a). The Commissioner of Food and Drugs finds that this further delay of the effective date is in the public interest.

Dated: February 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–3282 Filed 2–12–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–007]

RIN 2115–AE47

Drawbridge Operation Regulations: Harlem River, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the drawbridge operation regulations for the Madison Avenue Bridge, mile 2.3 and the Macombs Dam Bridge, at mile 3.2, both across the Harlem River at New York City, New York. This temporary rule will allow the bridges to remain in the closed position at various times to facilitate necessary bridge maintenance.

DATES: This rule is effective from February 18, 2002 through February 28, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–02–007) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Arca, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**.

These closures are not expected to impact navigation because the vessels that normally use this waterway were designed to fit under the bridges on the Harlem River without requiring bridge openings. There have been no requests to open these bridges for several years. Accordingly, an NPRM was considered unnecessary and the rule may be made effective in less than 30 days after publication.

Background and Purpose

The Madison Avenue Bridge has a vertical clearance in the closed position of 25 feet at mean high water and 29 feet at mean low water. The Macombs Dam Bridge has a vertical clearance in the closed position of 27 feet at mean high water and 32 feet at mean low water. The existing drawbridge operating regulations, listed at 33 CFR 117.789(c), require the bridges to open on signal from 10 a.m. to 5 p.m., after a four-hour advance notice is given.

The owner of the bridges, the New York City Department of Transportation (NYCDOT), requested a temporary final rule to facilitate scheduled maintenance and replacement of electrical and mechanical systems at the bridges. These bridge closures are not expected to effect vessel traffic because there have been no requests to open the bridges for several years. Vessels that can pass under the bridges without openings may do so at all times during these closures.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that keeping the bridges closed should have no impact on navigation because the bridges have not had any requests to open for several years.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. ''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 less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the closure of the bridges should have no impact on navigation because the bridges have not had any requests to open for several years.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion

Determination'' is not required for this final rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From February 18, 2002, through February 28, 2003, § 117.789 is temporarily amended by suspending paragraph (c) and adding a new paragraph (g) to read as follows:

§ 117.789 Harlem River.

* * * * *

(g) The draws of the bridges at 103rd Street, mile 0.0, Willis Avenue, mile 1.5, 3rd Avenue, mile 1.9, Madison Avenue, mile 2.3, 145th Street, mile 2.8, Macombs Dam, mile 3.2, the 207th Street, mile 6.0, and the two Broadway bridges, mile 6.8, shall open on signal from 10 a.m. to 5 p.m. if at least a four-hour advance notice is given to the New York City Highway Radio (Hotline) Room; except that the Madison Avenue Bridge, mile 2.3, need not open for vessel traffic from February 18 through May 24, 2002 and the Macombs Dam Bridge, mile 3.2, need not open for vessel traffic from April 2 through June 30, 2002 and from December 1, 2002 through February 28, 2003.

Dated: January 23, 2002.

G.N. Naccara,

Rear Admiral, U. S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02–3517 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 01–022]

RIN 2115–AA97

Security Zones; Port of San Diego, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a moving and fixed security zone 100 yards around all cruise ships that enter, are moored in, or depart from the Port of San Diego. This security zone is needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port San Diego, or his designated representative.

DATES: This rule is effective from 11:59 p.m. PST on November 5, 2001 to 11:59 p.m. PDT on June 21, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP San Diego 01–022 and are available for inspection or copying at Coast Guard Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, California, 92101, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Joseph Brown, Port Safety and Security, at (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect the public, ports, and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners advising of these new regulations.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of San Diego, against cruise ships entering, departing, or moored within the port of San Diego. The terrorist acts against the United States on September 11, 2001, have increased the need for safety and security measures on U.S. ports and waterways. In response to these terrorist acts, and in order to prevent similar occurrences, the Coast Guard has established a security zone around cruise ships to protect persons, transiting vessels, adjacent waterfront facilities, and the adjacent land of the Port of San Diego. These security zones are necessary to prevent damage or injury to any vessel or waterfront facility, and to safeguard ports, harbors, or waters of the United States near San Diego, California. This zone will be enforced by the official patrol (Coast Guard commissioned, warrant or petty officers) onboard Coast Guard vessels and patrol craft. The official patrol may also be onboard patrol craft and resources of any government agency that has agreed to assist the Coast Guard in the performance of its duties.

Persons and vessels are prohibited from entering into this security zone unless authorized by the Captain of the Port or his designated representative. Each person and vessel in a security zone must obey any direction or order of the COTP. The COTP may remove any person, vessel, article, or thing from a security zone. No person may board, or take or place any article or thing on board any vessel in a security zone without the permission of the COTP.

Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than $250,000), in rem liability against the offending vessel, and license sanctions. Any person who violates this regulation, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years (class C felony).

This security zone prohibits all vessels and people from approaching cruise ships that are underway or moored near San Diego, California. Specifically, no vessel or person may close to within 100 yards of a cruise ship that is entering, moored in, or departing the Port of San Diego.

A security zone is automatically activated when a cruise ship passes the San Diego sea buoy while entering port and remains in effect while the vessel is moored within in the Port of San Diego, California. When activated, this security zone will encompass a portion of the waterway described as a 100 yard radius around a cruise ship in the Port of San Diego. This security zone is automatically deactivated when the cruise ship passes the San Diego sea buoy on its departure from port. Vessels

and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port.

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) because these zones will encompass a small portion of the waterway for a limited duration.

The Port of San Diego can accommodate only a few cruise ships moored at the same time. Most cruise ships calls at each location occur on only one day each week, and are generally less than 18 hours in duration. Also, vessels and people may be allowed to enter the zones on a case-by-case basis with authorization from the Captain of the Port.

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.

For the same reasons stated in the section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not 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)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add a new temporary § 165.T11–030 to read as follows:

§ 165.T11–030 Security Zones; Port of San Diego.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all cruise ships while entering or departing the Port of San Diego. These moving security zones are activated when the cruise ship passes the Los Angeles sea buoy while entering the Port of San Diego. Temporary fixed security zones are established 100 yards around all cruise ships docked in the Port of San Diego. This security zone is deactivated when the cruise ship passes the sea buoy on its departure from the Port of San Diego.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, the following rules apply to security zones established by this section:

(i) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(ii) Each person and vessel in a security zone must obey any direction or order of the Captain of the Port;

(iii) The Captain of the Port may take possession and control of any vessel in a security zone;

(iv) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(v) No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port; and

(vi) No person may take or place any article or thing upon any waterfront facility in a security zone without the permission of the Captain of the Port.

(2) The Captain of the Port will notify the public, via local broadcast notice to mariners, upon activation of security zone around cruise ships transiting San Diego Harbor.

(3) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from complying with the rules of the road and safe navigation practice.

(4) The regulations of this section will be enforced by the Captain of the Port San Diego, or his authorized representative, and the San Diego Harbor Police.

(c) *Dates.* This section becomes effective at 11:59 p.m. PST on November 5, 2001, and will terminate at 11:59 p.m. PDT on June 21, 2002.

Dated: November 4, 2001.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 02–3512 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Western Alaska 02–004]

RIN 2115–AA97

Security Zones; Liquefied Natural Gas Tanker Transits and Operations in Cook Inlet, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary 1000-yard radius security zones in the navigable waters around liquefied natural gas (LNG) tankers while they are moored and loading at Phillips Petroleum LNG Pier and while they are transiting outbound and inbound through the waters of Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. These security zones temporarily close all navigable waters within a 1000-yard radius of the tankers. This action is necessary to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community against sabotage or subversive acts.

DATES: This temporary final rule is effective from 12:01 a.m. January 28, 2002, until 12:01 a.m. April 30, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP Western Alaska 02–004 and are available for inspection or copying at Coast Guard Marine Safety Office Anchorage, Alaska between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mark McManus, USCG Marine Safety Detachment Kenai, at (907) 283–3292 or Lieutenant Commander Chris Woodley, USCG Marine Safety Office Anchorage, at (907) 271–6700.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), we find that good cause exists for not publishing an NPRM, and that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Because of the terrorist activities on September 11, 2001 and subsequent heightened security alerts, any delay in the effective date of this rule would be contrary to the public interest, as immediate action is needed to protect the liquefied natural gas (LNG) tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. In addition, the Coast Guard will make public notifications prior to an LNG transit via marine information broadcasts to advise the maritime community when the security zones will be activated.

Background and Purpose

In light of the terrorist attacks in New York City and Washington, DC on September 11, 2001, the Coast Guard is establishing security zones on the navigable waters of Cook Inlet, Alaska to protect the LNG tankers, Nikiski marine terminals, the community of Nikiski and the maritime community from potential sabotage or subversive acts and incidents of a similar nature. These security zones prohibit movement within or entry into the specified areas.

This rule establishes temporary 1000-yard radius security zones in the navigable waters around LNG tankers while moored and loading at Phillips Petroleum LNG Pier, Nikiski, Alaska and during their outbound and inbound transits through Cook Inlet, Alaska between Phillips Petroleum LNG Pier and the Homer Pilot Station. The security zones are designed to permit the safe and timely loading and transit of the tankers. The security zones' 1000-yard standoff distance also aids the safety of these LNG tankers by minimizing potential waterborne threats to the operation. The limited size of the zones are designed to minimize impact on other mariners transiting through the area while ensuring public safety by preventing interference with the safe and secure loading and transit of the tankers.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12886, 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zones and

that vessels may still transit through the waters of Cook Inlet. Vessels may dock at other Nikiski marine terminals only with prior approval of the Captain of the Port, Western Alaska.

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the vicinity of the Phillips Petroleum LNG Pier during the time these zones are activated.

These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons. Marine traffic will still be able to transit through Cook Inlet during the zones' activation. Additionally, vessels with prior approval from the Captain of the Port, Western Alaska will not be precluded from mooring at or getting underway from other Nikiski marine terminals in the vicinity of the zones.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Consultation and Coordination With 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes security zones. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T17–006 to read as follows:

§ 165.T17–006 Security Zones: Liquefied Natural Gas (LNG) Tanker Transits and Operations at Phillips Petroleum LNG Pier, Cook Inlet, Alaska.

(a) *Location.* The following areas are security zones: All navigable waters within a 1000-yard radius of liquefied natural gas (LNG) tankers while moored at Phillips Petroleum LNG Pier, 60°40′43″N and 151°24′10″W and all navigable waters within a 1000-yard radius of the tankers during their outbound and inbound transits through Cook Inlet, Alaska between Homer Pilot Station at 59°34′86″N and 151°25′74″W and Phillips Petroleum LNG Pier.

(b) *Effective period.* This section is effective from 12:01 a.m. January 28, 2002, until 12:01 a.m. April 30, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port representative or the designated on-scene patrol personnel. These personnel are comprised of commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: January 18, 2002.

W.J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 02–3514 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP MIAMI–01–116]

RIN 2116–AA97

Security Zones; Port of Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary fixed security zones. One security zone encompasses the waterway located between MacArthur Causeway and Dodge Island in the Port of Miami. Another security zone encompasses the port area west of the Intracoastal Waterway in the north portion of Port Everglades in Fort Lauderdale, Florida. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative.

DATES: This rule is effective from 11:59 p.m. on October 7, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP Miami 01–116 and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139, between 7:30 p.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Warren Weedon, Coast Guard Marine Safety Office Miami, at (305) 535–8701.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity to advise mariners of the zone.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Port of Miami and Port Everglades against tank vessels and cruise ships entering, departing and moored within these ports. There will be Coast Guard and local police department patrol vessels on scene to monitor traffic through these areas. The Captain of the Port has previously established a temporary moving security zone for cruise ships and vessels carrying cargoes of particular hazard for both ports under docket numbers COTP Miami-01–115 [(67 FR 1101, January 9, 2002)] and COTP Miami-01–093 [(no longer effective, to be published in quarterly notice of temporary rules issued)].

Discussion of Rule

We are creating two security zones: One in the Port of Miami, Florida and one in Port Everglades, Fort Lauderdale, Florida. These temporary fixed security zones are activated when cruise ships and vessels carrying cargoes of particular hazard are moored within these zones.

The Port of Miami fixed security zone encompasses all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami on Dodge Island. The western boundary is formed by an imaginary line from points 25°46.76′ N, 080°10.87′ W, to 25°46.77′ N, 080°10.92′ W to 25°46.88′ N, 080°10.84′ W and ending on Watson Park at 25°47.00′ N, 080°10.67′ W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, which leads to Star Island on MacArthur Causeway directly extending across the Government Cut channel to Lummus Island, at 25° 46.32′ N, 080°09.23′ W.

The Port Everglades fixed security zone includes all port waters west of a line starting at the northern most point 26°05.98′ N, 080°07.15′ W, near the west side of the 17th Street Bridge, to the southern most point 26°05.41′ N, 080°06.97′ W on the tip of the pier near Burt and Jacks Restaurant, Port Everglades, Florida.

The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz). Entry into these security zones is prohibited unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative. Local and federal law enforcement officials will be patrolling these security zones.

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) this is a temporary zone and vessels may be allowed to enter the security zone on a case by case basis with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. ''Small entities'' include 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.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter the zone on a case by case basis with authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

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 relationships 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 Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T07–116 is added to read as follows:

§ 165.T07–116 Security Zones; Ports Everglades and the Port of Miami, Florida.

(a) *Port of Miami regulated area.* A temporary fixed security zone is established encompassing all waters between Watson Park and Star Island on the MacArthur Causeway south to the Port of Miami on Dodge Island. The western boundary is formed by an imaginary line from points 25°46.76′ N, 080°10.87′ W, to 25°46.77′ N, 080°10.92′ W to 25°46.88′ N, 080°10.84′ W and ending on Watson Park at 25°47.00′ N, 080°10.67′ W. The eastern boundary is formed by an imaginary line from the traffic light located at Bridge road, which leads to Star Island on MacArthur Causeway directly extending across the Government Cut channel to Lummus Island, at 25°46.32′ N, 080°09.23′ W.

(b) *Port Everglades regulated area.* A temporary fixed security zone is established encompassing all waters west of an imaginary line starting at the northern most point 26°05.98′ N, 080°07.15′ W, near the west side of the 17th Street Bridge, to the southern most point 26°05.41' N, 080°06.97' W on the tip of the pier near Burt and Jacks Restaurant, Port Everglades, Florida.

(c) *Regulations.* These temporary fixed security zones are activated when cruise ships and vessels carrying cargoes of particular hazard are moored within these zones. In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, a Coast Guard commissioned, warrant, or petty officer, or other law enforcement officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(d) *Dates.* This section becomes effective at 11:59 p.m. on October 7, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

Dated: October 7, 2001.

J.A. Watson, IV,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 02–3513 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Elizabeth River, Virginia

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending its regulations, which establish a restricted area on the Elizabeth River in the vicinity of the Craney Island Refueling Station at Portsmouth, Virginia. The regulations are necessary to safeguard Navy vessels and United States Government facilities

from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

EFFECTIVE DATE: March 15, 2002.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441–7653.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by adding Section 334.440 which establishes a restricted area on the Elizabeth River in the vicinity of the Craney Island Refueling Station at Portsmouth, Virginia.

Procedural Requirements

(a) Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive order 12866 do not apply.

(b) Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The Corps expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal will have no significant economic impact on small entities.

(c) Review Under the National Environmental Policy Act

The Norfolk District has prepared an environmental assessment (EA) for this action. We have concluded, based on the minor nature of the proposed restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the Norfolk District office listed at the end of **FOR FURTHER INFORMATION CONTACT,** above.

(d) Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

(e) Submission to Congress and the Government Accounting Office

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This Rule is not a major Rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Navigation (water), Waterways.

For the reasons set out in the preamble, the Corps is amending 33 CFR Part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.293 is added to read as follows:

§ 334.293 Elizabeth River, Craney Island Refueling Pier Restricted Area, Portsmouth VA; Naval Restricted Area.

(a) *The area.* (1) The waters within an area beginning at a point on the shore at latitude 36°53′17.4″ N, longitude 76°20′21″ W; thence easterly to latitude 36°53′16.8″ N, longitude 76°20′14.4″ W: thence southwesterly to latitude 36°53′00″ N, longitude 76°20′18″ W; thence southeasterly to latitude 36°52′55.2″ N, longitude 76°20′16.5″ W: thence southwesterly to latitude 36°52′52.2″ N, longitude 76°20′18″ W; thence southwesterly to latitude 36°52′49.8″ N, longitude 76°20′25.8″ W: thence northwesterly to latitude 36°52′58.2″ N, longitude 76°20′33.6″ W; thence northeasterly to a point on the shore at latitude 36°53′00″ N, longitude 76°20′30″ W; thence northerly along the shoreline to the point of beginning.

(b). *The regulation.* No vessel or persons may enter the restricted area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c). *Enforcement.* The regulation in this section, promulgated by the Corps of Engineers, shall be enforced by the Commander, Navy Region, Mid-Atlantic, and such agencies or persons as he/she may designate.

Dated: January 14, 2002.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 02–3556 Filed 2–12–02; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AK99

Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve for fiscal year 2002 (October 1, 2001, through September 30, 2002) are changed to show a 3.4% increase in these rates.

DATES: *Effective Date:* This final rule is effective February 13, 2002.

Applicability Date: The changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education

Adviser, Education Service, Veterans Benefits Administration (202) 273–7187.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 10 U.S.C. 16131(b) for fiscal year 2002, the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time, three-quarter time, and half time must be increased by 3.4%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 2000, through June 30, 2001, exceeds the total of the monthly Consumer Price Index-W for July 1, 1999, through June 30, 2000.

10 U.S.C. 16131(b) requires that full-time, three-quarter time, and half-time rates be increased as noted above. In addition, 10 U.S.C. 16131(d) requires that monthly rates payable to reservists in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 3.4% raise for such training as well.

10 U.S.C. 16131(b) also requires that the Department of Veterans Affairs (VA) pay reservists training less than half time at an appropriately reduced rate. Since payment for less than half-time training became available under the Montgomery GI Bill—Selected Reserve in fiscal year 1990, VA has paid less than half-time students at 25% of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied from October 1, 2001, in accordance with the applicable statutory provisions discussed above.

Administrative Procedure Act

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Regulatory Flexibility Act

The Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance Program Numbers

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 13, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

Approved: December 27, 2001.

Craig W. Duehring,

Principal Deputy, Office of the Assistant Secretary of Defense for Reserve Affairs.

Approved: January 31, 2002.

F.L. Ames,

Rear Admiral, United States Coast Guard, Assistant Commandant for Human Resources.

For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L, continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

2. Section 21.7636 is amended by:

a. Removing ''September 30, 2000'' in paragraph (a)(3) and adding, in its place, ''September 30, 2001'', and by removing ''October 1, 2001'' and adding, in its place, ''October 1, 2002'';

b. Revising paragraphs (a)(1) and (a)(2)(i).

The revisions read as follows:

§ 21.7636 Rates of payment.

(a) *Monthly rate of educational assistance.* (1) Except as otherwise provided in this section or in § 21.7639, the monthly rate of educational assistance payable for training that occurs after September 30, 2001, and before October 1, 2002, to a reservist pursuing a program of education is the rate stated in this table:

Training	Monthly rate
Full time	$272.00
¾ time	204.00
½ time	135.00
¼ time	68.00

(2) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time that occurs after September 30, 2001, and before October 1, 2002, is the rate stated in this table:

Training period	Monthly rate
First six months of pursuit of training	$204.00
Second six months of pursuit of training	149.60
Remaining pursuit of training	95.20

* * * * *

[FR Doc. 02–3456 Filed 2–12–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 0147–1147; FRL–7141–7]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is announcing approval of a revision to the State Implementation Plan (SIP) for the control of the volatility of gasoline during the summertime in the Kansas portion of the Kansas City area. This action approves amendments to Kansas' control on the summertime Reid Vapor Pressure (RVP) of gasoline distributed in

Johnson and Wyandotte Counties. This revision changes the RVP limit from 7.2 pounds per square inch (psi) to 7.0 psi, and from 8.2 psi to 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. This is a part of the State's plan to maintain clean air quality in Kansas City.

DATES: This rule is effective on March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'', ''us'', or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What are the criteria for SIP approval?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations limiting emissions and control strategies to ensure that state air quality meets the national ambient air quality standards (NAAQS) established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Are the Criteria for SIP Approval?

In order to be approved into a SIP, the submittal must meet the requirements of section 110. In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and our regulations, as found in section 110 and part D of Title I of the CAA amendments and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

The CAA has additional requirements for the approval of SIPs containing certain state fuel controls. Section 211(c)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce regulations respecting fuel characteristics or components if EPA has adopted Federal controls under section 211(c)(1) applicable to such fuel characteristics or components, unless the state control is identical to the Federal control. Section 211(c)(4) includes two exceptions to this prohibition. First, under section 211(c)(4)(B), California is not subject to the preemption in section 211(c)(4)(A). Second, a State may prescribe or enforce such otherwise preempted fuel controls if the measure is approved into a SIP.

Under section 211(c)(4)(C), we may approve such state fuel controls into a SIP, if the state demonstrates that the measure is necessary to achieve the NAAQS. Section 211(c)(4)(C) specifies that a state fuel requirement is ''necessary'' if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. As discussed in more detail below, the State rule approved today merely amends the State fuel control that has already been approved into the SIP and addresses emissions reductions shortfalls that EPA has already determined are required under the Act. Therefore, a new demonstration of necessity under section 211(c)(4)(C) is not required.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Fuel Volatility

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits volatile organic compounds (VOCs), an ozone forming pollutant. VOCs are an important component in the production of ground-level ozone in the hot summer months. RVP is directly proportional to the rate of evaporation. Consequently, the lower the RVP, the lower the rate of evaporation. Lowering the RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOCs. Reduction of the RVP will help the state's effort to maintain the NAAQS for ozone.

State Submittal

On May 2, 2001, KDHE requested that we revise the SIP to reflect its amendments to the State RVP controls. The amendments further lower the fuel volatility standard from 7.2 psi to 7.0 psi (for certain ethanol blended fuels, the standard was lowered from 8.2 psi to 8.0 psi). Included in the submittal was a letter from Secretary Clyde D. Graeber, KDHE, to William W. Rice, Acting EPA Region 7 Administrator, requesting authorization to implement a lower RVP requirement in the Kansas City area; new regulation K.A.R. 29–19–719; revoked regulation K.A.R. 28–19–79; and a technical support document demonstrating the need to lower the RVP standard for the area. The state held a public hearing on March 14,

2001; the rule was adopted on April 3, 2001; and the rule became effective on April 27, 2001.

Analysis of the SIP

As mentioned above, section 211(c)(4) of the CAA prohibits states from adopting or attempting to enforce controls or prohibitions respecting certain fuel characteristics or components unless the SIP for the State so provides. The CAA specifies that we may approve such state fuel controls into a SIP only upon a finding that the control is ''necessary'' to achieve a NAAQS as defined under section 211(c)(4)(C). Section 211(c)(4)(C) does not, however, address the ability of states to modify fuel control programs that have already been deemed necessary and approved into a SIP.

Kansas is not seeking approval of a new control or prohibition respecting a fuel characteristic or component. Instead, Kansas is seeking approval of a change to the approved RVP control to adjust the level of the standard. Given the original 1997 determination that the State RVP control was necessary to respond to the violations of the NAAQS, the violation and the additional exceedances which occurred after the implementation of the 7.2 psi RVP control, and the fact that the necessary reductions called for in the State's maintenance plan have still not been achieved, we believe it is reasonable to approve the amendments to the RVP standard without a new demonstration of necessity under section 211(c)(4)(C). This action approves the State's amendments to its RVP standards and revises the SIP.

Have the Requirements for Approval of a SIP Revision Been Met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and part D of Title I and implementing regulations. Our proposed rulemaking, which included a detailed discussion of our rationale for proposing to approve the rule, was published November 19, 2001 (66 FR 57911) and no comments were received on the proposal.

What Action Is EPA Taking?

We are approving this revision to the Kansas SIP concerning regulation K.A.R. 28–19–719 as it meets the requirements of the CAA. We are also rescinding regulation K.A.R. 28–19–79, which was revised and replaced by K.A.R. 28–19–719.

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 13211, ''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 CAA. 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 CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 29, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 R—Kansas

2. In § 52.870 the table in paragraph (c) is amended under the heading for ''Volatile Organic Compound Emissions'' by:

a. Removing the entry for K.A.R. 28–19–79.

b. Adding an entry in numerical order for K.A.R. 28–19–719.

The addition reads as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Comments
Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control				
*	*	*	*	*
Volatile Organic Compound Emissions				
*	*	*	*	*
K.A.R. 28–19–719	Fuel Volatility	4/27/01	2/13/02 [insert FR cite]	
*	*	*	*	*

[FR Doc. 02–3361 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 0148–1148; FRL–7141–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is announcing approval of a revision to the State Implementation Plan (SIP) for the control of the volatility of gasoline during the summertime in the Missouri portion of the Kansas City area. This action approves amendments to Missouri's control on the summertime Reid Vapor Pressure (RVP) of gasoline distributed in Clay, Jackson, and Platte Counties. This revision changes the RVP limit from 7.2 pounds per square inch (psi) to 7.0 psi, and from 8.2 psi to 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. This is a part of the State's plan to maintain clean air quality in Kansas City.

DATES: This rule is effective on March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we'', ''us'', or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What are the criteria for SIP approval?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations limiting emissions and control strategies to ensure that state air quality meets the national ambient air quality standards (NAAQS) established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of

Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Are the Criteria for SIP Approval?

In order to be approved into a SIP, the submittal must meet the requirements of section 110. In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and our regulations, as found in section 110 and part D of Title I of the CAA amendments and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

The CAA has additional requirements for the approval of SIPs containing certain state fuel controls. Section 211(c)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce regulations respecting fuel characteristics or components if EPA has adopted Federal controls under section 211(c)(1) applicable to such fuel characteristics or components, unless the state control is identical to the Federal control. Section 211(c)(4) includes two exceptions to this prohibition. First, under section 211(c)(4)(B), California is not subject to the preemption in section 211(c)(4)(A). Second, a State may prescribe or enforce such otherwise preempted fuel controls if the measure is approved into a SIP.

Under section 211(c)(4)(C), we may approve such state fuel controls into a SIP, if the state demonstrates that the measure is necessary to achieve the NAAQS. Section 211(c)(4)(C) specifies that a state fuel requirement is ''necessary'' if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. As discussed in more detail below, the State rule approved today merely amends the State fuel control that has already been approved into the SIP and addresses emissions reductions shortfalls that EPA has already determined are required under the Act. Therefore, a new demonstration of necessity under section 211(c)(4)(C) is not required.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Fuel Volatility

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits volatile organic compounds (VOCs), an ozone forming pollutant. VOCs are an important component in the production of ground-level ozone in the hot summer months. RVP is directly proportional to the rate of evaporation. Consequently, the lower the RVP, the lower the rate of evaporation. Lowering the RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOCs. Reduction of the RVP will help the state's effort to maintain the NAAQS for ozone.

State Submittal

On May 17, 2001, MDNR requested that we revise the SIP to reflect its amendments to the State RVP controls. On June 13, 2001, Missouri submitted an addendum. Included in the submittal was a letter from Roger Randolph, Director, Air Pollution Control Program, MDNR, to William W. Rice, Acting EPA Region 7 Administrator, requesting a SIP revision, the regulation 10 CSR 10–2.330, and supporting documentation. The state held a public hearing on December 7, 2000; the rule was adopted on February 6, 2001, and the rule became effective on May 30, 2001.

Analysis of the SIP

As mentioned above, section 211(c)(4) of the CAA prohibits states from adopting or attempting to enforce controls or prohibitions respecting certain fuel characteristics or components unless the SIP for the State so provides. The CAA specifies that we may approve such state fuel controls into a SIP only upon a finding that the control is ''necessary'' to achieve a NAAQS as defined under section 211(c)(4)(C). Section 211(c)(4)(C) does not, however, address the ability of states to modify fuel control programs that have already been deemed necessary and approved into a SIP.

Missouri is not seeking approval of a new control or prohibition respecting a fuel characteristic or component. Instead, Missouri is seeking approval of a change to the approved RVP control to adjust the level of the standard. Given the original 1998 (final approval) determination that the State RVP control was necessary to respond to the violations of the NAAQS, the violation and the additional exceedances which occurred after the implementation of the 7.2 psi RVP control, and the fact that the necessary reductions called for in the State's maintenance plan have still not been achieved, we believe it is reasonable to approve the amendments to the RVP standard without a new demonstration of necessity under section 211(c)(4)(C). This action approves the State's amendments to its RVP standards and revises the SIP.

Have the Requirements for Approval of a SIP Revision Been Met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and part D of Title I and implementing regulations. Our proposed rulemaking, which included a detailed discussion of our rationale for proposing to approve the rule, was published November 16, 2001 (66 FR 57693), and no comments were received on the proposal.

What Action Is EPA Taking?

We are approving this revision to the Missouri SIP concerning 10 CSR 10–2.330 as it meets the requirements of the CAA.

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 13211, ''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 CAA. 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 CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 29, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10–2.330, under Chapter 2, to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.330	Control of Gasoline Reid Vapor Pressure.	5/30/01	2–13–02 [insert FR cite]	
*	*	*	*	*

[FR Doc. 02–3362 Filed 2–12–02; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL–7142–2]

RIN 2060–AG85

Waste Characterization Program Documents Applicable to Transuranic Radioactive Waste From Los Alamos National Laboratories for Disposal at the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of, and soliciting public comments for 30 days on, Department of Energy (DOE) documents applicable to characterization of transuranic (TRU) radioactive waste at Los Alamos National Laboratories (LANL) proposed for disposal at the Waste Isolation Pilot Plant (WIPP). The documents (Item II-A2–37, Docket A–98–49) are available for review in the public dockets listed in **ADDRESSES**. EPA will conduct an inspection of waste characterization systems and processes for waste characterization at LANL to verify that the site can characterize transuranic waste in accordance with EPA's WIPP compliance criteria. EPA will perform this inspection the week of February 25, 2002. This notice of the inspection and comment period accords with 40 CFR 194.8.

DATES: EPA is requesting public comment on the documents. Comments must be received by EPA's official Air Docket on or before March 15, 2002.

ADDRESSES: Comments should be submitted to: Docket No. A–98–49, Air Docket, Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Mail Code 6102, Washington, DC 20460. The DOE documents are available for review in the official EPA Air Docket in Washington, DC, Docket No. A–98–49, Category II–A2, and at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10am–9pm, Friday–Saturday, 10am–6pm, and Sunday 1pm–5pm; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: vary by semester; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9am–5pm.

As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying. Air Docket A–98–49 in Washington, DC, accepts comments sent electronically or by fax (fax: 202–260–4400; e-mail: *a-and-r-docket@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Ed Feltcorn, Office of Radiation and Indoor Air, (202) 564–9422. You can also call EPA's toll-free WIPP Information Line, 1–800–331–WIPP or visit our website at *http://www.epa/gov/radiation/wipp.*

SUPPLEMENTARY INFORMATION:

Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. No. 102–579), as amended (Pub. L. No. 104–201), TRU waste consists of materials containing elements having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, Subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratories (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of Appendix A to 40 CFR part 194); and (2) (with the exception of specific, limited waste streams and equipment at LANL) prohibit shipment of TRU waste for disposal at WIPP (from LANL or any other site) until EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of Appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8. As part of EPA's decision-making process, the DOE is required to submit to EPA appropriate documentation of quality assurance and waste characterization programs at each DOE waste generator site seeking approval for shipment of TRU radioactive waste to WIPP. In accordance with § 194.8, EPA will place such documentation in the official Air Docket in Washington, DC, and informational dockets in the State of New Mexico for public review and comment.

EPA will perform an inspection of LANL's waste characterization systems and processes for TRU waste in accordance with Conditions 2 and 3 of the WIPP certification. More specifically, we will be focusing on the performance of a variety of new equipment (neutron, gamma, and other NDA-related systems) as well as their acceptable knowledge (AK) and WIPP Waste Information System (WWIS) interface used to characterize TRU waste. The inspection is scheduled to take place the week of February 25, 2002.

EPA has placed a number of documents pertinent to the inspection in the public docket described in **ADDRESSES**. The documents are listed as Item II-A2–37 in Docket A–98–49. In accordance with 40 CFR 194.8, as amended by the final certification decision, EPA is providing the public 30 days to comment on these documents.

If EPA determines as a result of the inspection that the proposed processes, systems, and equipment at LANL adequately control the characterization of transuranic waste, we will notify DOE by letter and place the letter in the official Air Docket in Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to ship TRU waste to WIPP using the approved characterization processes. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A–93–02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: February 6, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 02–3546 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304–1304–01; I.D. 020802A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season amount of the Pacific cod total allowable catch (TAC) apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 9, 2002, until 1200 hrs, A.l.t., September 1, 2002.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2002 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA is 1,011 metric tons (mt) as established by an emergency interim rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season amount of the Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA will be reached. In accordance with § 679.20(a)(11)(iii), Pacific cod bycatch taken between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,011 mt. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to prevent exceeding the amount of the 2002 A season Pacific cod TAC specified for the offshore component in the Western Regulatory Area of the GOA constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(3)(B) and 50 CFR 679.20 (b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to prevent exceeding the 2002 A season Pacific cod TAC specified for the offshore component in the Western Regulatory Area of the GOA constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: February 8, 2002.

Bruce C. Morehead,

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

[FR Doc. 02–3521 Filed 2–8–02; 4:03 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 30
Wednesday, February 13, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Criteria for the Treatment of Individual Requirements in a Regulatory Analysis; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing a public meeting to discuss criteria for the treatment of individual requirements in a regulatory analysis. The meeting is intended to obtain public input on preliminary proposed guidance that could be incorporated into the Commission's Regulatory Analysis Guidelines.

DATES: March 21, 2002.

ADDRESSES: The public meeting will be held in Room Number T–10A1 in the NRC's headquarters at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Dennis P. Allison, Office of Nuclear Reactor Regulation, Washington DC 20555–0001, telephone (301) 415–1178, e-mail *dpa@nrc.gov* or Clark W. Prichard, Office of Nuclear Materials Safety and Safeguards, Washington DC 20555–0001, telephone (301) 415–6203, e-mail *cwp@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of the meeting is to discuss criteria for the treatment of individual requirements in a regulatory analysis. The meeting is intended to obtain public input on preliminary proposed guidance that could be incorporated into the Commission's Regulatory Analysis Guidelines.

Participation

To facilitate orderly conduct of the meeting, members of the public who wish to speak should contact one of the cognizant NRC staff members listed above under the heading ''For Further Information Contact'' to register in advance of the meeting. Indicate as specifically as possible the topic(s) of your comment(s) and the length of time you wish to speak. Provide your name and a telephone number where you can be contacted, if necessary, before the meeting. Registration to speak will also be available at the meeting on a first come basis to the extent that time is available.

Background

Normally, in considering a proposed rulemaking action, the NRC performs an aggregate regulatory analysis for the entire rule to determine whether or not the action is justified.[1] The current guidelines in NUREG–BR–0058, Revision 3, July 2000, Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission, do not specifically state when an individual requirement, which is part of the rule, should be analyzed separately to determine whether or not it is justified.[2] Thus, aggregation of different requirements into a single rulemaking action could theoretically mask an individual requirement that is neither integral to the purpose of the rule nor justified on its own merits. In the case of rules that provide voluntary alternatives to current requirements, the net benefit from relaxation of one requirement could potentially support an unrelated increase in another requirement that is not cost-justified. In the case of rules that are subject to a backfit analysis, the net benefit from one requirement could potentially support an unrelated requirement that is not cost-justified.[3]

In a Commission paper dated September 14, 2000, SECY–00–0198, Status Report on Study of Risk-Informed Changes to the Technical Requirements of 10 CFR Part 50 (Option 3) and Recommendations on Risk-Informed Changes to 10 CFR 50.44 (Combustible Gas Control), the NRC staff discussed development of a voluntary risk-informed alternative rule. The staff recommended against allowing selective implementation of parts of the voluntary alternative and against application of the backfit rule. In a staff requirements memorandum (SRM) dated January 19, 2001, the Commission agreed that selective implementation of individual elements of a risk-informed alternative should not be permitted. The Commission also agreed that since implementation of the risk-informed alternative version of 10 CFR 50.44 is voluntary, a backfit analysis of that version is not required. Furthermore, the Commission stated that

> * * * a disciplined, meaningful, and scrutable process needs to be in place to justify any new requirements that are added as a result of the development of risk-informed alternative versions of regulations. Just as any burden reduction must be demonstrated to be of little or no safety significance, any new requirement should be justifiable on some cost-benefit basis. The Commission challenges the staff to establish such a criterion in a manner that adds fairness and equity without adding significant complexity. The staff should develop a proposed resolution for this issue and provide it to the Commission for approval.

In a Commission paper dated July 23, 2001, SECY–01–0134, Final Rule Amending the Fitness-for-duty Rule, the staff recommended withdrawing the OMB clearance request for a final rule and developing a new notice of proposed rulemaking. In an SRM, dated October 3, 2001, the Commission approved that recommendation. Furthermore, the Commission provided specific instructions on the backfit analysis as follows.

[1] In the case of a rule that is subject to a backfit analysis, it is the intent of the NRC's regulatory analysis guidelines that the regulatory analysis satisfy the documentation requirements of the backfit rule, 10 CFR 50.109. Provided this intent is met the regulatory analysis may serve as the backfit analysis. Thus, for the purpose of simplicity, the single term regulatory analysis is used in this discussion to mean a regulatory analysis and/or a backfit analysis.

[2] Additional guidelines may be found in other sources such as: 10 CFR 50.109, 70.76, 72.62, and 76.76 which control generic or plant-specific backfitting at nuclear power plants, special nuclear materials facilities, independent spent fuel storage facilities, and gaseous diffusion plants, respectively; the Charter of the Committee to Review Generic Requirements, which controls some generic actions; and Management Directive 8.4, which controls plant-specific backfitting at nuclear power plants.

[3] This discussion does not apply to backfits that qualify under one of the exceptions in 10 CFR 50.109(a)(4) (i.e., backfits that are necessary for compliance or adequate protection). Those types of backfits require a documented evaluation rather than a backfit analysis, and cost is not a consideration in deciding whether or not they are justified.

In the new fitness-for-duty rulemaking, the Commission will conduct an aggregate backfit analysis of the entire rulemaking. If there is a reasonable indication that a proposed change imposes costs disproportionate to the safety benefit attributable to that change, as part of the final rule package the Commission will perform an analysis of that proposed change in addition to the aggregate analysis of the entire rulemaking to determine whether this proposed change should be aggregated with the other proposed change for the purposes of the backfit analysis. That analysis will need to show that the individual change is integral to achieving the purpose of the rule, has costs that are justified in view of the benefits that would be provided or qualifies for one of the exceptions in 10 CFR 50.109(a)(4).

In a Commission paper dated August 23, 2001, SECY–01–0162, Staff Plans for Proceeding with the Risk-informed Alternative to the Standards for Combustible Gas Control Systems in Light-water-cooled Power Reactors in 10 CFR 50.44 (WITS 20010003), the staff proposed to identify any revisions that would be needed to existing guidance to put into place a disciplined, meaningful, and scrutable process for assessing any new requirements that could be added by a risk-informed alternative rule. Consistent with past practice and public expectations, the staff indicated that it planned to seek stakeholder input before reporting its recommendations to the Commission. In an SRM dated December 31, 2001, the Commission directed the staff to

> * * * provide the Commission with recommendations for revising existing guidance in order to implement a disciplined, meaningful, and scrutable methodology for evaluating the value-impact of any new requirements that could be added by a risk-informed alternative rule.

Two principal considerations have guided the NRC staff in developing preliminary proposed guidance:

(1) If an individual requirement is integral to achieving the purpose of a proposed rule, the requirement should be integrated into an aggregate regulatory analysis of the overall rulemaking. That would be the case if the individual requirement is:

(a) Necessary to achieve the stated objectives of the rule;

(b) Needed, in combination with other elements of the rule, to establish a coherent regulatory approach, such as the key principles discussed in Regulatory Guide 1.174;

(c) Not separable from other elements of the rule; or

(d) Needed to ensure that the rule does not significantly increase risk. As an example of this category, if a rule provides a relaxation in one requirement for the purpose of reducing unnecessary burden, a compensating increase in another requirement might be needed to support a finding that risk is not significantly increased.

(2) If an individual requirement is not integral to achieving the purpose of a proposed rule, it could theoretically be separated and required to stand on its own. However, that approach would be impractical because it would involve separate regulatory analyses for individual elements of a proposed rule. In the case of a proposed rule subject to a backfit analysis, it would also be unreasonably stringent if it were taken to mean that individual elements of a proposed rule, on their own, must each provide ''a substantial increase in the overall protection of the public health and safety or the common defense and security.''[4]

The NRC's periodic review and endorsement of new versions of the ASME Codes is a special case. Some aspects of those rulemakings are not addressed in regulatory analyses and thus not subject to the considerations discussed above. However, for those aspects that are addressed in regulatory analyses, the principal considerations discussed above would apply.

The NRC staff has now developed preliminary proposed guidance and wishes to obtain input from interested members of the public. This guidance could be added to Section 4 of the Regulatory Analysis Guidelines, which applies to regulatory and backfit analyses in general, including those for mandatory and voluntary rules. It would state the following:

> Normally, in considering a proposed rulemaking action, the NRC performs an aggregate regulatory analysis for the entire rule to determine whether or not it is justified. However, there is a concern that aggregation or bundling of different requirements in a single analysis could potentially mask the inclusion of an inappropriate individual requirement. In the case of a rule that provides a voluntary alternative to current requirements, the net benefit from relaxation of one requirement could potentially support an unrelated requirement that is not cost-justified. In the case of a rule that is subject to a backfit analysis, the net benefit from one requirement could potentially support an unrelated requirement that is not cost-justified.[5] To address this concern, in presenting a rulemaking alternative that constitutes an aggregation or bundling of requirements, the analyst should include an individual requirement only if it is integral to the purpose of the rule or justified on a cost-benefit basis.
>
> In this context, an individual requirement is considered integral to the purpose of the rule if it is:
>
> (1) Necessary to achieve the stated objectives of the rule;
>
> (2) Needed, in combination with other elements of the rule, to establish a coherent regulatory approach, such as the key principles discussed in Regulatory Guide 1.174;[6]
>
> (3) Not separable from other elements of the rule; or
>
> (4) Needed to ensure that the rule does not significantly increase risk. As an example of this category, if a rule provides a relaxation in one requirement for the purpose of reducing unnecessary burden, a compensating increase in another requirement might be needed to support a finding that risk is not significantly increased.
>
> If an individual requirement is not integral to the purpose of the rule, it must be cost-justified. This means that the individual requirement must add more to the rulemaking action in terms of benefit than it does in terms of cost. It does not mean that the individual requirement, by itself, must provide a substantial increase in the overall protection of the public health and safety or the common defense and security.
>
> As a practical matter, a rulemaking action is generally divided into discrete elements for the purpose of estimating costs and benefits in a regulatory analysis. Thus, it should be apparent to the analyst whether or not there are individual elements that must be excluded because they are neither integral to the purpose of the rule nor cost-justified. The analyst may rely on his or her judgment to make this determination. It is not necessary to provide additional documentation or analysis to explain how the determination was made.
>
> When a draft regulatory analysis is published for comment along with a proposed rule, the NRC may receive a comment to the effect that an individual requirement is neither integral to the purpose of the rule nor cost justified. If the comment provides a reasonable indication that this is the case, the NRC's response in the final rule should either agree with the comment or explain how, notwithstanding the comment, the individual requirement is determined to be integral to the purpose of the rule or cost-

[4] 10 CFR 50.109(a)(3).

[5] This discussion does not apply to backfits that qualify under one of the exceptions in 10 CFR 50.109(a)(4) (i.e., backfits that are necessary for compliance or adequate protection). Those types of backfits require a documented evaluation rather than a backfit analysis, and cost is not a consideration in deciding whether or not they are justified.

[6] Regulatory Guide 1.174, An Approach for Using Probabilistic Risk Assessment In Risk-Informed Decisions On Plant-Specific Changes to the Licensing Basis, July 1998, includes five key principles, four of which would be appropriate to consider in connection with a risk-informed voluntary alternative rule:

(1) The proposed change is consistent with the defense-in-depth philosophy;

(2) The proposed change maintains sufficient safety margins;

(3) If there is an increase in core damage frequency or risk, it should be small and consistent with the intent of the NRC's safety goal policy statement, published in the **Federal Register** on August 4, 1986 (51 FR 30028); and

(4) The impact of the proposed change should be monitored using performance measurement strategies.

justified. To provide a reasonable indication, the comment must:

(1) Identify the specific regulatory provision that is of concern;

(2) Explain why the provision is not integral to the purpose of the rule, with supporting information as necessary; and

(3) Demonstrate, with supporting information, that the regulatory provision is not cost-justified.

Comments that do not provide a reasonable indication need not be addressed in detail.[7]

A special case involves the NRC's periodic review and endorsement of new versions of the ASME Codes. Some aspects of those rulemakings are not addressed in regulatory analyses. However, for those matters that are addressed in regulatory analyses, the same principles as discussed above should be applied. Further details are provided below.

The NRC's longstanding policy has been to incorporate new versions of the ASME Codes into its regulations. Furthermore, the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) directs Federal agencies to adopt technological standards developed by voluntary consensus standard organizations. The law allows an agency to take exception to specific portions of the standard if those provisions are deemed to be inconsistent with applicable law or otherwise impractical.

ASME Codes are updated on an annual basis to reflect improvements in technology and operating experience. The NRC reviews the updated ASME Codes and conducts rulemaking to incorporate the latest versions by reference into 10 CFR 50.55a, subject to any modifications, limitations, or supplementations (i.e., exceptions) that are deemed necessary.[8] It is generally not necessary to address new provisions of the updated ASME Codes in the regulatory analyses for these rulemakings. However:

(1) When the NRC endorses a new provision of the ASME Code that takes a substantially different direction from the currently existing requirement, the action should be addressed in the regulatory analysis. An example was the NRC's endorsement of new Subsections IWE and IWL, which imposed containment inspection requirements on operating reactors for the first time. Since those requirements involved a substantially different direction, they were considered in the regulatory analysis, treated as backfits, and justified in accordance with the standards of 10 CFR 50.109.

(2) If the NRC takes exception to a new Code provision and imposes a requirement that is a substantial change from the currently existing requirement, the action should be addressed in the regulatory analysis.

(3) When the NRC requires implementation of a new Code provision on an expedited basis, the action should be addressed in the regulatory analysis. This applies when implementation is required sooner than it would be required if the NRC simply endorsed the Code without any expediting language.

When the NRC takes exception to a new Code provision, but merely maintains the currently existing requirement, it is not necessary to address the action in the regulatory analysis (or to justify maintenance of the status quo on a cost-benefit basis). However, the NRC explains any exceptions to the ASME Code in the Statement of Considerations for the rule.

The NUREG reports, Commission papers, SRMs, and Regulatory Guide discussed above are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. They are also accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html* under the following ADAMS accession numbers:

Regulatory Guide 1.174: ML003740133.

Regulatory Analysis Guidelines, NUREG/BR–0058, Rev. 3: ML003738939.

Regulations Handbook, NUREG/BR–0053, Rev. 5: ML011010183.

Commission paper, SECY–00–0198: ML003747699.

SRM regarding SECY–00–0198: ML010190405.

Commission paper, SECY–01–0134: ML011970363.

SRM regarding SECY–01–0134: ML012760353.

Commission paper, SECY–01–0162: ML012120024.

SRM regarding SECY–01–0162: ML013650390.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference Staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.* Single copies of the documents may be obtained from the contacts listed above under the heading **FOR FURTHER INFORMATION CONTACT.**

Agenda for Public Meeting

9 a.m.–9:30 a.m., Introductory Remarks. 9:30 a.m.–10:30 a.m., Discussion of Preliminary Proposed Guidance by the NRC Staff.

10:30 a.m.–12:30 p.m., Public Comments and Statements.

12:30 p.m.–12:45 p.m., Concluding Remarks.

Dated at Rockville, Maryland, this 6th day of February, 2002.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Program Director, Policy and Rulemaking Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3503 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–P

[7] NUREG/BR–0053, Revision 5, March 2001, *United States Nuclear Regulatory Commission Regulations Handbook,* Section 7.9, provides further discussion of comments that should be treated in detail.

[8] NRC regulations require licensees to periodically update their inservice inspection and inservice testing programs to the latest ASME Code incorporated by reference in 10 CFR 50.55a(b).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter I

[Docket No. RM01–12–000]

Electricity Market Design and Structure; Notice of Availability of Strawman Discussion Paper

February 1, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Availability of strawman discussion paper.

SUMMARY: On January 24, 2002, the Federal Energy Regulatory Commission issued a Notice of Technical Conference to discuss issues relating to the Commission's consideration of standard market design for wholesale electric power markets. The Commission is making available a strawman discussion paper for discussion by the market power mitigation panel at the technical conference and is inviting comments on this paper. This paper is being placed in the record of this rulemaking docket.

DATES: Comments are invited at anytime.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Connie Caldwell, Office of General Counsel, (202) 208–2027.

SUPPLEMENTARY INFORMATION: On January 24, 2002, the Commission issued a Notice of Technical Conference. This notice was published in the **Federal Register** on January 31, 2002 (67 FR 4713).

Take notice that Chairman Pat Wood, III has distributed a strawman discussion paper for discussion by the market power mitigation panel at the technical conference scheduled for February 5–7, 2002. The purpose of the paper is to stimulate public discussion that can guide market monitoring efforts and the design of market power mitigation measures. The paper does not necessarily reflect the views of the Commissioners or the Commission staff.

The discussion paper is being placed in the record of this rulemaking docket and this notice will be placed in the record of the dockets listed on the attachment to this notice. The discussion paper will also be available on the Commission's website at http://www.ferc.fed.us/Electric/RTO/mrkt-strct-comments/rm01-12-comments.htm. Comments on this paper are invited, and may be combined with any future comments filed in this rulemaking docket. It would be helpful, but not required, to set apart comments on this paper under a separate heading or in a separate section if they are included in a single document with comments that address other aspects of the rulemaking.

Magalie R. Salas,
Secretary.

Attachment

[Docket No. RT01–2–001]

PJM Interconnection, L.L.C.
Allegheny Electric Cooperative, Inc.
Atlantic City Electric Company
Baltimore Gas & Electric Company
Delmarva Power & Light Company
Jersey Central Power & Light Company
Metropolitan Edison Company
PECO Energy Company
Pennsylvania Electric Company
PPL Electric Utilities Corporation
Potomac Electric Power Company
Public Service Electric & Gas Company
UGI Utilities Inc.

[Docket No. RT01–10–000]

Allegheny Power

[Docket No. RT01–15–000]

Avista Corporation
Montana Power Company
Nevada Power Company
Portland General Electric Company
Puget Sound Energy, Inc.
Sierra Pacific Power Company

[Docket No. RT01–34–000]

Southwest Power Pool, Inc.

[Docket No. RT01–35–000]

Avista Corporation
Bonneville Power Administration
Idaho Power Company
Montana Power Company
Nevada Power Company
PacifiCorp
Portland General Electric Company
Puget Sound Energy, Inc.
Sierra Pacific Power Company

[Docket No. RT01–67–000]

GridFlorida LLC
Florida Power & Light Company
Florida Power Corporation
Tampa Electric Company

[Docket No. RT01–74–000]

Carolina Power & Light Company
Duke Energy Corporation
South Carolina Electric & Gas Company
GridSouth Transco, LLC

[Docket No. RT01–75–000]

Entergy Services, Inc.

[Docket No. RT01–77–000]

Southern Company Services, Inc.

[Docket No. RT01–85–000]

California Independent System Operator Corporation

[Docket No. RT01–86–000]

Bangor Hydro-Electric Company
Central Maine Power Company
National Grid USA
Northeast Utilities Service Company
The United Illuminating Company
Vermont Electric Power Company
ISO New England Inc.

[Docket No. RT01–87–000]

Midwest Independent System Operator

[Docket No. RT01–88–000]

Alliance Companies

[Docket No. RT01–94–000]

NSTAR Services Company

[Docket No. RT01–95–000]

New York Independent System Operator, Inc.
Central Hudson Gas & Electric Corporation
Consolidated Edison Company of New York, Inc.
Niagara Mohawk Power Corporation
New York State Electric & Gas Corporation
Orange & Rockland Utilities, Inc.
Rochester Gas & Electric Corporation

[Docket No. RT01–98–000]

PJM Interconnection, L.L.C.

[Docket No. RT01–99–000]

Regional Transmission Organizations

[Docket No. RT01–100–000]

Regional Transmission Organizations

[Docket Nos. RT02–1–000, EL02–9–000]

Arizona Public Service Company
El Paso Electric Company
Public Service Company of New Mexico
Tucson Electric Power Company
WestConnect RTO, LLC

[Docket Nos. ER96–2495–015, ER97–4143–003, ER97–1238–010, ER98–2075–009, ER98–542–005]

AEP Power Marketing, Inc.
AEP Service Corporation
CSW Power Marketing, Inc.
CSW Energy Services, Inc.
Central and South West Services, Inc.

[Docket No. ER91–569–009]

Entergy Services, Inc.

[Docket No. ER97–4166–008]

Southern Company Energy Marketing, L.P.

[FR Doc. 02–2975 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–96–017]

RIN 2115–AA84

Prevention of Collisions Between Commercial and Recreational Vessels in the South Passage of Lake Erie Western Basin

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: On December 26, 1996 the Coast Guard published an advance notice of proposed rulemaking (ANPRM) requesting public comment on proposed regulations for the prevention of collisions between commercial and recreational vessels in the South Passage of the Lake Erie Western Basin. The ANPRM sought public comment on proposed regulations in the South Passage of the Lake Erie Western Basin. There were no comments for this proposed regulation. The Coast Guard is withdrawing this advance notice of proposed rulemaking and closing this rulemaking project.

DATES: The December 26, 1996, advance notice of proposed rulemaking is withdrawn as of January 25, 2002.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–96–017] and are available for inspection or copying at the Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Michael Gardiner, Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District. The phone number is (216) 902–6047.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On December 26, 1996 we published an advance notice of proposed rulemaking (ANPRM) titled Prevention of Collisions Between Commercial and Recreational Vessels in the South Passage of Lake Erie Western Basin in the **Federal Register** (61 FR 67971). We received no comments on the ANPRM. No public hearing was requested, and none was held.

This rulemaking was primarily in response to a collision between a tug and barge and a small pleasure craft.

The tragic results of that collision were investigated by the Coast Guard and those responsible held accountable. In addition, there was a collision in 1992 and again in 1995 which resulted in minor damage and no serious injuries. However, since the 1995 collision, no other collisions have occurred, nor any incidents even known about, that support the need for regulating vessel traffic in this area.

As such, the Coast Guard is withdrawing this advance notice of proposed rulemaking and closing this rulemaking docket. If future action is needed, the Coast Guard will open a new rulemaking and issue a request for comments or a notice of proposed rulemaking.

Dated: January 11, 2002.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 02–3511 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–U

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens; 1626 Negotiated Rulemaking Working Group Meeting

AGENCY: Legal Services Corporation.

ACTION: Regulation negotiation working group meeting.

SUMMARY: LSC is conducting a Negotiated Rulemaking to consider revisions to its alien representation regulations at 45 CFR part 1626. This document announces the dates, times, and address of the next meeting of the working group, which is open to the public.

DATES: The Legal Services Corporation's 1626 Negotiated Rulemaking Working Group will meet on March 4–5, 2002. The meeting will begin at 9:00 a.m. on March 4, 2002. It is anticipated that the meeting will end by 3:30 p.m. on March 5, 2002.

ADDRESSES: The meeting will be held in the First Floor Conference Room at the offices of Marasco Newton Group, Inc., 2425 Wilson Blvd., Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First St., N.E., 11th Floor, Washington, DC 20001; (202) 336–8817 (phone); (202) 336–8952 (fax); *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: LSC is conducting a Negotiated Rulemaking to consider revisions to its alien representation regulations at 45 CFR part 1626. The working group will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Naima Washington at 202–336–8841; washingn@lsc.gov.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–3395 Filed 2–12–02; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 177, 178, and 180

[Docket No. RSPA–98–3684 (HM–220)]

RIN 2137–AA92

Hazardous Materials: Requirements for DOT Specification Cylinders; Withdrawal of Published Proposals and Termination of Rulemaking

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Proposed rulemaking; withdrawal of published proposals and termination of rulemaking.

SUMMARY: On October 30, 1998, RSPA published a notice of proposed rulemaking (NPRM) to amend certain requirements in the Hazardous Materials Regulations that apply to the maintenance, requalification, repair, and use of DOT specification cylinders. In addition, RSPA proposed to establish four new metric-marked cylinder specifications and to discontinue authorization for the manufacture of cylinders to certain current DOT specifications. For administrative purposes, RSPA is terminating action under this docket. Proposals in the NPRM related to establishing new metric-marked cylinder specifications and discontinuing current DOT specification cylinders are withdrawn. Proposals in the NPRM related to maintenance, requalification, repair, and use of DOT specification cylinders will be addressed in a final rule to be issued under a new docket number.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky, telephone number (202–366–8553) Office of Hazardous Materials Standards, or Cheryl Freeman, telephone number (202) 366–4545, Office of Hazardous Materials Technology, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On October 30, 1998, the Research and Special Programs Administration (RSPA, we) published a notice of proposed rulemaking (NPRM) under Docket HM–220 (63 FR 58460). In the NPRM, we proposed to amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to: (1) Establish four new DOT cylinder specifications that would replace 12 current cylinder specifications; (2) revise the requirements for maintenance, requalification, repair and use of all DOT specification cylinders; and (3) discontinue the manufacture of certain specification cylinders. We took this action because we have not updated many of the current cylinder specifications since their adoption in the regulations prior to the 1950s. The proposed changes were intended to enhance operational controls and transportation safety by incorporating into the HMR new manufacturing and testing technologies and clarifying existing regulatory requirements. In addition, the proposed changes addressed three National Transportation Safety Board (NTSB) recommendations for improving the safety of cylinders in transportation. Finally, the proposed changes eased the burden on the regulated industry by incorporating the provisions of more than 30 exemptions into the HMR.

More than 140 commenters submitted over 200 written comments in response to the NPRM, including representatives of cylinder manufacturers, cylinder parts and equipment manufacturers, requalifiers, refillers, gas producers, distributors, shippers, carriers, users, emergency responders, industry trade associations, federal and state governmental agencies, private consultants, and private citizens. In addition, we held a series of public meetings to provide technical information on the proposals and to obtain clarification of certain industry comments.

A listing of the more significant proposals appears in the NPRM on page 58461 of the 1998 **Federal Register** notice. Readers should refer to the NPRM for detailed background discussions.

II. Proposals To Be Withdrawn

Many commenters were supportive of RSPA's efforts to address the issues raised in the NPRM. However, most commenters opposed the proposals to establish four new metric-marked cylinder specifications, discontinue authorization for the manufacture of certain specification cylinders, and require the use of ultrasonic examination for cylinder requalification. For the reasons outlined below, these proposals are withdrawn.

A. Proposal to establish four new metric-marked cylinder specifications—Withdrawn

The 1998 HM–220 NPRM proposed to establish four new cylinder specifications. The NPRM identified the proposed new seamless cylinder specifications as DOT 3M, 3ALM, and 3FM and the welded cylinder specification as DOT 4M. The proposed specifications are more performance-oriented than the current DOT cylinder specifications, and incorporate technological innovations and practices. The NPRM proposed to identify the new specification cylinders with a unique specification marking that closely approximates the markings in draft standards developed by the International Standards Organization (ISO) and the European Committee for Standardization. The new specification marking proposal required cylinders to be marked in metric units, and with a test pressure in place of the currently-required service pressure. In addition, all cylinders manufactured or rebuilt to the new DOT metric-marked cylinder specifications were subject to independent inspection.

Most commenters opposed the proposed new cylinder specifications. In particular, commenters objected to adoption of specifications based on draft ISO documents. These commenters were concerned that the ISO drafts could be changed and that cylinders manufactured to the draft standards may not be accepted for transportation in the world market. Commenters requested that we delay consideration of the proposed metric-marked cylinder specifications until the ISO finalizes its work on the international cylinder standards, and the United Nations (UN) Committee of Experts on the Transport of Dangerous Goods incorporates the ISO standards into the UN Recommendations on the Transport of Dangerous Goods (UN Model Regulations).

Based on the merits of the comments received, we agree the proposed metric-marked cylinder standards and related proposals that were based on the draft ISO standard should not be adopted. We worked closely with the UN Committee of Experts as it developed an international cylinder standard based on the ISO requirements referenced above. The new international standard was adopted as part of the UN Model Regulations in December 2000. We will address issues related to the harmonization of the U.S. cylinder regulations with the UN Model Regulations in a future rulemaking.

B. Proposal to discontinue authorization for the manufacture of cylinders to certain current DOT specifications—Withdrawn

The 1998 HM–220 NPRM proposed a phased-out termination of the manufacture of cylinders made to DOT specifications 3A, 3AA, 3AX, 3AAX, 3AL, 3B, 3T, 3BN, 4B, 4BA, 4BW, 4B240ET, and 4E; and a transition period of five years from the effective date of the final rule for the continued construction of them. Under the NPRM, all existing cylinders made to these specifications were authorized for continued use, provided they conform to the requalification standards. Numerous commenters objected to the proposal to phase-out the manufacture of these cylinders. They stated that cylinders made to these specifications have a proven safety record, and that we provided no data to support discontinuing their manufacture. We agree and are withdrawing the proposal.

In conjunction with our withdrawal of the proposal to establish four new metric-marked cylinder specifications for seamless and welded cylinders, we also are withdrawing the proposal to prohibit new construction of certain DOT specification cylinders after five years. Thus, continued manufacture of cylinders made to DOT specifications 3A, 3AA, 3AX, 3AAX, 3AL, 3B, 3T, 3BN, 4B, 4BA, 4BW, 4B240ET, and 4E is authorized.

C. Proposal to require ultrasonic examination for the requalification of certain cylinders—Withdrawn

The 1998 HM–220 NPRM proposed to require metric-marked cylinders to be requalified using ultrasonic examination, and to permit ultrasonic examination as an alternative requalification method for current DOT specification cylinders. Several commenters supported the use of alternative requalification test methods, such as ultrasonic examination and acoustic emission. These commenters state that these methods may be more effective than a pressure test, especially for cylinders where contamination is an issue. One commenter noted that its use of ultrasonic examination has resulted in substantial cost savings. However, most commenters strongly objected to the proposal to requalify cylinders by ultrasonic examination. These commenters were concerned about the potentially high cost of new ultrasonic examination equipment and stated that ultrasonic examination is not as effective as a pressure test in detecting flaws in cylinders with flat bottoms or hemispherical ends. These commenters also suggested we develop more specific guidelines for cylinder requalifiers on the use of ultrasonic examination.

In consideration of the comments received, both pro and con, we are withdrawing the proposal to authorize the use of ultrasonic examination as an alternative requalification method under general provisions in the regulations. We will continue to allow the use of ultrasonic examination to requalify cylinders under the exemption program. We may re-examine this issue in a future rulemaking.

III. Separation of Published Proposals and Termination of Rulemaking

A number of the proposals in the 1998 NPRM issued under Docket HM–220 addressed maintenance, requalification, repair, and use of current DOT specification cylinders. Commenters generally supported these proposals. However, a substantial portion of the 1998 HM–220 NPRM relates to the proposed manufacture, requalification, and use of metric-marked cylinders. Therefore, we are separating the proposals applicable to current DOT specification cylinders, including proposals related to the three NTSB recommendations, from those applicable to metric-marked cylinders. We plan to issue a final rule to address the proposals applicable to current DOT specification cylinders under a new Docket, HM–220D, identified as Docket No. RSPA–O1–10373, RIN 2137–AD58. Further action under this Docket No. RSPA–98–3684, HM–220, RIN 2137–AA92, is hereby terminated.

Issued in Washington, DC on February 7, 2002, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 02–3461 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 175

[Docket No. RSPA–00–7762 (HM–206C)]

RIN 2137–AD29

Hazardous Materials: Availability of Information for Hazardous Materials Transported by Aircraft

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to amend the Hazardous Materials Regulations (HMR) to require an aircraft operator to: Place a telephone number on the notification of pilot-in-command that can be contacted during an in-flight emergency to obtain information about any hazardous materials aboard the aircraft; retain a copy of the notification of pilot-in-command at the aircraft operator's principal place of business for one year; retain and make readily accessible a copy of the notification of pilot-in-command, or the information contained in it, at the airport of departure until the flight leg is completed; and make readily accessible a copy of the notification of pilot-in-command, or the information contained in it, at the planned airport of arrival until the flight leg is completed. The intent of this proposal is to increase the level of safety associated with the transportation of hazardous materials aboard aircraft.

DATES: Comments must be received by April 26, 2002.

ADDRESSES: Address comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW, Washington, DC 20590–0001. Comments should identify the docket number, RSPA–00–7762 (HM–206C). You should submit two copies of your comments. If you wish to receive confirmation that your comments were received, you should include a self-addressed stamped postcard. You may also submit your comments by e-mail to *http://dms.dot.gov* or by telefax to (202)366–3753. The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address. You may view public dockets between the hours of 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. Internet users can access all comments received by the U.S. DOT Dockets Management System Web site at *http://dms.dot.gov*. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register Electronic Bulletin Board Service at (202) 512–1661.

FOR FURTHER INFORMATION CONTACT: John A. Gale, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001 telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180), an offeror of a hazardous material must provide the aircraft operator with a signed shipping paper containing the quantity and a basic shipping description of the material being offered for transportation (i.e., proper shipping name, hazard class, UN or NA identification number, and packing group); certain emergency response information; and a 24-hour emergency response telephone number. (49 CFR part 172, subparts C and G). Additional information may be required depending on the specific hazardous material being shipped. (49 CFR 172.203). A copy of this shipping paper must accompany the shipment it covers during transportation aboard the aircraft. (49 CFR 175.35).

In addition to the shipping paper accompanying each hazardous materials shipment, an aircraft operator must provide the pilot-in-command of the aircraft written information relative to the hazardous materials on board the plane. (49 CFR 175.33). For each hazardous materials shipment, this information must include:

(1) Proper shipping name, hazard class, and identification number;

(2) technical and chemical group name, if applicable;

(3) any additional shipping description requirements applicable to specific types or shipments of hazardous materials or to materials shipped under International Civil Aviation Organization (ICAO) requirements;

(4) total number of packages;

(5) net quantity or gross weight, as appropriate, for each package;

(6) the location of each package on the aircraft;

(7) for Class 7 (radioactive) materials, the number of packages, overpacks or freight containers, their transport index, and their location on the plane; and

(8) an indication, if applicable, a hazardous material is being transported under terms of an exemption.

This information must be readily available to the pilot-in-command during flight. In essence, the Notification of pilot-in-command (NOPC) provides the same information to emergency response personnel as a shipping paper for transportation by rail or public highway. In addition, emergency response information applicable to the specific hazardous materials being transported by aircraft must be available for use at all times the materials are present on the plane, and must be maintained on board in the same manner as the notification of pilot-in-command. (See subpart G of part 172 for requirements relating to emergency response information.) In an emergency situation, the flight crew may be able to transfer information on the hazardous materials aboard the aircraft to air traffic control, or emergency responders may be able to retrieve the information from the aircraft after it lands. However, during an in-flight emergency, the flight crew will most likely be attending to more pressing tasks, thus making retrieval of the information from the flight crew impractical. Also, in many emergencies the aircraft is damaged or destroyed, making retrieval of this information from the aircraft impossible. Therefore, we need to amend the HMR to assure the information on the hazardous materials carried aboard the aircraft is available to emergency responders through sources other than the flight crew.

This proposal has its origins in the Hazardous Materials Transportation Uniform Safety Act (HMTUSA). Section 25 of HMTUSA (Pub. L. 101–615, 104 Stat. 3273) required the Secretary to conduct a rulemaking to evaluate methods for establishing and operating a central reporting system and computerized telecommunication data center. HMTUSA mandated we contract with the National Academy of Sciences (NAS) to study the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunication data center. Areas of the study included: (1) Receiving, storing, and retrieving data concerning all daily shipments of hazardous materials; (2) identifying hazardous materials being transported by any mode of transportation; and (3) providing information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

In conjunction with the NAS study, RSPA issued an ANPRM entitled ''Improvements to Hazardous Materials Identification Systems'' on June 9, 1992 (Docket HM–206; 57 FR 24532). The ANPRM included 63 primary questions

on the feasibility of establishing a central reporting system, methods of improving the placarding system, and the feasibility of requiring each carrier to maintain a continually monitored emergency response telephone number.

NAS published its report on April 29, 1993. (A copy of the NAS report can be obtained from the Transportation Research Board at 2101 Constitution Avenue, NW, Washington, DC 20418.) The central recommendation of the report advises the Federal government not to attempt to implement a national central reporting system, as originally proposed for consideration. NAS found the existing hazardous materials communication system effective, in most instances; and, further, that the information available at hazardous materials transportation incident sites meets the critical information needs of emergency responders.

In the NPRM issued under Docket HM–206 on August 15, 1994 (59 FR 41848), we did not propose to establish a centralized reporting system and telecommunication data center. Instead, we concluded the national central reporting system described in detail in HMTUSA would be extremely complicated, burdensome, expensive to implement, and of questionable benefit. We believe this conclusion and the central recommendation of the NAS report are still valid.

The changes proposed in this notice are also responsive to a recommendation of the National Transportation Safety Board (NTSB) and are consistent with recent changes to the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). The NTSB recommends that RSPA:

> Require, within two years, that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide consolidated specific information about the identity (including proper shipping name), hazard class, quantity, number of packages, and location of all hazardous material on an airplane in a timely manner to emergency responders. (A–98–80).

This recommendation is contained in NTSB's August 12, 1998, letter to RSPA, which has been placed in the public docket. The recommendation follows NTSB's investigation of a September 5, 1996, accident involving a Federal Express Corporation (FedEx) flight from Memphis, Tennessee, to Boston, Massachusetts (a detailed description of the incident can be found in the ANPRM). NTSB found the on-board hazardous materials shipping papers and notification of pilot-in-command (NOPC) were not available to emergency responders. Further, NTSB discovered FedEx did not have the capability to generate, in a timely manner, a single list indicating the shipping name, hazard class, identification number, quantity, and location of hazardous materials on the airplane. To prepare such a list, according to the NTSB, FedEx would have had to compile information from individual shipping papers for each individual shipment of hazardous materials on board the aircraft. NTSB contrasted this with the railroads' practice of generating a computerized list of all the freight cars containing hazardous materials on a given train, with the shipping name, hazard class, identification number, quantity and type of packaging, and emergency response guidance for each hazardous material. NTSB stated such a list provides information to emergency responders in a timely fashion and in a useful format.

NTSB also stated shipping papers are less likely to be available or accessible after an aircraft accident than after a rail, highway, or water accident, because of the likelihood of fire or destruction of the airplane. Due to the danger of fire, a flight crew is also less likely to have time to retrieve shipping papers after an accident. NTSB concluded the HMR do not adequately address the need for air carriers to have quickly retrievable hazardous materials information in a format useful to emergency responders.

The ICAO Dangerous Goods Panel also considered additional steps that could be taken to improve the availability of information in the event of an aircraft incident. As a result, the Panel revised the ICAO Technical Instructions to: (1) Require the NOPC to be readily accessible at the airport of departure and arrival; and (2) allow an aircraft operator to provide a phone number where a copy of the NOPC could be obtained. In an emergency, the pilot would relay the phone number instead of the specific hazardous materials aboard the aircraft to an air traffic controller (see ICAO Technical Instructions 7;4.3). For informational purposes, we placed in the Docket an excerpt from the reports of the ICAO Dangerous Goods Panel reflecting discussions on this topic and relevant changes for inclusion in the 2001–2002 and 2003–2004 ICAO Technical Instructions.

On August 15, 2000, we issued an advance notice of proposed rulemaking (ANPRM) requesting comments and suggestions on ways to implement the NTSB recommendation and the need for this or other changes to the HMR. The purpose of this action is to make it easier for emergency responders to obtain shipment information for hazardous materials transported by aircraft. The ANPRM solicited comments on past incidents; practices and procedures currently in use and their costs; information needed by emergency responders; and the benefit, feasibility, and funding of a centralized reporting system (CRS).

II. Comments to the ANPRM

We received nine comments in response to the ANPRM. Commenters included a shipper, a freight forwarder, software developers, and trade associations. Commenters who support development of a CRS believe improved response capabilities to aircraft hazardous materials incidents are important to the entire aviation industry. One commenter suggests it would be best if a CRS were developed by an industry advisory committee. Another commenter supports the exploration of the concept of a CRS by an industry task force convened under the auspices of RSPA and the Federal Aviation Administration (FAA). One commenter believes a CRS would help protect crew-members, passengers, emergency response personnel, and persons on the ground. Another commenter states a CRS is the key to rapid and effective information distribution and would provide emergency response personnel and flight crews with valuable information in timely fashion on the types, quantities, and locations of hazardous materials aboard an aircraft. This commenter suggests we charge shippers for the costs associated with the development and operation of the CRS.

A commenter opposed to the development of a CRS believes the new system will not provide an improvement over the existing, proven emergency response communication system and the complicated operation of a centralized system could make errors likely and result in a substantial decrease in safety. This commenter believes the current requirements in the HMR work well and have achieved an excellent safety record. The commenter suggests improvements are possible, but wholesale changes are not necessary. Another commenter notes RSPA and NAS rejected the proposal for a CRS several years ago because it was impractical and unnecessary. The commenter believes the earlier finding of RSPA and NAS continues to be valid, even though the technology advanced. This commenter states that a government-mandated CRS will force-fit a ''one size fits all'' solution and stifle further technological advances. Another

commenter states that a centralized system is not beneficial or feasible because of the differences in various airlines' information systems and the need to adapt to constantly improving technology. The commenter believes that the additional risk posed during an emergency by properly prepared hazardous materials shipments may not be significant considering the standard fuel capacity of a Boeing 747–400 is approximately 204,340 liters (54,000 gallons), and approximately 54,920 liters (14,500 gallons) for an Airbus A300–200. The commenter also states that in the past, the transport of properly prepared hazardous materials has not proved problematic in air transportation.

Several commenters note that a system meeting the NTSB recommendation is not only feasible, but is currently available. One current software system has the ability to contact a carrier's data files, and return the identity of the vehicle's contents, if hazardous, within 90 seconds by the process of entering a unique vehicle identifier. However, the developer of this software says it does not know how much it would cost to modify air carrier computer programs to provide accessible, on-scene information. Another computer system described by commenters facilitates the preparation of hazardous material shipments in accordance with applicable domestic and international regulations. The developer of this software claims that all of the information per flight is stored perpetually in a database and an entire NOPC for a given flight can be retrieved and sent via e-mail in seconds. Neither software developer provided specific cost information.

In response to the question of how quickly should emergency responders have access to information, several of the commenters suggested a time frame within 5 to 10 minutes. One commenter believes it is absolutely critical for emergency response personnel to be able to access the information immediately. This commenter adds that transmission of this information immediately, as opposed to even within 15 minutes, can mean the difference between life and death.

One commenter suggests that the method of how the information is made available to emergency response personnel should be left optional, as long as it satisfies the NTSB recommendation to quickly provide the information. Another commenter states that RSPA should not dictate the method of delivery, but allow the airlines and the emergency response personnel to use the methods which best fit their needs at the time of the incident. Other commenters believe that the information should be available by phone, fax, and computer, because not all media are available at every airport in the world.

Regarding the question of how emergency response personnel currently obtain information about cargo aboard an aircraft, several commenters mention in response that, information is transmitted by the aircraft captain in advance of the aircraft landing or from the availability of the NOPC from the flight crew after landing. One commenter explains that many operators maintain copies of the NOPC at departure stations, which are also accessible for information.

Several commenters who address the issue of a visual stowage plan, believe such a plan would be beneficial for both crew and emergency response personnel, and a map showing the location and a description of the different hazardous materials on-board the aircraft would be particularly helpful. Another commenter counters by pointing out that there are many variables involved with a visual stowage plan—for example, the same type of aircraft may be configured differently and have different compartment and position numbers. The commenter suggests the feasibility of combining both a visual diagram with a CRS seems very remote.

We received several comments on what, if any, exceptions from a requirement for a CRS should be provided. Most of the commenters state no exceptions should be granted. One commenter suggests if we were to grant exceptions, RSPA would need to establish strict criteria for making exception decisions. Another commenter states RSPA must recognize that an aircraft contains a wide range of hazardous materials as part of its necessary equipment, and exceptions should be considered for these classes of materials.

III. Proposed Changes to the HMR

NTSB recommends we ''require, within two years, that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide consolidated specific information about the identity (including proper shipping name), hazard class, quantity, number of packages, and location of all hazardous material on an airplane in a timely manner to emergency responders.'' Though not explicitly stated, NTSB believes there is a need to develop some type of computer tracking system, similar to that used by the railroad industry. Such a system could be accessed directly by both the airline industry and emergency responders. We agree the requirements in the HMR related to the accessibility of a NOPC by emergency response personnel in the event of an emergency can be improved. However, we do not agree it is necessary to require airlines to develop computer tracking systems suitable for this purpose. Nothing submitted by NTSB or the commenters contradicts the previous NAS finding that a computer tracking system would be extremely complicated, burdensome, expensive to implement, and of questionable benefit. Therefore, we are not proposing airlines develop computer tracking systems. However, we are proposing changes to the HMR to improve the accessibility of the NOPC to emergency responders.

Emergencies involving hazardous materials transported by aircraft provide difficulties to emergency responders not usually encountered in other modes of transportation. First, the flight crew may not have time or otherwise be able to provide information during or immediately after the emergency. Second, an aircraft involved in an accident may be damaged to such an extent the information cannot be retrieved from it. In such instances, emergency responders may not know what, if any, hazardous materials are aboard the aircraft. These difficulties cause us to shift our focus away from retrieving hazardous materials information aboard the aircraft or from air crew members.

We believe these problems support a requirement for information to be accessible from a source other than the aircraft flight crew. The information we currently require on the NOPC is also available on the ground, although there is no requirement for the information to be accessible. Therefore, we are proposing to amend the HMR to require an aircraft operator to: (1) Place a telephone number on the NOPC that can be contacted during an in-flight emergency to obtain information about any hazardous materials aboard the aircraft; (2) retain a copy of the NOPC at the aircraft operator's principal place of business for one year; (3) retain and make readily accessible a copy of the NOPC, or the information contained in it, at the airport of departure until the flight leg is completed; and (4) make readily accessible a copy of the NOPC, or the information contained in it, at the planned airport of arrival until the flight leg is completed. The phone number would be used in those incidents where a pilot does not have time to provide an air traffic controller the information on the NOPC, but can provide a phone

number of where the information can be obtained. We are also revising the HMR to clarify the NOPC must identify all hazardous materials carried on the plane, even those loaded at earlier departure points. These changes to the HMR will provide emergency responders with timely and consolidated information about the identity (including proper shipping name, hazard class, quantity, and number of packages), and location of all hazardous material on an airplane.

The revisions proposed in this NPRM are consistent with the changes recently adopted into the ICAO Technical Instructions, with two exceptions. Our proposal would require an aircraft operator to provide a phone number for where a copy of the NOPC can be obtained, and to retain a copy of the NOPC at the airport of departure. The ICAO Technical Instructions do not contain these requirements.

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

If adopted, this proposed rule would not be considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to formal review by the Office of Management and Budget (OMB). This proposed rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Due to minimal economic impact of this proposed rule, preparation of a regulatory impact analysis or regulatory evaluation is not warranted. Although we are requiring aircraft operators to retain a copy of the NOPC for one year and retain a copy of the NOPC at the airport of departure, we believe most air carriers, especially the major air carriers, already maintain readily accessible information. Therefore, the costs associated with this proposed rule are minimal. We may revise this determination based on comments we receive.

B. Executive Order 13132

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This proposed rule would preempt State, local, and Indian tribe requirements, but does not propose any regulation with substantial direct effects on: the States; the relationship between the national government and the States; or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) preempting State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subject item (3) above and would preempt State, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. Federal hazardous materials transportation law provides at section 5125(b)(2) that, if RSPA issues a regulation concerning any of the covered subjects, RSPA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA proposes the effective date of Federal preemption be 90 days from publication of a final rule in this matter in the **Federal Register**.

C. Executive Order 13175

We analyzed this proposal in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act. However, if an agency determines a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides the head of the agency may so certify, and an RFA is not required.

The Small Business Administration criterion specifies an air carrier is ''small'' if it has 1,500 or fewer employees. For this proposed rule, small entities are part 121 and part 135 air carriers with 1,500 or fewer employees approved to carry hazardous materials. We identified 729 air carriers meeting this standard.

As mentioned in the Paperwork Reduction Act section of this preamble, it is estimated the cost to the airline industry of this proposal will be $450,000 per year. This estimate comes from an examination of the data in the U.S. Department of Transportation's Air Carrier Traffic Statistic Monthly. From that data we also were able to estimate that small business airlines undertake no more than 25% of all aircraft departures, and thus 25% of the total cost. The average small business is expected to incur a cost of no more than $150 per year. Therefore, I certify this proposed rule would not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not, if adopted, result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

F. Paperwork Reduction Act

This proposed rule may result in a modest increase in annual burden and

costs based on a current information collection requirement. The proposal regarding the maintaining of copies of the notification of pilot-in-command results in a modification of an existing information collection requirement. We submitted the modification to OMB for review and approval.

Section 1320.8(d), Title 5, Code of Federal Regulations requires us to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a new information collection request we submitted to OMB for approval based on the requirements in this proposed rule. We developed burden estimates to reflect changes in this proposed rule. We estimate the total information collection and recordkeeping burden proposed in this rule would be as follows:

OMB No. 2137–0034.

Total Annual Number of Respondents: 1,000.

Total Annual Responses: 4,250,000.

Total Annual Burden Hours: 23,611.

Total Annual Burden Cost: $425,000.

We specifically request comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule.

Requests for a copy of the information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

Written comments should be addressed to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. We should receive comments prior to the close of the comment period identified in the **DATES** section of this rulemaking. Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. If these proposed requirements are adopted in a final rule, RSPA will submit the information collection and recordkeeping requirements to the OMB for approval.

G. Environmental Assessment

This proposed rule will improve emergency response to hazardous materials incidents involving aircraft by ensuring information on the hazardous materials involved in an emergency is readily available. By improving emergency response to aircraft incidents, this proposed rule should help lessen environmental damage associated with such incidents. We find there are no significant environmental impacts associated with this proposed rule.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned 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. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I would be amended as follows:

PART 175—CARRIAGE BY AIRCRAFT

1. The authority citation for part 175 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 175.33, paragraph (a)(1) introductory text would be revised, paragraphs (a)(7) and (a)(8) would be redesignated as paragraphs (a)(8) and (a)(9), respectively, and new paragraphs (a)(7) and (c) would be added to read as follows:

§ 175.33 Notification of pilot-in-command.

(a) * * *

(1) The proper shipping name, hazard class, and identification number of the material, including any remaining aboard from prior stops, as specified in § 172.101 of this subchapter or the ICAO Technical Instructions. In the case of Class 1 materials, the compatibility group letter also must be shown. If a hazardous material is described by the proper shipping name, hazard class, and identification number appearing in:

* * * * *

(7) The telephone number of a person not aboard the aircraft from whom the information contained in the notification of pilot-in-command can be obtained. The aircraft operator must ensure the telephone number is monitored at all times the aircraft is in flight.

* * * * *

(c) The aircraft operator must retain, for one year from the date of the flight, a copy, or an electronic image thereof, of each notification of pilot-in-command and make it accessible at or through the operator's principal place of business. A copy of the notification of pilot-in-command, or the information contained in it, must be retained and be readily accessible at the airport of departure until the flight is completed and must be readily accessible at the planned airport of arrival until the flight is completed. The aircraft operator must make the notification of pilot-in-command immediately available, upon request, to any representative (including any emergency responder) of a Federal, State, or local government agency. Each notification of pilot-in-command must include the date of the flight.

Issued in Washington, DC on February 7, 2002, under the authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–3458 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 67, No. 30
Wednesday, February 13, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Criteria for the Treatment of Individual Requirements in a Regulatory Analysis; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing a public meeting to discuss criteria for the treatment of individual requirements in a regulatory analysis. The meeting is intended to obtain public input on preliminary proposed guidance that could be incorporated into the Commission's Regulatory Analysis Guidelines.

DATES: March 21, 2002.

ADDRESSES: The public meeting will be held in Room Number T–10A1 in the NRC's headquarters at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Dennis P. Allison, Office of Nuclear Reactor Regulation, Washington DC 20555–0001, telephone (301) 415–1178, e-mail *dpa@nrc.gov* or Clark W. Prichard, Office of Nuclear Materials Safety and Safeguards, Washington DC 20555–0001, telephone (301) 415–6203, e-mail *cwp@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of the meeting is to discuss criteria for the treatment of individual requirements in a regulatory analysis. The meeting is intended to obtain public input on preliminary proposed guidance that could be incorporated into the Commission's Regulatory Analysis Guidelines.

Participation

To facilitate orderly conduct of the meeting, members of the public who wish to speak should contact one of the cognizant NRC staff members listed above under the heading ''For Further Information Contact'' to register in advance of the meeting. Indicate as specifically as possible the topic(s) of your comment(s) and the length of time you wish to speak. Provide your name and a telephone number where you can be contacted, if necessary, before the meeting. Registration to speak will also be available at the meeting on a first come basis to the extent that time is available.

Background

Normally, in considering a proposed rulemaking action, the NRC performs an aggregate regulatory analysis for the entire rule to determine whether or not the action is justified.[1] The current guidelines in NUREG–BR–0058, Revision 3, July 2000, Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission, do not specifically state when an individual requirement, which is part of the rule, should be analyzed separately to determine whether or not it is justified.[2] Thus, aggregation of different requirements into a single rulemaking action could theoretically mask an individual requirement that is neither integral to the purpose of the rule nor justified on its own merits. In the case of rules that provide voluntary alternatives to current requirements, the net benefit from relaxation of one requirement could potentially support an unrelated increase in another requirement that is not cost-justified. In the case of rules that are subject to a backfit analysis, the net benefit from one requirement could potentially support an unrelated requirement that is not cost-justified.[3]

In a Commission paper dated September 14, 2000, SECY–00–0198, Status Report on Study of Risk-Informed Changes to the Technical Requirements of 10 CFR Part 50 (Option 3) and Recommendations on Risk-Informed Changes to 10 CFR 50.44 (Combustible Gas Control), the NRC staff discussed development of a voluntary risk-informed alternative rule. The staff recommended against allowing selective implementation of parts of the voluntary alternative and against application of the backfit rule. In a staff requirements memorandum (SRM) dated January 19, 2001, the Commission agreed that selective implementation of individual elements of a risk-informed alternative should not be permitted. The Commission also agreed that since implementation of the risk-informed alternative version of 10 CFR 50.44 is voluntary, a backfit analysis of that version is not required. Furthermore, the Commission stated that

> * * * a disciplined, meaningful, and scrutable process needs to be in place to justify any new requirements that are added as a result of the development of risk-informed alternative versions of regulations. Just as any burden reduction must be demonstrated to be of little or no safety significance, any new requirement should be justifiable on some cost-benefit basis. The Commission challenges the staff to establish such a criterion in a manner that adds fairness and equity without adding significant complexity. The staff should develop a proposed resolution for this issue and provide it to the Commission for approval.

In a Commission paper dated July 23, 2001, SECY–01–0134, Final Rule Amending the Fitness-for-duty Rule, the staff recommended withdrawing the OMB clearance request for a final rule and developing a new notice of proposed rulemaking. In an SRM, dated October 3, 2001, the Commission approved that recommendation. Furthermore, the Commission provided specific instructions on the backfit analysis as follows.

[1] In the case of a rule that is subject to a backfit analysis, it is the intent of the NRC's regulatory analysis guidelines that the regulatory analysis satisfy the documentation requirements of the backfit rule, 10 CFR 50.109. Provided this intent is met the regulatory analysis may serve as the backfit analysis. Thus, for the purpose of simplicity, the single term regulatory analysis is used in this discussion to mean a regulatory analysis and/or a backfit analysis.

[2] Additional guidelines may be found in other sources such as: 10 CFR 50.109, 70.76, 72.62, and 76.76 which control generic or plant-specific backfitting at nuclear power plants, special nuclear materials facilities, independent spent fuel storage facilities, and gaseous diffusion plants, respectively; the Charter of the Committee to Review Generic Requirements, which controls some generic actions; and Management Directive 8.4, which controls plant-specific backfitting at nuclear power plants.

[3] This discussion does not apply to backfits that qualify under one of the exceptions in 10 CFR 50.109(a)(4) (i.e., backfits that are necessary for compliance or adequate protection). Those types of backfits require a documented evaluation rather than a backfit analysis, and cost is not a consideration in deciding whether or not they are justified.

In the new fitness-for-duty rulemaking, the Commission will conduct an aggregate backfit analysis of the entire rulemaking. If there is a reasonable indication that a proposed change imposes costs disproportionate to the safety benefit attributable to that change, as part of the final rule package the Commission will perform an analysis of that proposed change in addition to the aggregate analysis of the entire rulemaking to determine whether this proposed change should be aggregated with the other proposed change for the purposes of the backfit analysis. That analysis will need to show that the individual change is integral to achieving the purpose of the rule, has costs that are justified in view of the benefits that would be provided or qualifies for one of the exceptions in 10 CFR 50.109(a)(4).

In a Commission paper dated August 23, 2001, SECY–01–0162, Staff Plans for Proceeding with the Risk-informed Alternative to the Standards for Combustible Gas Control Systems in Light-water-cooled Power Reactors in 10 CFR 50.44 (WITS 20010003), the staff proposed to identify any revisions that would be needed to existing guidance to put into place a disciplined, meaningful, and scrutable process for assessing any new requirements that could be added by a risk-informed alternative rule. Consistent with past practice and public expectations, the staff indicated that it planned to seek stakeholder input before reporting its recommendations to the Commission. In an SRM dated December 31, 2001, the Commission directed the staff to

> * * * provide the Commission with recommendations for revising existing guidance in order to implement a disciplined, meaningful, and scrutable methodology for evaluating the value-impact of any new requirements that could be added by a risk-informed alternative rule.

Two principal considerations have guided the NRC staff in developing preliminary proposed guidance:

(1) If an individual requirement is integral to achieving the purpose of a proposed rule, the requirement should be integrated into an aggregate regulatory analysis of the overall rulemaking. That would be the case if the individual requirement is:

(a) Necessary to achieve the stated objectives of the rule;

(b) Needed, in combination with other elements of the rule, to establish a coherent regulatory approach, such as the key principles discussed in Regulatory Guide 1.174;

(c) Not separable from other elements of the rule; or

(d) Needed to ensure that the rule does not significantly increase risk. As an example of this category, if a rule provides a relaxation in one requirement for the purpose of reducing unnecessary burden, a compensating increase in another requirement might be needed to support a finding that risk is not significantly increased.

(2) If an individual requirement is not integral to achieving the purpose of a proposed rule, it could theoretically be separated and required to stand on its own. However, that approach would be impractical because it would involve separate regulatory analyses for individual elements of a proposed rule. In the case of a proposed rule subject to a backfit analysis, it would also be unreasonably stringent if it were taken to mean that individual elements of a proposed rule, on their own, must each provide ''a substantial increase in the overall protection of the public health and safety or the common defense and security.''[4]

The NRC's periodic review and endorsement of new versions of the ASME Codes is a special case. Some aspects of those rulemakings are not addressed in regulatory analyses and thus not subject to the considerations discussed above. However, for those aspects that are addressed in regulatory analyses, the principal considerations discussed above would apply.

The NRC staff has now developed preliminary proposed guidance and wishes to obtain input from interested members of the public. This guidance could be added to Section 4 of the Regulatory Analysis Guidelines, which applies to regulatory and backfit analyses in general, including those for mandatory and voluntary rules. It would state the following:

> Normally, in considering a proposed rulemaking action, the NRC performs an aggregate regulatory analysis for the entire rule to determine whether or not it is justified. However, there is a concern that aggregation or bundling of different requirements in a single analysis could potentially mask the inclusion of an inappropriate individual requirement. In the case of a rule that provides a voluntary alternative to current requirements, the net benefit from relaxation of one requirement could potentially support an unrelated requirement that is not cost-justified. In the case of a rule that is subject to a backfit analysis, the net benefit from one requirement could potentially support an unrelated requirement that is not cost-justified.[5] To address this concern, in presenting a rulemaking alternative that constitutes an aggregation or bundling of requirements, the analyst should include an individual requirement only if it is integral to the purpose of the rule or justified on a cost-benefit basis.
>
> In this context, an individual requirement is considered integral to the purpose of the rule if it is:
>
> (1) Necessary to achieve the stated objectives of the rule;
>
> (2) Needed, in combination with other elements of the rule, to establish a coherent regulatory approach, such as the key principles discussed in Regulatory Guide 1.174;[6]
>
> (3) Not separable from other elements of the rule; or
>
> (4) Needed to ensure that the rule does not significantly increase risk. As an example of this category, if a rule provides a relaxation in one requirement for the purpose of reducing unnecessary burden, a compensating increase in another requirement might be needed to support a finding that risk is not significantly increased.
>
> If an individual requirement is not integral to the purpose of the rule, it must be cost-justified. This means that the individual requirement must add more to the rulemaking action in terms of benefit than it does in terms of cost. It does not mean that the individual requirement, by itself, must provide a substantial increase in the overall protection of the public health and safety or the common defense and security.
>
> As a practical matter, a rulemaking action is generally divided into discrete elements for the purpose of estimating costs and benefits in a regulatory analysis. Thus, it should be apparent to the analyst whether or not there are individual elements that must be excluded because they are neither integral to the purpose of the rule nor cost-justified. The analyst may rely on his or her judgment to make this determination. It is not necessary to provide additional documentation or analysis to explain how the determination was made.
>
> When a draft regulatory analysis is published for comment along with a proposed rule, the NRC may receive a comment to the effect that an individual requirement is neither integral to the purpose of the rule nor cost justified. If the comment provides a reasonable indication that this is the case, the NRC's response in the final rule should either agree with the comment or explain how, notwithstanding the comment, the individual requirement is determined to be integral to the purpose of the rule or cost-

[4] 10 CFR 50.109(a)(3).

[5] This discussion does not apply to backfits that qualify under one of the exceptions in 10 CFR 50.109(a)(4) (i.e., backfits that are necessary for compliance or adequate protection). Those types of backfits require a documented evaluation rather than a backfit analysis, and cost is not a consideration in deciding whether or not they are justified.

[6] Regulatory Guide 1.174, An Approach for Using Probabilistic Risk Assessment In Risk-Informed Decisions On Plant-Specific Changes to the Licensing Basis, July 1998, includes five key principles, four of which would be appropriate to consider in connection with a risk-informed voluntary alternative rule:

(1) The proposed change is consistent with the defense-in-depth philosophy;

(2) The proposed change maintains sufficient safety margins;

(3) If there is an increase in core damage frequency or risk, it should be small and consistent with the intent of the NRC's safety goal policy statement, published in the **Federal Register** on August 4, 1986 (51 FR 30028); and

(4) The impact of the proposed change should be monitored using performance measurement strategies.

justified. To provide a reasonable indication, the comment must:

(1) Identify the specific regulatory provision that is of concern;

(2) Explain why the provision is not integral to the purpose of the rule, with supporting information as necessary; and

(3) Demonstrate, with supporting information, that the regulatory provision is not cost-justified.

Comments that do not provide a reasonable indication need not be addressed in detail.[7]

A special case involves the NRC's periodic review and endorsement of new versions of the ASME Codes. Some aspects of those rulemakings are not addressed in regulatory analyses. However, for those matters that are addressed in regulatory analyses, the same principles as discussed above should be applied. Further details are provided below.

The NRC's longstanding policy has been to incorporate new versions of the ASME Codes into its regulations. Furthermore, the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) directs Federal agencies to adopt technological standards developed by voluntary consensus standard organizations. The law allows an agency to take exception to specific portions of the standard if those provisions are deemed to be inconsistent with applicable law or otherwise impractical.

ASME Codes are updated on an annual basis to reflect improvements in technology and operating experience. The NRC reviews the updated ASME Codes and conducts rulemaking to incorporate the latest versions by reference into 10 CFR 50.55a, subject to any modifications, limitations, or supplementations (i.e., exceptions) that are deemed necessary.[8] It is generally not necessary to address new provisions of the updated ASME Codes in the regulatory analyses for these rulemakings. However:

(1) When the NRC endorses a new provision of the ASME Code that takes a substantially different direction from the currently existing requirement, the action should be addressed in the regulatory analysis. An example was the NRC's endorsement of new Subsections IWE and IWL, which imposed containment inspection requirements on operating reactors for the first time. Since those requirements involved a substantially different direction, they were considered in the regulatory analysis, treated as backfits, and justified in accordance with the standards of 10 CFR 50.109.

(2) If the NRC takes exception to a new Code provision and imposes a requirement that is a substantial change from the currently existing requirement, the action should be addressed in the regulatory analysis.

(3) When the NRC requires implementation of a new Code provision on an expedited basis, the action should be addressed in the regulatory analysis. This applies when implementation is required sooner than it would be required if the NRC simply endorsed the Code without any expediting language.

When the NRC takes exception to a new Code provision, but merely maintains the currently existing requirement, it is not necessary to address the action in the regulatory analysis (or to justify maintenance of the status quo on a cost-benefit basis). However, the NRC explains any exceptions to the ASME Code in the Statement of Considerations for the rule.

The NUREG reports, Commission papers, SRMs, and Regulatory Guide discussed above are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. They are also accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html* under the following ADAMS accession numbers:

Regulatory Guide 1.174: ML003740133.

Regulatory Analysis Guidelines, NUREG/BR–0058, Rev. 3: ML003738939.

Regulations Handbook, NUREG/BR–0053, Rev. 5: ML011010183.

Commission paper, SECY–00–0198: ML003747699.

SRM regarding SECY–00–0198: ML010190405.

Commission paper, SECY–01–0134: ML011970363.

SRM regarding SECY–01–0134: ML012760353.

Commission paper, SECY–01–0162: ML012120024.

SRM regarding SECY–01–0162: ML013650390.

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference Staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.* Single copies of the documents may be obtained from the contacts listed above under the heading **FOR FURTHER INFORMATION CONTACT.**

Agenda for Public Meeting

9 a.m.–9:30 a.m., Introductory Remarks. 9:30 a.m.–10:30 a.m., Discussion of Preliminary Proposed Guidance by the NRC Staff.

10:30 a.m.–12:30 p.m., Public Comments and Statements.

12:30 p.m.–12:45 p.m., Concluding Remarks.

Dated at Rockville, Maryland, this 6th day of February, 2002.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Program Director, Policy and Rulemaking Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3503 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–P

[7] NUREG/BR–0053, Revision 5, March 2001, *United States Nuclear Regulatory Commission Regulations Handbook,* Section 7.9, provides further discussion of comments that should be treated in detail.

[8] NRC regulations require licensees to periodically update their inservice inspection and inservice testing programs to the latest ASME Code incorporated by reference in 10 CFR 50.55a(b).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter I

[Docket No. RM01–12–000]

Electricity Market Design and Structure; Notice of Availability of Strawman Discussion Paper

February 1, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Availability of strawman discussion paper.

SUMMARY: On January 24, 2002, the Federal Energy Regulatory Commission issued a Notice of Technical Conference to discuss issues relating to the Commission's consideration of standard market design for wholesale electric power markets. The Commission is making available a strawman discussion paper for discussion by the market power mitigation panel at the technical conference and is inviting comments on this paper. This paper is being placed in the record of this rulemaking docket.

DATES: Comments are invited at anytime.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Connie Caldwell, Office of General Counsel, (202) 208–2027.

SUPPLEMENTARY INFORMATION: On January 24, 2002, the Commission issued a Notice of Technical Conference. This notice was published in the **Federal Register** on January 31, 2002 (67 FR 4713).

Take notice that Chairman Pat Wood, III has distributed a strawman discussion paper for discussion by the market power mitigation panel at the technical conference scheduled for February 5–7, 2002. The purpose of the paper is to stimulate public discussion that can guide market monitoring efforts and the design of market power mitigation measures. The paper does not necessarily reflect the views of the Commissioners or the Commission staff.

The discussion paper is being placed in the record of this rulemaking docket and this notice will be placed in the record of the dockets listed on the attachment to this notice. The discussion paper will also be available on the Commission's website at http://www.ferc.fed.us/Electric/RTO/mrkt-strct-comments/rm01-12-comments.htm. Comments on this paper are invited, and may be combined with any future comments filed in this rulemaking docket. It would be helpful, but not required, to set apart comments on this paper under a separate heading or in a separate section if they are included in a single document with comments that address other aspects of the rulemaking.

Magalie R. Salas,
Secretary.

Attachment

[Docket No. RT01–2–001]

PJM Interconnection, L.L.C.
Allegheny Electric Cooperative, Inc.
Atlantic City Electric Company
Baltimore Gas & Electric Company
Delmarva Power & Light Company
Jersey Central Power & Light Company
Metropolitan Edison Company
PECO Energy Company
Pennsylvania Electric Company
PPL Electric Utilities Corporation
Potomac Electric Power Company
Public Service Electric & Gas Company
UGI Utilities Inc.

[Docket No. RT01–10–000]

Allegheny Power

[Docket No. RT01–15–000]

Avista Corporation
Montana Power Company
Nevada Power Company
Portland General Electric Company
Puget Sound Energy, Inc.
Sierra Pacific Power Company

[Docket No. RT01–34–000]

Southwest Power Pool, Inc.

[Docket No. RT01–35–000]

Avista Corporation
Bonneville Power Administration
Idaho Power Company
Montana Power Company
Nevada Power Company
PacifiCorp
Portland General Electric Company
Puget Sound Energy, Inc.
Sierra Pacific Power Company

[Docket No. RT01–67–000]

GridFlorida LLC
Florida Power & Light Company
Florida Power Corporation
Tampa Electric Company

[Docket No. RT01–74–000]

Carolina Power & Light Company
Duke Energy Corporation
South Carolina Electric & Gas Company
GridSouth Transco, LLC

[Docket No. RT01–75–000]

Entergy Services, Inc.

[Docket No. RT01–77–000]

Southern Company Services, Inc.

[Docket No. RT01–85–000]

California Independent System Operator Corporation

[Docket No. RT01–86–000]

Bangor Hydro-Electric Company
Central Maine Power Company
National Grid USA
Northeast Utilities Service Company
The United Illuminating Company
Vermont Electric Power Company
ISO New England Inc.

[Docket No. RT01–87–000]

Midwest Independent System Operator

[Docket No. RT01–88–000]

Alliance Companies

[Docket No. RT01–94–000]

NSTAR Services Company

[Docket No. RT01–95–000]

New York Independent System Operator, Inc.
Central Hudson Gas & Electric Corporation
Consolidated Edison Company of New York, Inc.
Niagara Mohawk Power Corporation
New York State Electric & Gas Corporation
Orange & Rockland Utilities, Inc.
Rochester Gas & Electric Corporation

[Docket No. RT01–98–000]

PJM Interconnection, L.L.C.

[Docket No. RT01–99–000]

Regional Transmission Organizations

[Docket No. RT01–100–000]

Regional Transmission Organizations

[Docket Nos. RT02–1–000, EL02–9–000]

Arizona Public Service Company
El Paso Electric Company
Public Service Company of New Mexico
Tucson Electric Power Company
WestConnect RTO, LLC

[Docket Nos. ER96–2495–015, ER97–4143–003, ER97–1238–010, ER98–2075–009, ER98–542–005]

AEP Power Marketing, Inc.
AEP Service Corporation
CSW Power Marketing, Inc.
CSW Energy Services, Inc.
Central and South West Services, Inc.

[Docket No. ER91–569–009]

Entergy Services, Inc.

[Docket No. ER97–4166–008]

Southern Company Energy Marketing, L.P.

[FR Doc. 02–2975 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–96–017]

RIN 2115–AA84

Prevention of Collisions Between Commercial and Recreational Vessels in the South Passage of Lake Erie Western Basin

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: On December 26, 1996 the Coast Guard published an advance notice of proposed rulemaking (ANPRM) requesting public comment on proposed regulations for the prevention of collisions between commercial and recreational vessels in the South Passage of the Lake Erie Western Basin. The ANPRM sought public comment on proposed regulations in the South Passage of the Lake Erie Western Basin. There were no comments for this proposed regulation. The Coast Guard is withdrawing this advance notice of proposed rulemaking and closing this rulemaking project.

DATES: The December 26, 1996, advance notice of proposed rulemaking is withdrawn as of January 25, 2002.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–96–017] and are available for inspection or copying at the Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Michael Gardiner, Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District. The phone number is (216) 902–6047.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On December 26, 1996 we published an advance notice of proposed rulemaking (ANPRM) titled Prevention of Collisions Between Commercial and Recreational Vessels in the South Passage of Lake Erie Western Basin in the **Federal Register** (61 FR 67971). We received no comments on the ANPRM. No public hearing was requested, and none was held.

This rulemaking was primarily in response to a collision between a tug and barge and a small pleasure craft.

The tragic results of that collision were investigated by the Coast Guard and those responsible held accountable. In addition, there was a collision in 1992 and again in 1995 which resulted in minor damage and no serious injuries. However, since the 1995 collision, no other collisions have occurred, nor any incidents even known about, that support the need for regulating vessel traffic in this area.

As such, the Coast Guard is withdrawing this advance notice of proposed rulemaking and closing this rulemaking docket. If future action is needed, the Coast Guard will open a new rulemaking and issue a request for comments or a notice of proposed rulemaking.

Dated: January 11, 2002.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 02–3511 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–15–U

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens; 1626 Negotiated Rulemaking Working Group Meeting

AGENCY: Legal Services Corporation.

ACTION: Regulation negotiation working group meeting.

SUMMARY: LSC is conducting a Negotiated Rulemaking to consider revisions to its alien representation regulations at 45 CFR part 1626. This document announces the dates, times, and address of the next meeting of the working group, which is open to the public.

DATES: The Legal Services Corporation's 1626 Negotiated Rulemaking Working Group will meet on March 4–5, 2002. The meeting will begin at 9:00 a.m. on March 4, 2002. It is anticipated that the meeting will end by 3:30 p.m. on March 5, 2002.

ADDRESSES: The meeting will be held in the First Floor Conference Room at the offices of Marasco Newton Group, Inc., 2425 Wilson Blvd., Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First St., N.E., 11th Floor, Washington, DC 20001; (202) 336–8817 (phone); (202) 336–8952 (fax); *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: LSC is conducting a Negotiated Rulemaking to consider revisions to its alien representation regulations at 45 CFR part 1626. The working group will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Naima Washington at 202–336–8841; washingn@lsc.gov.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–3395 Filed 2–12–02; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 177, 178, and 180

[Docket No. RSPA–98–3684 (HM–220)]

RIN 2137–AA92

Hazardous Materials: Requirements for DOT Specification Cylinders; Withdrawal of Published Proposals and Termination of Rulemaking

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Proposed rulemaking; withdrawal of published proposals and termination of rulemaking.

SUMMARY: On October 30, 1998, RSPA published a notice of proposed rulemaking (NPRM) to amend certain requirements in the Hazardous Materials Regulations that apply to the maintenance, requalification, repair, and use of DOT specification cylinders. In addition, RSPA proposed to establish four new metric-marked cylinder specifications and to discontinue authorization for the manufacture of cylinders to certain current DOT specifications. For administrative purposes, RSPA is terminating action under this docket. Proposals in the NPRM related to establishing new metric-marked cylinder specifications and discontinuing current DOT specification cylinders are withdrawn. Proposals in the NPRM related to maintenance, requalification, repair, and use of DOT specification cylinders will be addressed in a final rule to be issued under a new docket number.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky, telephone number (202–366–8553) Office of Hazardous Materials Standards, or Cheryl Freeman, telephone number (202) 366–4545, Office of Hazardous Materials Technology, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On October 30, 1998, the Research and Special Programs Administration (RSPA, we) published a notice of proposed rulemaking (NPRM) under Docket HM–220 (63 FR 58460). In the NPRM, we proposed to amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to: (1) Establish four new DOT cylinder specifications that would replace 12 current cylinder specifications; (2) revise the requirements for maintenance, requalification, repair and use of all DOT specification cylinders; and (3) discontinue the manufacture of certain specification cylinders. We took this action because we have not updated many of the current cylinder specifications since their adoption in the regulations prior to the 1950s. The proposed changes were intended to enhance operational controls and transportation safety by incorporating into the HMR new manufacturing and testing technologies and clarifying existing regulatory requirements. In addition, the proposed changes addressed three National Transportation Safety Board (NTSB) recommendations for improving the safety of cylinders in transportation. Finally, the proposed changes eased the burden on the regulated industry by incorporating the provisions of more than 30 exemptions into the HMR.

More than 140 commenters submitted over 200 written comments in response to the NPRM, including representatives of cylinder manufacturers, cylinder parts and equipment manufacturers, requalifiers, refillers, gas producers, distributors, shippers, carriers, users, emergency responders, industry trade associations, federal and state governmental agencies, private consultants, and private citizens. In addition, we held a series of public meetings to provide technical information on the proposals and to obtain clarification of certain industry comments.

A listing of the more significant proposals appears in the NPRM on page 58461 of the 1998 **Federal Register** notice. Readers should refer to the NPRM for detailed background discussions.

II. Proposals To Be Withdrawn

Many commenters were supportive of RSPA's efforts to address the issues raised in the NPRM. However, most commenters opposed the proposals to establish four new metric-marked cylinder specifications, discontinue authorization for the manufacture of certain specification cylinders, and require the use of ultrasonic examination for cylinder requalification. For the reasons outlined below, these proposals are withdrawn.

A. Proposal to establish four new metric-marked cylinder specifications—Withdrawn

The 1998 HM–220 NPRM proposed to establish four new cylinder specifications. The NPRM identified the proposed new seamless cylinder specifications as DOT 3M, 3ALM, and 3FM and the welded cylinder specification as DOT 4M. The proposed specifications are more performance-oriented than the current DOT cylinder specifications, and incorporate technological innovations and practices. The NPRM proposed to identify the new specification cylinders with a unique specification marking that closely approximates the markings in draft standards developed by the International Standards Organization (ISO) and the European Committee for Standardization. The new specification marking proposal required cylinders to be marked in metric units, and with a test pressure in place of the currently-required service pressure. In addition, all cylinders manufactured or rebuilt to the new DOT metric-marked cylinder specifications were subject to independent inspection.

Most commenters opposed the proposed new cylinder specifications. In particular, commenters objected to adoption of specifications based on draft ISO documents. These commenters were concerned that the ISO drafts could be changed and that cylinders manufactured to the draft standards may not be accepted for transportation in the world market. Commenters requested that we delay consideration of the proposed metric-marked cylinder specifications until the ISO finalizes its work on the international cylinder standards, and the United Nations (UN) Committee of Experts on the Transport of Dangerous Goods incorporates the ISO standards into the UN Recommendations on the Transport of Dangerous Goods (UN Model Regulations).

Based on the merits of the comments received, we agree the proposed metric-marked cylinder standards and related proposals that were based on the draft ISO standard should not be adopted. We worked closely with the UN Committee of Experts as it developed an international cylinder standard based on the ISO requirements referenced above. The new international standard was adopted as part of the UN Model Regulations in December 2000. We will address issues related to the harmonization of the U.S. cylinder regulations with the UN Model Regulations in a future rulemaking.

B. Proposal to discontinue authorization for the manufacture of cylinders to certain current DOT specifications—Withdrawn

The 1998 HM–220 NPRM proposed a phased-out termination of the manufacture of cylinders made to DOT specifications 3A, 3AA, 3AX, 3AAX, 3AL, 3B, 3T, 3BN, 4B, 4BA, 4BW, 4B240ET, and 4E; and a transition period of five years from the effective date of the final rule for the continued construction of them. Under the NPRM, all existing cylinders made to these specifications were authorized for continued use, provided they conform to the requalification standards. Numerous commenters objected to the proposal to phase-out the manufacture of these cylinders. They stated that cylinders made to these specifications have a proven safety record, and that we provided no data to support discontinuing their manufacture. We agree and are withdrawing the proposal.

In conjunction with our withdrawal of the proposal to establish four new metric-marked cylinder specifications for seamless and welded cylinders, we also are withdrawing the proposal to prohibit new construction of certain DOT specification cylinders after five years. Thus, continued manufacture of cylinders made to DOT specifications 3A, 3AA, 3AX, 3AAX, 3AL, 3B, 3T, 3BN, 4B, 4BA, 4BW, 4B240ET, and 4E is authorized.

C. Proposal to require ultrasonic examination for the requalification of certain cylinders—Withdrawn

The 1998 HM–220 NPRM proposed to require metric-marked cylinders to be requalified using ultrasonic examination, and to permit ultrasonic examination as an alternative requalification method for current DOT specification cylinders. Several commenters supported the use of alternative requalification test methods, such as ultrasonic examination and acoustic emission. These commenters state that these methods may be more effective than a pressure test, especially for cylinders where contamination is an issue. One commenter noted that its use of ultrasonic examination has resulted in substantial cost savings. However, most commenters strongly objected to the proposal to requalify cylinders by ultrasonic examination. These commenters were concerned about the potentially high cost of new ultrasonic examination equipment and stated that ultrasonic examination is not as effective as a pressure test in detecting flaws in cylinders with flat bottoms or hemispherical ends. These commenters also suggested we develop more specific guidelines for cylinder requalifiers on the use of ultrasonic examination.

In consideration of the comments received, both pro and con, we are withdrawing the proposal to authorize the use of ultrasonic examination as an alternative requalification method under general provisions in the regulations. We will continue to allow the use of ultrasonic examination to requalify cylinders under the exemption program. We may re-examine this issue in a future rulemaking.

III. Separation of Published Proposals and Termination of Rulemaking

A number of the proposals in the 1998 NPRM issued under Docket HM–220 addressed maintenance, requalification, repair, and use of current DOT specification cylinders. Commenters generally supported these proposals. However, a substantial portion of the 1998 HM–220 NPRM relates to the proposed manufacture, requalification, and use of metric-marked cylinders. Therefore, we are separating the proposals applicable to current DOT specification cylinders, including proposals related to the three NTSB recommendations, from those applicable to metric-marked cylinders. We plan to issue a final rule to address the proposals applicable to current DOT specification cylinders under a new Docket, HM–220D, identified as Docket No. RSPA–O1–10373, RIN 2137–AD58. Further action under this Docket No. RSPA–98–3684, HM–220, RIN 2137–AA92, is hereby terminated.

Issued in Washington, DC on February 7, 2002, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 02–3461 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 175

[Docket No. RSPA–00–7762 (HM–206C)]

RIN 2137–AD29

Hazardous Materials: Availability of Information for Hazardous Materials Transported by Aircraft

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to amend the Hazardous Materials Regulations (HMR) to require an aircraft operator to: Place a telephone number on the notification of pilot-in-command that can be contacted during an in-flight emergency to obtain information about any hazardous materials aboard the aircraft; retain a copy of the notification of pilot-in-command at the aircraft operator's principal place of business for one year; retain and make readily accessible a copy of the notification of pilot-in-command, or the information contained in it, at the airport of departure until the flight leg is completed; and make readily accessible a copy of the notification of pilot-in-command, or the information contained in it, at the planned airport of arrival until the flight leg is completed. The intent of this proposal is to increase the level of safety associated with the transportation of hazardous materials aboard aircraft.

DATES: Comments must be received by April 26, 2002.

ADDRESSES: Address comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW, Washington, DC 20590–0001. Comments should identify the docket number, RSPA–00–7762 (HM–206C). You should submit two copies of your comments. If you wish to receive confirmation that your comments were received, you should include a self-addressed stamped postcard. You may also submit your comments by e-mail to *http://dms.dot.gov* or by telefax to (202)366–3753. The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address. You may view public dockets between the hours of 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. Internet users can access all comments received by the U.S. DOT Dockets Management System Web site at *http://dms.dot.gov*. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Federal Register Electronic Bulletin Board Service at (202) 512–1661.

FOR FURTHER INFORMATION CONTACT: John A. Gale, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001 telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180), an offeror of a hazardous material must provide the aircraft operator with a signed shipping paper containing the quantity and a basic shipping description of the material being offered for transportation (i.e., proper shipping name, hazard class, UN or NA identification number, and packing group); certain emergency response information; and a 24-hour emergency response telephone number. (49 CFR part 172, subparts C and G). Additional information may be required depending on the specific hazardous material being shipped. (49 CFR 172.203). A copy of this shipping paper must accompany the shipment it covers during transportation aboard the aircraft. (49 CFR 175.35).

In addition to the shipping paper accompanying each hazardous materials shipment, an aircraft operator must provide the pilot-in-command of the aircraft written information relative to the hazardous materials on board the plane. (49 CFR 175.33). For each hazardous materials shipment, this information must include:

(1) Proper shipping name, hazard class, and identification number;

(2) technical and chemical group name, if applicable;

(3) any additional shipping description requirements applicable to specific types or shipments of hazardous materials or to materials shipped under International Civil Aviation Organization (ICAO) requirements;

(4) total number of packages;

(5) net quantity or gross weight, as appropriate, for each package;

(6) the location of each package on the aircraft;

(7) for Class 7 (radioactive) materials, the number of packages, overpacks or freight containers, their transport index, and their location on the plane; and

(8) an indication, if applicable, a hazardous material is being transported under terms of an exemption.

This information must be readily available to the pilot-in-command during flight. In essence, the Notification of pilot-in-command (NOPC) provides the same information to emergency response personnel as a shipping paper for transportation by rail or public highway. In addition, emergency response information applicable to the specific hazardous materials being transported by aircraft must be available for use at all times the materials are present on the plane, and must be maintained on board in the same manner as the notification of pilot-in-command. (See subpart G of part 172 for requirements relating to emergency response information.) In an emergency situation, the flight crew may be able to transfer information on the hazardous materials aboard the aircraft to air traffic control, or emergency responders may be able to retrieve the information from the aircraft after it lands. However, during an in-flight emergency, the flight crew will most likely be attending to more pressing tasks, thus making retrieval of the information from the flight crew impractical. Also, in many emergencies the aircraft is damaged or destroyed, making retrieval of this information from the aircraft impossible. Therefore, we need to amend the HMR to assure the information on the hazardous materials carried aboard the aircraft is available to emergency responders through sources other than the flight crew.

This proposal has its origins in the Hazardous Materials Transportation Uniform Safety Act (HMTUSA). Section 25 of HMTUSA (Pub. L. 101–615, 104 Stat. 3273) required the Secretary to conduct a rulemaking to evaluate methods for establishing and operating a central reporting system and computerized telecommunication data center. HMTUSA mandated we contract with the National Academy of Sciences (NAS) to study the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunication data center. Areas of the study included: (1) Receiving, storing, and retrieving data concerning all daily shipments of hazardous materials; (2) identifying hazardous materials being transported by any mode of transportation; and (3) providing information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

In conjunction with the NAS study, RSPA issued an ANPRM entitled ''Improvements to Hazardous Materials Identification Systems'' on June 9, 1992 (Docket HM–206; 57 FR 24532). The ANPRM included 63 primary questions

on the feasibility of establishing a central reporting system, methods of improving the placarding system, and the feasibility of requiring each carrier to maintain a continually monitored emergency response telephone number.

NAS published its report on April 29, 1993. (A copy of the NAS report can be obtained from the Transportation Research Board at 2101 Constitution Avenue, NW, Washington, DC 20418.) The central recommendation of the report advises the Federal government not to attempt to implement a national central reporting system, as originally proposed for consideration. NAS found the existing hazardous materials communication system effective, in most instances; and, further, that the information available at hazardous materials transportation incident sites meets the critical information needs of emergency responders.

In the NPRM issued under Docket HM–206 on August 15, 1994 (59 FR 41848), we did not propose to establish a centralized reporting system and telecommunication data center. Instead, we concluded the national central reporting system described in detail in HMTUSA would be extremely complicated, burdensome, expensive to implement, and of questionable benefit. We believe this conclusion and the central recommendation of the NAS report are still valid.

The changes proposed in this notice are also responsive to a recommendation of the National Transportation Safety Board (NTSB) and are consistent with recent changes to the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). The NTSB recommends that RSPA:

> Require, within two years, that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide consolidated specific information about the identity (including proper shipping name), hazard class, quantity, number of packages, and location of all hazardous material on an airplane in a timely manner to emergency responders. (A–98–80).

This recommendation is contained in NTSB's August 12, 1998, letter to RSPA, which has been placed in the public docket. The recommendation follows NTSB's investigation of a September 5, 1996, accident involving a Federal Express Corporation (FedEx) flight from Memphis, Tennessee, to Boston, Massachusetts (a detailed description of the incident can be found in the ANPRM). NTSB found the on-board hazardous materials shipping papers and notification of pilot-in-command (NOPC) were not available to emergency responders. Further, NTSB discovered FedEx did not have the capability to generate, in a timely manner, a single list indicating the shipping name, hazard class, identification number, quantity, and location of hazardous materials on the airplane. To prepare such a list, according to the NTSB, FedEx would have had to compile information from individual shipping papers for each individual shipment of hazardous materials on board the aircraft. NTSB contrasted this with the railroads' practice of generating a computerized list of all the freight cars containing hazardous materials on a given train, with the shipping name, hazard class, identification number, quantity and type of packaging, and emergency response guidance for each hazardous material. NTSB stated such a list provides information to emergency responders in a timely fashion and in a useful format.

NTSB also stated shipping papers are less likely to be available or accessible after an aircraft accident than after a rail, highway, or water accident, because of the likelihood of fire or destruction of the airplane. Due to the danger of fire, a flight crew is also less likely to have time to retrieve shipping papers after an accident. NTSB concluded the HMR do not adequately address the need for air carriers to have quickly retrievable hazardous materials information in a format useful to emergency responders.

The ICAO Dangerous Goods Panel also considered additional steps that could be taken to improve the availability of information in the event of an aircraft incident. As a result, the Panel revised the ICAO Technical Instructions to: (1) Require the NOPC to be readily accessible at the airport of departure and arrival; and (2) allow an aircraft operator to provide a phone number where a copy of the NOPC could be obtained. In an emergency, the pilot would relay the phone number instead of the specific hazardous materials aboard the aircraft to an air traffic controller (see ICAO Technical Instructions 7;4.3). For informational purposes, we placed in the Docket an excerpt from the reports of the ICAO Dangerous Goods Panel reflecting discussions on this topic and relevant changes for inclusion in the 2001–2002 and 2003–2004 ICAO Technical Instructions.

On August 15, 2000, we issued an advance notice of proposed rulemaking (ANPRM) requesting comments and suggestions on ways to implement the NTSB recommendation and the need for this or other changes to the HMR. The purpose of this action is to make it easier for emergency responders to obtain shipment information for hazardous materials transported by aircraft. The ANPRM solicited comments on past incidents; practices and procedures currently in use and their costs; information needed by emergency responders; and the benefit, feasibility, and funding of a centralized reporting system (CRS).

II. Comments to the ANPRM

We received nine comments in response to the ANPRM. Commenters included a shipper, a freight forwarder, software developers, and trade associations. Commenters who support development of a CRS believe improved response capabilities to aircraft hazardous materials incidents are important to the entire aviation industry. One commenter suggests it would be best if a CRS were developed by an industry advisory committee. Another commenter supports the exploration of the concept of a CRS by an industry task force convened under the auspices of RSPA and the Federal Aviation Administration (FAA). One commenter believes a CRS would help protect crew-members, passengers, emergency response personnel, and persons on the ground. Another commenter states a CRS is the key to rapid and effective information distribution and would provide emergency response personnel and flight crews with valuable information in timely fashion on the types, quantities, and locations of hazardous materials aboard an aircraft. This commenter suggests we charge shippers for the costs associated with the development and operation of the CRS.

A commenter opposed to the development of a CRS believes the new system will not provide an improvement over the existing, proven emergency response communication system and the complicated operation of a centralized system could make errors likely and result in a substantial decrease in safety. This commenter believes the current requirements in the HMR work well and have achieved an excellent safety record. The commenter suggests improvements are possible, but wholesale changes are not necessary. Another commenter notes RSPA and NAS rejected the proposal for a CRS several years ago because it was impractical and unnecessary. The commenter believes the earlier finding of RSPA and NAS continues to be valid, even though the technology advanced. This commenter states that a government-mandated CRS will force-fit a ''one size fits all'' solution and stifle further technological advances. Another

commenter states that a centralized system is not beneficial or feasible because of the differences in various airlines' information systems and the need to adapt to constantly improving technology. The commenter believes that the additional risk posed during an emergency by properly prepared hazardous materials shipments may not be significant considering the standard fuel capacity of a Boeing 747–400 is approximately 204,340 liters (54,000 gallons), and approximately 54,920 liters (14,500 gallons) for an Airbus A300–200. The commenter also states that in the past, the transport of properly prepared hazardous materials has not proved problematic in air transportation.

Several commenters note that a system meeting the NTSB recommendation is not only feasible, but is currently available. One current software system has the ability to contact a carrier's data files, and return the identity of the vehicle's contents, if hazardous, within 90 seconds by the process of entering a unique vehicle identifier. However, the developer of this software says it does not know how much it would cost to modify air carrier computer programs to provide accessible, on-scene information. Another computer system described by commenters facilitates the preparation of hazardous material shipments in accordance with applicable domestic and international regulations. The developer of this software claims that all of the information per flight is stored perpetually in a database and an entire NOPC for a given flight can be retrieved and sent via e-mail in seconds. Neither software developer provided specific cost information.

In response to the question of how quickly should emergency responders have access to information, several of the commenters suggested a time frame within 5 to 10 minutes. One commenter believes it is absolutely critical for emergency response personnel to be able to access the information immediately. This commenter adds that transmission of this information immediately, as opposed to even within 15 minutes, can mean the difference between life and death.

One commenter suggests that the method of how the information is made available to emergency response personnel should be left optional, as long as it satisfies the NTSB recommendation to quickly provide the information. Another commenter states that RSPA should not dictate the method of delivery, but allow the airlines and the emergency response personnel to use the methods which best fit their needs at the time of the incident. Other commenters believe that the information should be available by phone, fax, and computer, because not all media are available at every airport in the world.

Regarding the question of how emergency response personnel currently obtain information about cargo aboard an aircraft, several commenters mention in response that, information is transmitted by the aircraft captain in advance of the aircraft landing or from the availability of the NOPC from the flight crew after landing. One commenter explains that many operators maintain copies of the NOPC at departure stations, which are also accessible for information.

Several commenters who address the issue of a visual stowage plan, believe such a plan would be beneficial for both crew and emergency response personnel, and a map showing the location and a description of the different hazardous materials on-board the aircraft would be particularly helpful. Another commenter counters by pointing out that there are many variables involved with a visual stowage plan—for example, the same type of aircraft may be configured differently and have different compartment and position numbers. The commenter suggests the feasibility of combining both a visual diagram with a CRS seems very remote.

We received several comments on what, if any, exceptions from a requirement for a CRS should be provided. Most of the commenters state no exceptions should be granted. One commenter suggests if we were to grant exceptions, RSPA would need to establish strict criteria for making exception decisions. Another commenter states RSPA must recognize that an aircraft contains a wide range of hazardous materials as part of its necessary equipment, and exceptions should be considered for these classes of materials.

III. Proposed Changes to the HMR

NTSB recommends we ''require, within two years, that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide consolidated specific information about the identity (including proper shipping name), hazard class, quantity, number of packages, and location of all hazardous material on an airplane in a timely manner to emergency responders.'' Though not explicitly stated, NTSB believes there is a need to develop some type of computer tracking system, similar to that used by the railroad industry. Such a system could be accessed directly by both the airline industry and emergency responders. We agree the requirements in the HMR related to the accessibility of a NOPC by emergency response personnel in the event of an emergency can be improved. However, we do not agree it is necessary to require airlines to develop computer tracking systems suitable for this purpose. Nothing submitted by NTSB or the commenters contradicts the previous NAS finding that a computer tracking system would be extremely complicated, burdensome, expensive to implement, and of questionable benefit. Therefore, we are not proposing airlines develop computer tracking systems. However, we are proposing changes to the HMR to improve the accessibility of the NOPC to emergency responders.

Emergencies involving hazardous materials transported by aircraft provide difficulties to emergency responders not usually encountered in other modes of transportation. First, the flight crew may not have time or otherwise be able to provide information during or immediately after the emergency. Second, an aircraft involved in an accident may be damaged to such an extent the information cannot be retrieved from it. In such instances, emergency responders may not know what, if any, hazardous materials are aboard the aircraft. These difficulties cause us to shift our focus away from retrieving hazardous materials information aboard the aircraft or from air crew members.

We believe these problems support a requirement for information to be accessible from a source other than the aircraft flight crew. The information we currently require on the NOPC is also available on the ground, although there is no requirement for the information to be accessible. Therefore, we are proposing to amend the HMR to require an aircraft operator to: (1) Place a telephone number on the NOPC that can be contacted during an in-flight emergency to obtain information about any hazardous materials aboard the aircraft; (2) retain a copy of the NOPC at the aircraft operator's principal place of business for one year; (3) retain and make readily accessible a copy of the NOPC, or the information contained in it, at the airport of departure until the flight leg is completed; and (4) make readily accessible a copy of the NOPC, or the information contained in it, at the planned airport of arrival until the flight leg is completed. The phone number would be used in those incidents where a pilot does not have time to provide an air traffic controller the information on the NOPC, but can provide a phone

number of where the information can be obtained. We are also revising the HMR to clarify the NOPC must identify all hazardous materials carried on the plane, even those loaded at earlier departure points. These changes to the HMR will provide emergency responders with timely and consolidated information about the identity (including proper shipping name, hazard class, quantity, and number of packages), and location of all hazardous material on an airplane.

The revisions proposed in this NPRM are consistent with the changes recently adopted into the ICAO Technical Instructions, with two exceptions. Our proposal would require an aircraft operator to provide a phone number for where a copy of the NOPC can be obtained, and to retain a copy of the NOPC at the airport of departure. The ICAO Technical Instructions do not contain these requirements.

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

If adopted, this proposed rule would not be considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to formal review by the Office of Management and Budget (OMB). This proposed rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Due to minimal economic impact of this proposed rule, preparation of a regulatory impact analysis or regulatory evaluation is not warranted. Although we are requiring aircraft operators to retain a copy of the NOPC for one year and retain a copy of the NOPC at the airport of departure, we believe most air carriers, especially the major air carriers, already maintain readily accessible information. Therefore, the costs associated with this proposed rule are minimal. We may revise this determination based on comments we receive.

B. Executive Order 13132

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This proposed rule would preempt State, local, and Indian tribe requirements, but does not propose any regulation with substantial direct effects on: the States; the relationship between the national government and the States; or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) preempting State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subject item (3) above and would preempt State, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. Federal hazardous materials transportation law provides at section 5125(b)(2) that, if RSPA issues a regulation concerning any of the covered subjects, RSPA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA proposes the effective date of Federal preemption be 90 days from publication of a final rule in this matter in the **Federal Register**.

C. Executive Order 13175

We analyzed this proposal in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act. However, if an agency determines a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides the head of the agency may so certify, and an RFA is not required.

The Small Business Administration criterion specifies an air carrier is ''small'' if it has 1,500 or fewer employees. For this proposed rule, small entities are part 121 and part 135 air carriers with 1,500 or fewer employees approved to carry hazardous materials. We identified 729 air carriers meeting this standard.

As mentioned in the Paperwork Reduction Act section of this preamble, it is estimated the cost to the airline industry of this proposal will be $450,000 per year. This estimate comes from an examination of the data in the U.S. Department of Transportation's Air Carrier Traffic Statistic Monthly. From that data we also were able to estimate that small business airlines undertake no more than 25% of all aircraft departures, and thus 25% of the total cost. The average small business is expected to incur a cost of no more than $150 per year. Therefore, I certify this proposed rule would not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not, if adopted, result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

F. Paperwork Reduction Act

This proposed rule may result in a modest increase in annual burden and

costs based on a current information collection requirement. The proposal regarding the maintaining of copies of the notification of pilot-in-command results in a modification of an existing information collection requirement. We submitted the modification to OMB for review and approval.

Section 1320.8(d), Title 5, Code of Federal Regulations requires us to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a new information collection request we submitted to OMB for approval based on the requirements in this proposed rule. We developed burden estimates to reflect changes in this proposed rule. We estimate the total information collection and recordkeeping burden proposed in this rule would be as follows:

OMB No. 2137–0034.

Total Annual Number of Respondents: 1,000.

Total Annual Responses: 4,250,000.

Total Annual Burden Hours: 23,611.

Total Annual Burden Cost: $425,000.

We specifically request comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule.

Requests for a copy of the information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

Written comments should be addressed to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. We should receive comments prior to the close of the comment period identified in the **DATES** section of this rulemaking. Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. If these proposed requirements are adopted in a final rule, RSPA will submit the information collection and recordkeeping requirements to the OMB for approval.

G. Environmental Assessment

This proposed rule will improve emergency response to hazardous materials incidents involving aircraft by ensuring information on the hazardous materials involved in an emergency is readily available. By improving emergency response to aircraft incidents, this proposed rule should help lessen environmental damage associated with such incidents. We find there are no significant environmental impacts associated with this proposed rule.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned 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. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I would be amended as follows:

PART 175—CARRIAGE BY AIRCRAFT

1. The authority citation for part 175 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 175.33, paragraph (a)(1) introductory text would be revised, paragraphs (a)(7) and (a)(8) would be redesignated as paragraphs (a)(8) and (a)(9), respectively, and new paragraphs (a)(7) and (c) would be added to read as follows:

§ 175.33 Notification of pilot-in-command.

(a) * * *

(1) The proper shipping name, hazard class, and identification number of the material, including any remaining aboard from prior stops, as specified in § 172.101 of this subchapter or the ICAO Technical Instructions. In the case of Class 1 materials, the compatibility group letter also must be shown. If a hazardous material is described by the proper shipping name, hazard class, and identification number appearing in:

* * * * *

(7) The telephone number of a person not aboard the aircraft from whom the information contained in the notification of pilot-in-command can be obtained. The aircraft operator must ensure the telephone number is monitored at all times the aircraft is in flight.

* * * * *

(c) The aircraft operator must retain, for one year from the date of the flight, a copy, or an electronic image thereof, of each notification of pilot-in-command and make it accessible at or through the operator's principal place of business. A copy of the notification of pilot-in-command, or the information contained in it, must be retained and be readily accessible at the airport of departure until the flight is completed and must be readily accessible at the planned airport of arrival until the flight is completed. The aircraft operator must make the notification of pilot-in-command immediately available, upon request, to any representative (including any emergency responder) of a Federal, State, or local government agency. Each notification of pilot-in-command must include the date of the flight.

Issued in Washington, DC on February 7, 2002, under the authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–3458 Filed 2–12–02; 8:45 am]

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Notices

Federal Register

Vol. 67, No. 30

Wednesday, February 13, 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

Commodity Credit Corporation

Farm Service Agency

Financial Assistance To Promote Water Conservation in the Yakima Basin

AGENCY: Commodity Credit Corporation, (CCC), Farm Service Agency, USDA.

ACTION: Notice of Intent to make monies available to promote water Conservation in the Yakima Basin.

SUMMARY: Section 2107 of the Supplemental Appropriations Act, 2001, Pub. L. 107–20, provided for financial assistance to eligible producers to promote water conservation in the Yakima Basin. This notice sets out the method by which the payment will be distributed on behalf of eligible producers to eligible owners and operators whose expected deliveries of irrigation water were prorated within the Yakima Basin during the past crop year and who agree to promote water conservation methods in future agricultural activities.

FOR FURTHER INFORMATION CONTACT: Ilka Gray, Agricultural Program Specialist, USDA/FSA/CEPD/STOP 0513, 1400 Independence Ave., SW., Washington, DC 20250–0513, (202) 690–0794, or e-mail at: *ilka_gray@wdc.usda.gov*

SUPPLEMENTARY INFORMATION: Section 2107 of the Supplemental Appropriations Act, 2001 (Pub. L. 107–20) provided $2 million to make available financial assistance to eligible producers to promote water conservation in the Yakima Basin (Basin). The Yakima River flows for more than 200 miles through south central Washington and, with its tributaries, drains about 6,150 square miles, or 4 million acres. Much of the water is diverted for irrigation in the Yakima Valley. From 50 to 100 percent of the water delivered to the lower basin from the Naches River and upper Yakima River is diverted for irrigation and hydropower generation during the irrigation season. Most of the Basin receives less than 10 inches of precipitation a year.

In the Basin counties of Benton, Kittitas, and Yakima, there are 12,883 farms and 38,461 agricultural producers. The economy of the Basin is tied to agricultural production with a annual crop value of $628,503,519. Cereal crops, irrigated pasture, and hay production are predominant in Kittitas County, while Yakima and Benton Counties produce fruits, such as grapes, vegetables, and other specialty crops such as hops and mint. The Yakama Reservation lies in the Wapato Irrigation District and occupies about 40 percent of Yakima County and about 15 percent of the Basin.

Due to drought conditions in the Basin, water was prorated in crop year 2001. In the Yakima Basin, water use is tied to water rights. The two primary types of water rights are ''prorateable'' and ''nonproratable'' water. Nonproratable water allows the producer a right to utilize water in all conditions, including drought, thus almost guaranteeing water delivery. Prorateable water allows water delivery to be reduced in situations where there are impediments to normal water delivery such as scarcity of water due to drought conditions.

To assist producers adversely affected by the drought and water prorations, Congress included in section 2107 of Pub. L. 107–20 $2 million to remain available until expended, from amounts available to the U.S. Department of Agriculture's Commodity Credit Corporation under 15 U.S.C. 713a–4, directing ''* * * the Secretary of Agriculture to make available financial assistance to eligible producers to promote water conservation in the Yakima Basin, Washington * * *.'' In addition, the statute specified that to the extent that regulations might be found to be needed, the issuance of regulations promulgated pursuant to this new authority would be made without regard to: (1) The notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Codes (commonly know as the ''Paperwork Reduction Act''). It was also specified that in carrying out this section the Secretary should use the authority provided under section 808 of title 5, United States Code, which exempts certain rules from having to undergo certain Congressional oversight procedures prior to the time that the rules are made effective. The statute limited the eligible area to the Basin but did not stipulate any particular breakout to be paid. The funding will supplement existing assistance already available in the region by promoting water conservation.

Eligibility

There are over 31 irrigation districts operating in the Basin according to data collected. There are 418,958 acres listed for the irrigation districts which are mainly classified as agriculture. According to the information obtained from the U.S. Department of Interior's Bureau of Reclamation (USDOI), approximately one-half of the irrigation districts suffered no or very minimal consequences from the water prorations in crop year 2001. Of those districts affected by the water prorations, only three, Roza, Kittitas, and Wapato, had significant impact that occurred from water prorations. Roza and Kittitas Irrigation Districts, with 100 percent prorateable water, received only 37 percent of normal water, during the crop year 2001, and the Wapato Irrigation District, with 53 percent of prorateable water, received 67 percent of normal water. There are 256,972 acres of agricultural land in Roza, Kittitas, and Wapato irrigation districts with 7,065 agricultural producers.

Based on the relative degree of water available which is an indicator of the suffering attributed to the drought, the program will be limited to the three irrigation districts which received the least amount of normal water and were the most severely impacted. These irrigation districts are Rosa, Kittitas, and Wapato. If payments were issued on all agricultural land in the Basin, payments are estimated to be less than $4.00 an acre. It is unclear how much, if any, water conservation could be achieved with the relatively low payment per acre rate. However, payments to affected producers in the three most severely

impacted districts will be higher making more water conversation achievable.

CCC will use data on Basin farming operations, along with data from water irrigation districts and USDOI to identify the universe of eligible producers. Anyone that has an interest in the eligible land may contact the Farm Service Agency (FSA) office to determine if they are eligibile for assistance.

Funds will be divided according to contract acres and according to payment shares indicated. Such shares must be agreed to by the owner and operator of the eligible land. Only undisputed requests for assistance will be paid. Producers will be provided with information on what kinds of conservation measures might be undertaken and other options that may be available to them. Such actions may include: (1) Moving to less water-intensive crops; (2) improving irrigation scheduling; and (3) developing on-farm irrigation improvements such as land leveling, canal maintenance, and sprinkler calibration. CCC can provide producers with assistance in determining the best water conservation practice(s) for their operation. All participating producers will agree to promote water conservation methods in future agricultural activities as a condition of payment. CCC will keep this agreement of file with the producer's other USDA records.

Further information about the program will be made available at the local FSA offices of the USDA. Program participation will be such subject to such additional terms and conditions as may be set out in the program application.

Signed at Washington, DC, on January 28, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–3501 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwestern Region, Arizona, Coconino, Yavapai, Navajo, Apache, Gila, Graham, Greenlee Maricopa, and Mohave Counties for the Apache-Sitgreaves, Coconino, Kaibab, Prescott, and Tonto National Forest; Amendment to National Forest Land and Resource Management Plans Regarding Cross-Country Travel by Wheeled Motorized Vehicles Commonly Known as Off Highway Vehicles (OHVs)

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent (RNOI) to prepare an environmental impact statement.

SUMMARY: On March 27, 2001 the Apache-Sitgreaves, Coconino, Kaibab, Prescott, and Tonto National Forests issued a Notice of Intent (NOI) in the **Federal Register** (pages 17136 to 17137) to prepare an environmental impact statement addressing cross-country travel by motorized wheeled vehicles and how to standardize road and trail signing conventions for OHVs. Extensive public meetings have been held in Arizona to facilitate the scoping process. Hundreds of written and electronic comments were submitted prior to the May 15, 2001 deadline. The national forests did not identify a proposed action alternative in that NOI. Information obtained at these public meetings has helped refine the issues associated with this project. Through public comment and inter-agency coordination the Forest Service has developed a proposed action alternative. Standardization of signing conventions has been dropped from the project because this is an administrative matter that will be resolved through coordination with governmental units. Public input concerning the signing policy will be sought by Arizona forest supervisors.

DATES: Comments in response to this Revised Notice of Intent concerning the scope of the analysis should be received in writing on or before March 15, 2002.

ADDRESSES: Send written comments to USDA Forest Service, Apache-Sitgreaves National Forest, PO Box 640, Springerville, Arizona 85938, ATTN: Land Management Planning.

RESPONSIBLE OFFICIALS: Forest Supervisors of the Apache-Sitgreaves, Coconino, Kaibab, Prescott and Tonto National forests will decide if it is necessary to more restrictively manage cross-country travel by OHVs. These Forest Supervisors are: John C. Bedell, Apache-Sitgreaves National Forest, Forest Supervisor's Office, PO Box 640, Springerville, AZ 85938, James W. Golden, Coconino National Forest, Forest Supervisor's Office, 2323 E Greenlaw Lane, Flagstaff, AZ 86004, Mike King, Prescott National Forest, Forest Supervisor's Office, 344 S. Cortez, Prescott Arizona, 86303, Karl Siderits, Tonto National Forest, Forest Supervisor's Office, 2324 E. McDowell Road, Phoenix, Arizona 85006, Mike Williams, Kaibab National Forest, Forest Supervisor's Office, 800 S. 6th Street, Williams, Arizona 86046.

FOR FURTHER INFORMATION CONTACT: Jim Anderson Land Management Planner, Apache-Sitgreaves National Forest (928) 333–6370.

SUPPLEMENTARY INFORMATION: The five national forests involved in this project currently have different management direction for cross-country use of OHVs. This diversity of approaches has led to confusion by the public as to where they may use OHVs. The growing numbers of OHVs used on national forests has impacted land and resources. Popularity of this use has created conflicts with other forest uses and prompted many individuals and groups to express concerns over this matter.

CURRENT OHV MANAGEMENT DIRECTION

National forest	Cross country travel policy	Special area cross country travel policy
Apache/Sitgreaves	Open except specific closed areas	Closed.
Coconino	Open except Sedona Special Travel Area	Closed.
Kaibab	Open except specific areas	Closed.
Prescott	Closed	OHV areas open.
Tonto	Desert Closed, Forested Ranger Districts open	OHV area open except in-desert areas.

Many types of OHVs are common in Arizona's National Forests. Pickup trucks, motorcycles, and all-terrain vehicles have all become more prevalent and now are beyond the scope considered for their use in forest plans. According to industry experts more than half of all vehicles sold in Arizona are sport utility vehicles (SUVs) or light trucks. Additionally, all-terrain vehicles have increased in sales between 1995 and 1998 an average of 29% per year. Improper use of such vehicles on national forests has been a concern of government agencies, organized

environmental and OHV groups and individuals. This concern has accelerated in a pattern similar to the expanded population of OHVs.

Cross-country travel is defined as travel off of or away from open roads or trails. Where cross country travel is permitted under land management plans, these roads and trails are often products of repeated cross country use and not trespass per se. Where cross-country travel is prohibited, trails and roads created by repeated use are not legal additions to a designated transportation system. Agency personnel and the public note new user created trails on many national forests and roads almost every week. National forests in Arizona are experiencing noticeable impacts from improper OHV use.

Communities adjacent to national forests and popular recreation destinations have become focal points for development of a large amount of unapproved roads and trails created by OHV users. These user created trails lack engineering and environmental elements of design. The EIS will contain substantial information on what constitutes an open road or trail.

Even greater concerns occur in environmentally sensitive areas. Specially designated wildlife protection areas are becoming crisscrossed with OHV tracks. Wilderness areas have frequently been impacted by OHV tracks, often immediately adjacent to closure signs. Riparian areas also attract a large number of people and provide key habitat elements to wildlife. OHV tracks and use areas have strongly impacted many of these ecological communities.

The EIS will deal with alternative strategies for cross-country OHV travel. While it was once envisioned that this process would standardize the convention for signing open roads and trails, that has been dropped from the project because that is an administrative matter that is not subject to the documentation in an EIS or other environmental document. Forest supervisors will seek public input on their administrative decision for road signs. This EIS and that administrative process will over lap in time frames and may use common meetings to facilitate public input to both projects.

Off highway vehicles allow many people to enjoy the national forests and contribute significantly to the economy of communities when used properly. OHVs have become very popular because of high quality recreational experiences they provide and the amount of national forest land they can access on them.

Preliminary issues include:

- Law enforcement efficiency.
- Ability to access resources by persons of diverse cultures and abilities.

An interdisciplinary team has been appointed by the Responsibilities Officials. They have examined documents of other agencies and Forest Service Regions to develop preliminary alternatives for analysis in an environmental impact statement. Comments on these preliminary alternatives during the initial scoping helped the team analyze reasonableness of the alternatives and the appropriateness of the range of alternatives. Our approach is to ensure a complete analysis of reasonable and feasible strategies to provide opportunities for OHV recreationists.

The preliminary alternatives include: ''No Action'' which would keep the existing forest plan direction on all five forests. The alternatives outlined in the table below have been developed to reflect the outcomes of multi-agency coordination and input from people and organizations during scoping contacts. The five Forest Supervisors have selected a proposed action alternative to facilitate public participation in the process.

PRELIMINARY ALTERNATIVE FEATURES—CROSS COUNTRY TRAVEL EIS FOR FIVE ARIZONA NATIONAL FORESTS

Title	Cross country travel strategy	Exceptions to cross country travel allowed
Alternative 1. No Action Alternatives.	Per Current Forest Plans, See table above.	Variable according to forest and ranger district.
Alternative 2. Restrictive Mgt	Closed on all forests	Search and rescue Emergency Military.
Alternative 3	Closed. Except areas dedicated to OHV in Forest Plans or other projects.	Administrative access. Permittees and lessees granted access necessary for terms of permit. Campsite access within 150 ft of road. Fuelwood permits would not allow off road access by motorized vehicles. Disabled access by local permit. Game retrieval by vehicle not allowed off road.
Alternative 4 (Proposed Action)	Closed. Except dedicated to OHV in forest plans or other projects.	Administrative access. Permittees and lessees granted access necessary for terms of permit. Campsite access within 300 ft of road. Fuel wood by local permit. Disabled access by local permit. Retrieval of big game other than turkey and javelina.
Alternative 5. Closed areas	Areas open where traffic and use would be sustainable.	Administrative access, Search and rescue, Law enforcement, Emergency military action.

Significant information has been obtained from ''Arizona Trails 2000, State Motorized and Non-motorized Trails Plan'' in determining preliminary issues and possible alternatives. Cooperation with Arizona State agencies who have OHV management roles has been and remains excellent.

It is anticipated that environmental analysis and preparation of the draft and final environmental impact statements will take about eight months. The Draft Environmental Impact Statement can be expected in the spring of 2002 and the Final EIS in the late summer. A 45-day comment period will be provided for the public to make comments on the Draft Environmental Impact Statement.

The intention of the EIS is to programmatically preserve options for local transportation planning including OHV consideration while reducing existing and potential impacts to resources. Subsequent to adoption of an alternative from this EIS, Forest officers will issue Forest Orders implementing the selected alternative. Site specific planning at the ranger district or national forest level will examine the need for additional facilities to provide for motorized recreation. This process is described in 36 CFR part 212.

The Forest Service believes at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council of Environmental Quality Regulations for implementing the procedural provisions of the National

Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Corp* v. *NRDC* 435 US 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel* 9th Circuit, 1986) and *Wisconsin Heritages, Inc* v. *Harris,* 490F. Supp.1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when they can meaningfully consider them in the final environmental impact statement.

Dated: January 31, 2002.

John C. Bedell,

Forest Supervisor.

[FR Doc. 02–3394 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake County Resource Advisory Committee (RAC) will hold its second meeting.

DATES: The meeting will be held on February 28, 2002, from 3 P.M. to 6 P.M.

ADDRESSES: The meeting will be held at the Lake County Board of Supervisor's Chambers at 255 North Forbes Street, Lakeport.

FOR FURTHER INFORMATION CONTACT: Debbie McIntosh, Committee Coordinator, USDA, Mendocino National Forest, Upper Lake Ranger District, 10025 Elk Mountain Road, Upper Lake, CA 95485, (707) 275–2361; EMAIL *dmcintosh@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review and approval of the minutes of the January meeting: (2) Title II and Title III dollars—County input; (3) Evaluation Criteria; (4) Project Proposals/Ideas; 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: February 4, 2002.

Blaine P. Baker,

Designated Federal Officer.

[FR Doc. 02–3487 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Federal Parts International, Inc.; Order

In the Matter of: Federal Parts International, Inc., 5455 Peachtree Industrial Blvd., Norcross, Georgia 30092, Respondent.

The Bureau of Export Administration, United States Department of Commerce (BXA), having initiated an administrative proceeding against Federal Parts International, Inc. (hereinafter referred to as Federal Parts) pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. secs. 2401–2420 (1994 & Supp. V. 1999) (The ''Act'') [1] and the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (20012) (the ''Regulations''),[2] based on allegations that, on two separate occasions, between on or about January 30, 1996 and on or about February 14, 1996, Federal Parts exported U.S.-origin auto parts from the United States to Iran in violation of § 787.6 of the former regulations; that, in connection with the January 30, 1996 shipment, Federal Parts violated the provisions of § 787.5(a) of the former regulations by making a false or misleading statement of material fact directly or indirectly to a United States government agency in connection with the preparation, submission, issuance or use or an export control document; that, on two separate occasions, on or about March 27, 1996 and on or about April 2, 1996, Federal Parts attempted to export from the United States to Iran U.S.-origin auto parts in violation of §§ 787.3(a) and 787.4(a) of the former regulations; and that on or about April 2, 1996, Federal Parts violated the provisions of § 785.5(a) of the former regulations by making false or misleading statements of material fact either directly to BXA or indirectly through any other person for the purpose of or in connection with the preparation, submission, issuance, use or maintenance or an export control document;

BXA and Federal Parts having entered into a Settlement Agreement pursuant to § 766.18(b) of the regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me:

It is therefore ordered:

First, that a civil penalty of $50,000 is assessed against Federal Parts. Federal Parts shall pay $10,000 of the civil penalty to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment of the remaining $40,000 shall be made in four equal, monthly installments of $10,000 beginning on the first day of the second month after the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (1983 and Supp. V 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Federal Parts will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, Federal Parts International, Inc., 5455 Peachtree Industrial Blvd., Norcross, Georgia 30092, (''the denied person'') and, when acting in behalf of it, all of its successors or assigns, officers, representatives, agents and employees, may not, for a period of 10 years from the date of this Order, participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as item) exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the regulations, including, but not limited to:

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. IV 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 FR 44025 (August 22, 2001)), has continued the regulations in effect under IEEPA.

[2] The alleged violations occurred in 1996. The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (15 CFR parts 768–799 (1996)). Those regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former regulations. Since that time, the Regulations have been reorganized and restructured; the restructured regulations establish the procedures that apply to this matter.

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the regulations.

Fourth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the Untied States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any other subject to the EAR that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Fifth, that after notice and opportunity for comment as provided in § 766.23 of the regulations, any person, firm, corporation, or business organization related to Federal Parts by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

Sixth, that this Order does not prohibit any export, reexport, or other transaction subject to the regulations where the only items involved that are subject to the regulations are the foreign-produced direct product of U.S.-origin technology.

Seventh, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202–4022, notifying that office that this case is withdrawn from adjudication, as provided by § 766.18(b) of the regulations.

Eighth, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 5th day of February, 2002.

Michael J. Garcia.

Assistant Secretary for Export Enforcement.

[FR Doc. 02–3453 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 7–2002]

Foreign-Trade Zone 153—San Diego, CA Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of San Diego, California, grantee of Foreign-Trade Zone 153, requesting authority to expand FTZ 153, San Diego, California, within the San Diego Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 30, 2002.

FTZ 153 was approved on October 14, 1988 (Board Order 394, 53 FR 41616, 10/24/88) and expanded on December 16, 1991 (Board Order 548, 56 FR 67057, 12/27/91). The zone project currently consists of seven sites within the City's Otay Mesa industrial area: *Site 1* (316 acres)—at Brown Field, Otay Mesa and Heritage Roads; *Site 2* (73 acres)—San Diego Business Park, Airway Road and State Route 125; *Site 3* (60 acres)—Gateway Park, Harvest and Customs House Plaza Roads; *Site 4* (71 acres)—Britannia Commerce Center, Siempre Viva Road and Britannia Boulevard; *Site 5* (312 acres)—De La Fuente Business Park, Airway and Media Roads; *Site 5A* (119 acres)—Siempre Viva Business Park, adjacent to Site 5 (De La Fuente Business Park), along La Media and Siempre Viva Roads; *Site 6* (160 acres)—Brown Field Business Park, Otay Mesa Road and Britannia Boulevard; *Site 6A* (65 acres)—Brown Field Technology Park, adjacent to Site 6 (Brown Field Business Park), across Otay Mesa Road from Brown Field; and, *Site 7* (389 acres)—Otay International Center, Harvest and Airway Roads.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site (Proposed Site 8) in the Otay Mesa area of San Diego. *Proposed Site 8* (86 acres)—Ocean View Hills Corporate Center, Otay Mesa Road and Innovative Drive, San Diego. The site is owned by four private companies. Metro International is the proposed operator of the site. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099—14th Street, NW, Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue NW, Washington, DC 20230.

The closing period for their receipt is April 15, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period April 29, 2002.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the City of San Diego, 600 B Street, 4th Floor-Suite 400, San Diego, California 92101.

Dated: February 1, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–3535 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 9–2002]

Proposed Foreign-Trade Zone—Roswell, New Mexico, Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Roswell, New Mexico, to establish a general-purpose foreign-trade zone in Roswell, New Mexico. The applicant has submitted an application to the U.S. Customs Service to have the Roswell Industrial Air Center designated as a Customs user fee airport. The FTZ application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 5, 2002. The applicant is authorized to make the proposal under Section 3–18–29, New Mexico Statutes Annotated, 1978.

The proposed zone (524 acres) would be located at the 4,600-acre Roswell Industrial Air Center (RIAC), six miles south of the City of Roswell, at the intersection of S. Main Street and Hobson Road. RIAC is a former military base (Walker Air Force Base) that has been converted to a commercial airport/industrial park complex. The facility is owned by the City, which will administer the zone project.

The application indicates a need for zone services in the southeastern New Mexico region. Several firms have indicated an interest in using zone procedures for such items as fiberglass products, tree ornaments, fasteners and aircraft parts. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on March 14, 2002, at 9 a.m., at the Roswell City Council Chambers (Top Floor), 425 North Richardson, Roswell, New Mexico 88201.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099—14th Street NW, Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue NW, Washington, DC 20230.

The closing period for their receipt is April 15, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 29, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the City of Roswell Mayor's Office (Main Floor), 425 North Richardson, Roswell, New Mexico 88201.

Dated: February 5, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–3542 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 8–2002]

Foreign-Trade Zone 181—Akron/Canton, OH; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Northeast Ohio Trade & Economic Consortium (NEOTEC), grantee of FTZ 181, requesting authority to expand its zone in the Akron/Canton, Ohio area, within and adjacent to the Cleveland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 30, 2002.

FTZ 181 was approved by the Board on December 23, 1991 (Board Order 546, 57 FR 41; 1/2/92). On March 13, 1998, the grant of authority was reissued to NEOTEC (Board Order 965, 63 FR 13837; 3/23/98). The zone was expanded in 1997 (Board Order 902, 62 FR 36044; 7/3/97), in 1998 (Board Order 968, 63 FR 16962; 4/7/98) and in 1999 (Board Order 1053, 64 FR 51291; 9/22/99). FTZ 181 currently consists of six sites (4,736 acres) in the Akron/Canton, Ohio, area:

Site 1 (152 acres)—within the 2,121-acre Akron-Canton Regional Airport (includes a temporary site (3 acres, expires 1/31/04) located at 8400 Port Jackson Avenue, Jackson Township;

Site 2 (1,236 acres)—within the Youngstown-Warren Regional Airport area, Trumbull County (includes four temporary sites (141 acres total, expire 1/31/04) located as follows: 40 acres within the airport industrial park; 50 acres within the Youngstown Commerce Park; 21 acres located at 3175–3375 Gilchrist Road, Mogadore, Ohio; and 30 acres within the Cuyahoga Falls Industrial Park, Cuyahoga Falls, Ohio;

Site 3 (124 acres, 2 parcels)—Columbiana County Port Authority port terminal facility (19 acres) on the Ohio River, 1250 St. George Street, East Liverpool, and the port authority's Leetonia Industrial Park (105 acres) State Route 344, Leetonia, Ohio;

Site 4 (840 acres)—Stark County Intermodal Facility, approximately one mile south of the City of Massillon, adjacent to State Route 21 in the southwestern corner of Stark County;

Site 5 (2,354 acres)—within the Mansfield Lahm Airport complex, located on State Route 13 at South Airport Road, Mansfield, some 50 miles west of Akron, including the airport facility's four industrial parks, airport fueling facilities, the 91-acre Gorman-Rupp facility as well as a temporary site (20 acres, expires 1/31/04) located at 1600 Terex Road, Hudson, Ohio; and,

Site 6 (30 acres)—Terminal Warehouse, Inc. facility, located at 1779 Marvo Drive, Summit County.

The applicant is now requesting authority to update, expand and reorganize the zone as described below. The proposal includes requests to reorganize the site plan and site designations, to extend zone status to parcels with temporary authority, to restore zone status to parcels located within the existing or proposed zone sites that had been deleted from the zone boundary in earlier changes, to expand existing sites, and to add two new industrial park sites.

Site 1 will be reorganized and expanded to include on a permanent basis the temporary sites at 8400 Port Jackson Avenue (3 acres), at 3175–3375 Gilchrist Road (21 acres), at the Cuyahoga Falls Industrial Park (30 acres), at the site at 1600 Terex Road (20 acres), and at the Terminal Warehouse facility at 1779 Marvo Drive, Summit County (30 acres). The applicant also requests to add two new industrial parks—the Ascot Industrial Park (190 acres) in the City of Akron, the Prosper Industrial Park (103 acres) in the City of Stow—and to reinstate the 9-acre parcel previously deleted from the City of Green at the Akron/Canton Airport. Overall, the reorganized Site 1 would cover 555 acres.

Site 2 will be reorganized and expanded to include on a permanent basis the temporary site (40 acres) located within the western portion of the 88-acre airport industrial park and the temporary site (50 acres) located within the western portion of the Youngstown Commerce Park. The application also requests the addition of a new industrial park (66 acres) located in Fowler Township, adjacent to the Kings Graves and Youngstown Kingsville Road and

to reinstate the 120 acres located within the Youngstown Warren Regional Airport that were previously deleted in Trumbull County. The reorganized Site 2 would cover 1,371 acres.

Site 3: will be expanded to include the Columbiana County Port Authority Intermodal Industrial Park port facility (66 acres) in Wellsville, increasing the size of Site 3 from 124 to 190 acres.

Site 4: will be expanded to include three industrial park sites and 3 warehouse facilities as follows: an industrial park (91 acres) located on the southeast side of the City of Massillon, south of U.S. 30 and east of U.S. 62; a warehouse facility (12 acres) located at 8045 Navarre Road, S.W., Massillon; the Ford Industrial Park (40 acres), adjacent to the City of Canton, south of U.S. 30; a warehouse facility (18 acres) located at 2207 Kimball Road, S.E., Canton; the Sawburg Commerce Industrial Park (158 acres), Alliance; and the Detroit Diesel Corporation warehouse (38 acres) located at 515 11th Street, S.E., Canton, Ohio, increasing the size of Site 4 from 840 to 1,197 acres.

Site 5: will be modified to reinstate a parcel (13 acres) located at the Mansfield Airport Industrial Park in the city of Mansfield. The reorganized Site 5 would cover 2,347 acres.

New Site 6: will cover a parcel (43 acres) within the 143-acre Colorado Industrial Park, Lorain County.

New Site 7: will involve the Kinder-Morgan/Pinney Dock and Transport Company, Inc., facility (309 acres) located at 1149 East 5th Street, Ashtabula, Ohio.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 15, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 29, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 6747 Engle Road, Middleburg Heights, OH 44130.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W 1099 14th St. NW, Washington, DC 20005.

Dated: February 1, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–3534 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Vicki Schepker or Edward Easton, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1756, (202) 482–3003, respectively.

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 the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO^2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO^2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Amended Final Determination

In accordance with section 735(a) of the Act, on December 21, 2001, the Department published its affirmative final determination of the antidumping duty investigation of low enriched uranium from France (*Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France*, 66 FR 65877). On December 26, 2001, we received ministerial error allegations, timely filed pursuant to §351.224(c)(2) of the Department's regulations, from the petitioners [1] regarding the Department's final margin calculations. On December 31, 2001, we received rebuttal comments from the respondent, Compagnie Generale des Matieres Nucleaires (Cogema) and Eurodif, S.A. (Eurodif).

[1] The petitioners in this investigation are USEC, Inc., and its wholly-owned subsidiary, United States Enrichment Corporation (collectively USEC); and the Paper Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

The petitioners allege that the Department should recalculate Eurodif's general and administrative (G&A) expense, by using Eurodif's, rather than Cogema's, cost of goods sold as the denominator in the calculation. The respondent argues that the petitioners' allegation is a substantive issue that cannot be treated under the ministerial error provision.

In accordance with section 735(e) of the Act, we agree that a ministerial error in the calculation of the G&A expense ratio was made in our final margin calculation. For a detailed analysis of this allegation, and the Department's determination, see the January 10, 2001, Memorandum to Bernard T. Carreau from Constance Handley, regarding the *Amended Final Determination in the Antidumping Duty Investigation of Low Enriched Uranium from France: Ministerial Error Allegations* on file in room B–099 of the Main Commerce building. This determination is based on a reexamination of the G&A expense calculation.

We are amending the final determination of the antidumping duty investigation of low enriched uranium from France to correct the ministerial error. The revised final weighted-average dumping margins are shown below.

Antidumping Duty Order

On February 4, 2002, in accordance with section 735(d) of the Act, the International Trade Commission (ITC) notified the Department that a U.S. industry is materially injured within the meaning of section 735(b)(1)(A) of the Act by reason of imports of low enriched uranium from France.

Therefore, antidumping duties will be assessed on all unliquidated entries of low enriched uranium from France entered, or withdrawn from warehouse, for consumption on or after July 13, 2001, the date on which the Department published its preliminary affirmative antidumping duty determination in the **Federal Register** (66 FR 36743), and before January 9, 2002, the date the Department instructed the U.S. Customs Service to discontinue the suspension of liquidation in accordance with section 733(d) of the Act, and on all entries and withdrawals of subject merchandise made on or after the date of publication of this antidumping duty order in the **Federal Register**. Section 733(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months, unless exporters representing a significant proportion of exports of the subject merchandise request that the period be extended to not more than 6 months. As noted in the preliminary determination (66 FR 36743), the respondent made such a request on July 2, 2001. Therefore, entries of low enriched uranium made on or after January 9, 2002, and prior to the date of publication of this order in the **Federal Register**, are not liable for the assessment of antidumping duties due to the Department's discontinuation, effective January 9, 2002, of the suspension of liquidation.

In accordance with section 736 of the Act, the Department will direct U.S. Customs officers to reinstitute the suspension of liquidation for low enriched uranium from France effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of low enriched uranium from France.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The All Others rate applies to all producers and exporters of low enriched uranium from France not specifically listed below. The cash deposit rates are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Cogema/Eurodif	19.95
All Others	19.95

The all others rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

This notice constitutes the antidumping duty order with respect to low enriched uranium from France, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: February 6, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–3538 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–810]

Notice of Extension of Time Limit of Preliminary Results of Antidumping Duty Administrative Review: Oil Country Tubular Goods, Other Than Drill Pipe, From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit of Preliminary Results of Administrative Review.

EFFECTIVE DATE: (Insert date of publication in Federal Register)

FOR FURTHER INFORMATION CONTACT: Fred Baker at (202) 482–2924 or Robert James at (202) 482–0649; Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230.

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 Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR Part 351 (April 2001).

Background

In accordance with 19 CFR 351.213(b)(2), on August 31, 2001, the Department received a timely and properly filed request from United States Steel LLC, petitioner in the original investigation, for a review of the imports by producer Acindar Industria Argentina de Aceros, S.A. Also on August 31, 2001, the Department received a request from North Star Steel Ohio, a domestic producer of oil country tubular goods, for a review of the imports by producer Siderca S.A.I.C. On October 1, 2001, the Department published a notice of initiation of this

administrative review covering the period August 1, 2000 through July 31, 2001. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 49924 (October 1, 2001).

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act, the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Tariff Act further provides, however, that the Department may extend that 245–day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

In the course of this proceeding interested parties have raised questions regarding submitted financial statement reconciliations, cost calculations, and the accuracy of the no-shipment claim by Siderca S.A.I.C. Due to the need to analyze these questions, it is not practicable to complete this review by the current deadline of May 3, 2002.

Therefore, in accordance with section 751(a)(3)(A) of the Tariff Act, the Department is extending the time limit for the preliminary results by 120 days, until no later than August 31, 2002. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is published in accordance with section 751(a)(1) and 777(i)(1) of the Tariff Act.

February 7, 2002

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–3539 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–831]

Stainless Steel Sheet and Strip From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of stainless steel sheet and strip from Taiwan.

SUMMARY: On August 8, 2001, the Department of Commerce (''the Department'') published in the Federal Register the preliminary results and partial rescission of its administrative review of the antidumping duty order on stainless steel sheet and strip from Taiwan (66 FR 41509). This review covers imports of subject merchandise from Yieh United Steel Corporation (''YUSCO''), Tung Mung Development Corporation (''Tung Mung''), Chia Far Industrial Factory Co., Ltd. (''Chia Far'') and Ta Chen Stainless Pipe, Ltd. (''Ta Chen'). The period of review (''POR'') is January 4, 1999 through June 30, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations for YUSCO and Tung Mung. Therefore, the final results differ from the preliminary results of review. The final weighted–average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.'' In addition, we are rescinding the review with respect to Ta Chen.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Steve Bailey (''YUSCO''), Mesbah Motamed (''Tung Mung''), Stephen Shin (''Chia Far''), Doreen Chen (''Ta Chen''),or Laurel LaCivita, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1102, (202) 482–1382, (202) 482–0413, (202) 482–0408 or (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

THE APPLICABLE STATUTE

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On August 8, 2001, the Department published Stainless Steel Sheet and Strip in Coils From Taiwan: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 41509 (August 8, 2001) (''Preliminary Results''). We invited parties to comment on these preliminary results. The review covers imports of subject merchandise from YUSCO, Tung Mung, Chia Far and Ta Chen. The POR is June 8, 1999, through June 30, 2000.

We received written comments on September 21, 2001, from Chia Far and from petitioners[1] concerning YUSCO, Tung Mung and Ta Chen and on September 26, 2001, concerning Chia Far. On September 28, 2001, we received rebuttal comments from YUSCO, Tung Mung, Chia Far and from petitioners concerning Chia Far.

As we stated in that notice, we preliminarily rescinded this review with respect to Ta Chen, pursuant to its claim of no shipments of the subject merchandise during the POR. On September 28, 2000, October 4, 12, and 31, 2000, Ta Chen reported that it had no entries of subject merchandise during the period of review. Ta Chen further stated that its U.S. affiliate, Ta Chen International's (''TCI'') had resales of SSSS from Taiwan during the POR, but these sales were from inventory that was entered into the United States prior to the suspension of liquidation. Ta Chen also certified that all resales of Taiwanese merchandise made from TCI's U.S. warehouse inventory during the POR were entered into the United States prior to the POR. The Department's Customs inquiry indicates that such merchandise did not enter the United States after the suspension of liquidation.

On September 21, 2001, petitioners submitted a case brief arguing that this review should not be rescinded with respect to Ta Chen. Since no information has been developed on the record demonstrating that Ta Chen made any shipments during the POR we are now rescinding this review with respect to Ta Chen. We are now completing the administrative review in accordance with section 751 of the Act.

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip 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 sheet and strip is a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold–rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

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[1] Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler–Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL–CIO/CLC.

The merchandise subject to this review is classified in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81[2], 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat–rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat–rolled product of stainless steel, not further worked than cold–rolled (cold–reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

In response to comments by interested parties, the Department has determined that certain specialty stainless steel products are also excluded from the scope of this review. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or–minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron–chromium–cobalt alloy stainless strip is also excluded from the scope of this review. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[3]

Certain electrical resistance alloy steel is also excluded from the scope of this review. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and Materials (''ASTM'') specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[4]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this review. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (''UNS'') as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[5]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the

[2] Due to changes to the HTS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

[3] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[4] ''Gilphy 36'' is a trademark of Imphy, S.A.

[5] ''Durphynox 17'' is a trademark of Imphy, S.A.

scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[6] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[7]

Rescission of Review

In the Preliminary Results, we stated that Ta Chen reported, and the Department confirmed through independent U.S. Customs Service data, that it had no shipments of subject merchandise during the POR. Since Ta Chen did not report any shipments during the POR, we had no basis for determining a margin. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we preliminarily rescinded our review with respect to Ta Chen. Since we have received no information since the Preliminary Results that contradicts the decision made in the preliminary results of review, we are rescinding the review with respect to Ta Chen. Since Ta Chen did not participate in the original investigation, its cash deposit rate will remain at 12.61 percent, which is the all others rate established in the less than fair value (''LTFV'') investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memorandum'') from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated February 4, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the Decision Memorandum are identical in content.

Sales Below Cost

We disregarded sales below cost for both Tung Mung and YUSCO during the course of the review.

Changes Since the Preliminary Results of Review

Based on our analysis of comments received, we have made changes in the margin calculations for YUSCO, Tung Mung and Chia Far. The changes are listed below:

YUSCO

•We removed the tolled sales from the home market database before calculating the dumping margin.

•We revised the calculation of home market credit in arm's length program to reflect the calculation of credit in the model match program.

Tung Mung

•We revised our calculation of material costs to eliminate the amount of the estimated outstanding material purchase discount included in the cost of manufacturing.

•We revised the calculation of cost of goods sold (''COGS'') used in the denominator of the CPA adjustment, general and administrative expenses, and interest expense factors to eliminate the total factory–wide cost of packing during the POR.

Chia Far

•We revised the AFA rate applicable to Chia Far to eliminate the impact of middleman dumping from the margins calculated for YUSCO during the original investigation.

Final Results of Review

We determine that the following percentage margin exists for the period January 4, 1999 through June 30, 2000:

STAINLESS STEEL SHEET AND STRIP IN COILS FROM TAIWAN

Manufacturer/exporter/reseller	Margin (percent)
YUSCO	0.00
Tung Mung	0.00
Chia Far	21.10

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. For duty–assessment purposes, we will calculate importer–specific assessment rates by dividing the dumping margins calculated for each importer by the total entered value of sales for each importer during the period of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel sheet and strip from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for YUSCO, Tung Mung and Chia Far will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (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 period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate will be the ''all others'' rate, which is 12.61 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

[6] This list of uses is illustrative and provided for descriptive purposes only.

[7] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties or countervailing 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 the antidumping duties or countervailing duties occurred and the subsequent assessment of double antidumping duties or countervailing duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

February 4, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX 1— ISSUES IN DECISION MEMORANDUM

A. Issues with Respect to YUSCO

Comment 1: Knowledge of Destination of Sales
Comment 2: Customer Category and Channel of Distribution
Comment 3: Tolled Sales
Comment 4: Home Market Credit Expenses
Comment 5: Date of Payment
Comment 6: U.S. Credit Expenses
Comment 7: Inland Transportation
Comment 8: Home Market Rebates
Comment 9: Home Market Warranty Expenses
Comment 10: Packing Expenses
Comment 11: U.S. Brokerage and Handling Expenses
Comment 12: Different Width Basis for Reporting Sales and Cost
Comment 13: Interest Expense
Comment 14: Lack of Sales During the POR
Comment 16: Collapsing of YUSCO and its Affiliates in the Home Market
Comment 17: Basis for Revocation

B. Issues with Respect to Tung Mung

Comment 18: Use of Surrogate Control Numbers (''CONNUMs'')
Comment 19: Estimated Outstanding Material Purchase Discounts
Comment 20: Auditor's Adjustment, General and Administrative Expenses (''G&A''), and Interest Expense
Comment 21: G&A Expense
Comment 22: Basis for Revocation

C. Issues with Respect to Chia Far

Comment 23: Affiliation via a Principal/Agent Relationship
Comment 24: Use of adverse facts available (''AFA'')
Comment 25: Fairness of the Proceedings
Comment 26: Untimely Submission of Factual Information
Comment 27: Partial AFA
Comment 28: Reimbursement
Comment 29: Applicability of the AFA Rate
Comment 30: Release of Business Proprietary Information

D. Issues with Respect to Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen'')

Comment 31: The Rescission of Ta Chen

[FR Doc. 02–3540 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–829]

Stainless Steel Wire Rod From Korea; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On October 9, 2001, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on stainless steel wire rod (SSWR) from Korea (66 FR 51385). This review covers two manufacturers/exporters of the subject merchandise. The period of review (POR) is September 1, 1999, through August 31, 2000.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have made changes in the margin calculations presented in the preliminary results of review. The final weighted–average dumping margins for the company under review is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Karine Gziryan, Office of AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–5346 and (202) 482–4081, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

Background

This review covers two manufacturers/exporters, Changwon Specialty Steel Co., Ltd. (Changwon) and Dongbang Specialty Steel Co., Ltd. (Dongbang) (collectively, respondents).

The POR is September 1, 1999, through August 31, 2000.

On October 9, 2001, the Department published in the Federal Register the preliminary results of administrative review of the antidumping duty order on stainless steel wire rod (SSWR) from Korea. See Stainless Steel Wire Rod from Korea; Preliminary Results of Antidumping Duty Administrative Review, 66 FR 51385 (October 9, 2001) (Preliminary Results).

We invited parties to comment on our preliminary results of review. On December 5, 2001, the respondents submitted a case brief. The petitioners (i.e., Carpenter Technology Corp., Empire Specialty Steel, and the United Steel Workers of America, AFL–CIO/CLC), submitted a rebuttal brief on December 12, 2001.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Order

For purposes of this review, SSWR comprises products that are hot–rolled or hot–rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in

coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot–rolling or hot–rolling annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross–section. The majority of SSWR sold in the United States is round in cross–sectional shape, annealed and pickled, and later cold–finished into stainless steel wire or small–diameter bar. The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire–drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter.

Two stainless steel grades are excluded from the scope of the review. SF20T and K–M35FL are excluded. The chemical makeup for the excluded grades is as follows:

SF20T

Carbon	0.05 max
Chromium	19.00/21.00
Manganese	2.00 max
Molybdenum	1.50/2.50
Phosphorous	0.05 max
Lead–added	(0.10/0.30)
Sulfur	0.15 max
Tellurium–added	(0.03 min)
Silicon	1.00 max

K–M35FL

Carbon	0.015 max
Nickel	0.30 max
Silicon	0.70/1.00
Chromium	12.50/14.00
Manganese	0.40 max
Lead	0.10/0.30
Phosphorous	0.04 max
Aluminum	0.20/0.35
Sulfur	0.03 max

The products subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

Duty Absorption

On November 14, 2000, the petitioners requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondents. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because the collapsed entity Pohang Iron and Steel Co., Ltd. (POSCO)/Changwon/Dongbang (see ''Collapsing'' section of this notice) sold to unaffiliated customers in the United States, in part, through an importer, Pohang Steel America Corporation, that is affiliated, and because this review was initiated two years after the publication of the order, we will make a duty absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act.

On February 16, 2001, the Department requested evidence from each respondent to demonstrate that U.S. purchasers will pay any ultimately assessed duties charged to them. The Department requested that this information be provided no later than March 2, 2001. No respondent provided such evidence. Furthermore, in the Preliminary Results, 66 FR at 51386, we notified interested parties that, if they wish to submit evidence that the unaffiliated purchasers in the United States will pay any ultimately assessed duty charged to affiliated importers, they must do so no later than 15 days after publication of the preliminary results. No interested party provided such evidence. Accordingly, based on the record, we cannot conclude that the unaffiliated purchaser in the United States will ultimately pay the assessed duty. Consequently, we have determined that duty absorption by the collapsed entity POSCO/Changwon/Dongbang has occurred in this administrative review.

Collapsing

During the less than fair value (LTFV) investigation, POSCO was the sole supplier to Dongbang of black coil (unfinished SSWR). See Notice of Final Determination of Sales at Less than Fair Value: Stainless Steel Wire Rod from Korea, 63 FR 40404, 40410 (July 29, 1998) (Final Determination). Based on this fact, and the fact that Dongbang was not able to obtain suitable black coil from alternative sources, the Department determined that POSCO and its wholly–owned subsidiary, Changwon, were affiliated with Dongbang through a close supplier relationship pursuant to section 771(33)(G) of the Act and section 351.102(b) of the Department's regulations. See id. The Department, in the investigation stage, also collapsed Changwon, POSCO, and Dongbang as a single entity for purposes of the dumping analysis in accordance with section 351.401(f) of the Department's regulations. See id.

Because neither POSCO, Changwon, nor Dongbang has provided any new evidence showing that this finding no longer holds true, and because we have not found any new evidence to change this finding, we have continued to find that POSCO and Changwon are affiliated with Dongbang through a close supplier relationship.[1] Further, we have continued to treat POSCO, Changwon, and Dongbang as a single entity and to calculate a single margin for them. (See, e.g., Frozen Concentrated Orange Juice from Brazil; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 51008 (October 5, 2001)).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum), dated February 6, 2002, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in the public Decision Memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made adjustments to the preliminary results calculation methodologies in calculating the final dumping margin in this proceeding. A summary of these adjustments is discussed below:

1. We included an amortized portion of the deferred foreign exchange losses of

[1] During the POR, Changwon, and not POSCO, was Dongbang's sole supplier of black coil. However, since we continue to treat POSCO and Changwon as a single entity (as we did in the LTFV investigation), this does not change our determination that POSCO/Changwon are affiliated with Dongbang through a close supplier relationship.

POSCO and Dongbang Transport Logistics Co., Ltd. that these two companies wrote off in 1999 to retained earnings in the calculation of the respondents' financial expense. See Comments 2 and 3 of the Decision Memorandum.
2. We included POSCO's consolidated gain on valuation on certain short–term financial instrument in the calculation of the respondents' financial expense. See Comment 4A of the Decision Memorandum.
3. We included a gain on the disposition of fixed assets in POSCO's G&A calculation. See Comment 4B of the Decision Memorandum.
4. We included a casualty insurance refund in Changwon's G&A calculations. See Comment 4D of the Decision Memorandum.
5. We corrected currency conversion errors in the CEP pr of it calculation. See Comment 5 of the Decision Memorandum.
6. We corrected the calculation of foreign market unit price in U.S. dollars. See Comment 6 of the Decision Memorandum.
7. We included missing instructions to identify the identical grades for certain grades in model matching. See Comment 7 of the Decision Memorandum.
8. We applied the variable costs of manufacturing and total costs of manufacturing from the annual cost database. See Comment 8 of the Decision Memorandum.
9. In the preliminary results, we inadvertently applied the Korean won exchange rate to the variable ''DINVCARU,'' which was reported in U.S. dollars. For the final results, we used the variable ''DINVCARU'' in our calculations as it was reported in U.S. dollars. See Final Calculation Memorandum.

Final Results of Review

We determine that the following weighted–average percentage margin exists for the period September 1, 1999, through August 31, 2000:

Manufacturer/Exporter	Margin (percent)
POSCO/Changwon/ Dongbang	6.80

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of subject merchandise. For Changwon's sales, since Changwon reported the entered values and importer for its sales, we have calculated importer–specific ad valorem duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales to the entered value of sales used to calculate those duties. For Dongbang's reported sales, since Dongbang did not report the entered value for its sales, we have calculated importer–specific per unit duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales to the quantity of sales used to calculate those duties. Where the importer–specific assessment rate is above de minimis, we will instruct Customs to assess the importer–specific rate uniformly on all entries made during the POR.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of SSWR from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed firm will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (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 period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be rate of 5.77 percent, which is the ''all others'' rate established in the LTFV investigation (see Stainless Steel Wire Rod From Korea: Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision, 66 FR 41550 (August 8, 2001)).

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 also serves as a final 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 doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) (1) of the Act.

February 6, 2002

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

Appendix Issues in Decision Memo

1. Affiliation Between the Respondents and Their Customers Through a Principal/Agent Relationship

2. Deferred Foreign Exchange Losses

3. Deferred Foreign Exchange Losses of Dongbang Transport

4. Calculation of General and Administrative Expenses:

4A. Gains and Losses on Certain Monetary Instruments

4B. Items Relating to the Disposition of Fixed Assets

4C. Gain and Losses on Futures and Gain on Redemption of Corporate Bond

4D. Casualty Insurance Refund

4E. Down Payment for Other Products

5. Conversion of Values in the Constructed Export Price Profit Calculation

6. Calculation of Foreign Market Unit Price in U.S. Dollars

7. Model Match Calculations in the Margin Program

8. Variable Cost of Manufacturing and Total Cost of Manufacturing Adjustments

9. Correction of Errors Noted in Changwon's Cost of Production Verification Report

10. New Information in the Respondents' Case Brief

[FR Doc. 02–3541 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[(C–428–829); (C–421–809); (C–412–821)]

Notice of Amended Final Determinations and Notice of Countervailing Duty Orders: Low Enriched Uranium From Germany, the Netherlands and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final determinations and notice of countervailing duty orders: Low enriched uranium from Germany, the Netherlands and the United Kingdom.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Copyak (Germany) at 202–482–2209, Stephanie Moore (the Netherlands) at 202–482–3692, and Eric B. Greynolds (United Kingdom) at 202–482–6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR part 351 (2000).

Scope of Orders

For purposes of these orders, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these orders. Specifically, these orders do not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these orders. For purposes of these orders, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these orders.

Also excluded from these orders is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to these orders is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Amended Final Determinations

On December 26, 2001, petitioners (United States Enrichment Corporation, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation, collectively USEC, and the Paper Allied-Industrial Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689, collectively PACE) and respondents (Urenco Ltd., Urenco (Capenhurst) Ltd., Urenco Nederland BV, and Urenco Deutschland GmbH, collectively Urenco) alleged ministerial errors in the calculations of the *Final Affirmative Countervailing Duty Determinations: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 66 FR 65903 (December 21, 2001) (*Final Determinations*). On December 28, 2001, USEC and Urenco submitted comments regarding the allegations.

Urenco alleged that the Department miscalculated the *ad valorem* rate by using as the denominator a significantly understated value of material that entered U.S. Customs during the period of investigation (POI) and, therefore, overstated the benefit attributable to Urenco. USEC disagreed and argued that this was not a ministerial error but a well-founded decision.

We disagree with Urenco. We used the actual entered value for sales that entered U.S. Customs during the POI. Therefore, we properly calculated the *ad valorem* rate.

Urenco also alleged that with respect to the Regional Investment Program (IPR) benefit provided to Ultra Centrifuge Nederland N.V. (UNC) by the Government of the Netherlands (GON), the Department should have used, for purposes of the 0.5 percent test, the value of sales in 1985 for all of the Urenco Group companies, not just the value of UCN's sales in 1985. Petitioners disagreed and contended that the Department properly conducted the test.

We agree with Urenco and have conducted the 0.5 percent test using the combined sales of the Urenco Group's predecessors. As a result, the subsidy from the IPR is less than 0.5 percent of the combined sales and, in accordance with 19 CFR 351.524(b)(2), is allocable to the year of receipt (1985). As a result of this revision, the net subsidy for this program decreased from 0.03 percent *ad valorem* to 0.00 percent *ad valorem*.

USEC alleged that the entered value of the Urenco Group sales must be adjusted downward to exclude the value of any ancillary enrichment activities (*e.g.,* the value of cylinders for the transport of enriched uranium, etc.). USEC claimed that the Department determined to exclude the value of ancillary enrichment activities from the sales denominator and argued that the disclosure materials are not clear as to whether this exclusion was properly made. Urenco contended that USEC's allegation failed to satisfy the requirements set forth in 19 CFR 351.224(d), in that USEC failed to refer to record evidence indicating the value of ancillary enrichment activities that should allegedly be excluded from the Customs data.

We disagree with USEC's contention and note that we determined that the Customs data, as reported in Exhibit 14 of UCL's Verification Report, did not contain any ancillary enrichment sales values.

These issues are addressed in further detail in the January 18, 2002 memorandum to Bernard Carreau, Deputy Assistant Secretary, AD/CVD Enforcement II, Import Administration, from Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI. The public version of this memorandum is on file in Room B–099 in the Central

Records Unit (CRU) of the Main Commerce Building.

As a result of our corrections, the estimated net countervailable subsidy rates attributable to Urenco in each of the countries decreased from 2.26 percent *ad valorem* to 2.23 percent *ad valorem*. Due to the revisions of the net subsidy rates for each of the Urenco companies, the all others rates for each of the countries has also changed. The all others net countervailable subsidy decreased from 2.26 percent *ad valorem* to 2.23 percent *ad valorem.*

Countervailing Duty Orders

In accordance with section 705(d) of the Act, on December 21, 2001, the Department published its final determinations in the countervailing duty investigations of low enriched uranium from Germany, the Netherlands, and the United Kingdom (66 FR 65903). On February 4, 2002, the International Trade Commission (ITC) notified the Department of its final determinations, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States suffered material injury as a result of subsidized imports of low enriched uranium from Germany, the Netherlands, and the United Kingdom.

Therefore, countervailing duties will be assessed on all unliquidated entries of low enriched uranium from Germany, the Netherlands, and the United Kingdom entered, or withdrawn from warehouse, for consumption on or after May 14, 2001, the date on which the Department published its preliminary affirmative countervailing duty determinations in the **Federal Register** (66 FR 24329), and before September 11, 2001, the date the Department instructed the U.S. Customs Service to discontinue the suspensions of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals of subject merchandise made on or after the date of publication of these countervailing duty orders in the **Federal Register**. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of low enriched uranium made on or after September 11, 2001, and prior to the date of publication of these orders in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective September 11, 2001, of the suspensions of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstitute the suspension of liquidation for low enriched uranium from Germany, the Netherlands, and the United Kingdom effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The All Others rates apply to all producers and exporters of low enriched uranium from Germany, the Netherlands, and the United Kingdom not specifically listed below. The cash deposit rates are as follows:

Producer/exporter	Cash deposit rate
Germany:	
Urenco Group Limited	2.23 percent *ad valorem*.
All Others Rate	2.23 percent *ad valorem*.
The Netherlands:	
Urenco Group Limited	2.23 percent *ad valorem*.
All Others Rate	2.23 percent *ad valorem*.
The United Kingdom:	
Urenco Group Limited	2.23 percent *ad valorem*.
All Others Rate	2.23 percent *ad valorem*.

This notice constitutes the countervailing duty orders with respect to low enriched uranium from Germany, the Netherlands, and the United Kingdom, pursuant to section 706(a) of the Act. Interested parties may contact the CRU, for copies of an updated list of countervailing duty orders currently in effect.

These countervailing duty orders and amended final determinations are issued and published in accordance with sections 706(a) and 705 of the Act and 19 CFR 351.211 and 351.224.

Dated: February 6, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–3536 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–819]

Notice of Amended Final Determination and Notice of Countervailing Duty Order: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of amended final determination and notice of countervailing duty order: Low enriched uranium from France.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Michael Grossman at (202) 482–3146 or Richard Herring at (202) 482–4149, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR part 351 (2000).

Scope of Order

For purposes of this order, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or

fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Amended Final Determination

On December 21, 2001, counsel representing respondents (Eurodif S.A., Compagnie Generale de Matieres Nucleaires (COGEMA) and the Government of France (GOF)) alleged ministerial errors in the calculations of the *Final Affirmative Countervailing Duty Determination: Low Enriched Uranium from France,* 66 FR 65901 (December 21, 2001) (*Final Determination*). On December 26, petitioners (United States Enrichment Corporation, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation, collectively USEC, and the Paper Allied-Industrial Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689, collectively PACE) alleged a ministerial error in the *Final Determination.* On December 31, 2001, respondents submitted comments regarding petitioners' allegations.

Respondents alleged that the Department miscalculated the *ad valorem* rate by erroneously multiplying its calculated price differential by the quantity of SWU EdF was entitled to receive, rather than the quantity delivered. Respondents argued that the Department should reduce its calculated benefit by the overstated portion of electricity payment that was never made by EdF.

Petitioners argued that the Department understated the amount of ''part usine'' (which together with ''part energie'' makes up the entire price pade by EdF to Eurodif) actually paid by EdF to Eurodif by erroneously dividing the total amount paid by EdF in 1999 for ''part usine'' by the amount of SWU actually delivered to EdF, as opposed to by the amount of SWU that EdF could have taken. Petitioners stated that to calculate the correct total amount per SWU paid by EdF, the Department could have added the total amount of ''part usine'' and ''part energie'' paid by EdF to Eurodif in 1999 and divided by the number of SWUs in the delivered LEU during 1999 or by calculating the amount per delivered SWU paid for the ''usine'' and ''energie'' and adding together those amounts. Respondents argued that petitioners' allegation is outside the scope of ministerial error corrections in that petitioners propose to have the Department alter an aspect of the calculation that is both substantive and intentional, not arithmetic or clerical and unintentional.

We agree with respondents that the Department erroneously multiplied the calculated price differential by the wrong SWU quantity; however, we disagree with the manner in which respondents proposed to amend the calculated benefit. The corrected benefit is the calculated price differential, unchanged from the *Final Determination,* multiplied by the quantity of SWUs delivered to EdF during the POI. We disagree with petitioners' ministerial error allegation, finding that the allegation is not one of ''an error in addition, subtraction, or arithmetic function * * * [or] other similar type of unintentional error'' as provided in 19 CFR 351.224(f).

These issues are addressed in further detail in the January 18, 2002 memorandum to Bernard Carreau, Deputy Assistant Secretary, AD/CVD Enforcement II, Import Administration, from Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI. The public version of this memorandum is on file in Room B–099 in the Central Records Unit (CRU) of the Main Commerce Building.

As a result of our corrections, the estimated net countervailable subsidy rate attributable to Eurodif/COGEMA decreased from 13.21 percent *ad valorem* to 12.15 percent *ad valorem.* Due to the revision of the net subsidy rate for Eurodif/COGEMA, the all others rate has also changed. The all others net countervailable subsidy decreased from 13.21 percent *ad valorem* to 12.15 percent *ad valorem.*

Countervailing Duty Order

In accordance with section 705(d) of the Act, on December 21, 2001, the Department published its final determination in the countervailing duty investigation of low enriched uranium from France (66 FR 65901). On February 4, 2002, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States suffered material injury as a result of subsidized imports of low enriched uranium from France.

Therefore, countervailing duties will be assessed on all unliquidated entries of low enriched uranium from France entered, or withdrawn from warehouse, for consumption on or after May 14, 2001, the date on which the Department published its preliminary affirmative countervailing duty determination in the **Federal Register**, and before September 11, 2001, the date the Department instructed the U.S. Customs Service to discontinue the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals of subject merchandise made on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of low enriched uranium made on or after September 11, 2001, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective September 11, 2001, of the suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstitute the suspension of liquidation for low enriched uranium from France effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The All Others rate applies to all producers and exporters of low enriched uranium from France not specifically listed below. The cash deposit rates are as follows:

Producer/exporter: France	Cash deposit rate
Eurodif/COGEMA	12.15 percent *ad valorem*
All Others Rate	12.15 percent *ad valorem*

This notice constitutes the countervailing duty order with respect to low enriched uranium from France, pursuant to section 706(a) of the Act. Interested parties may contact the CRU, for copies of an updated list of countervailing duty order currently in effect.

This countervailing duty order and amended final determination are issued and published in accordance with sections 706(a) and 705 of the Act and 19 CFR 351.211 and 351.224.

Dated: February 6, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–3537 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[I.D. 020702F]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Gear Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0359.

Type of Request: Regular submission.

Burden Hours: 2,192.

Number of Respondents: 1,000.

Average Hours Per *Response:* 7 minutes to mark a trap; 10 seconds to mark a coral rock; and 20 minutes to mark a gillnet float.

Needs and Uses: Participants in certain Federally-regulated fisheries in the Southeast Region of the U.S. must mark their fishing gear with the vessel's official identification number or permit number (depending upon the fishery) and color code. Harvesters of aquacultured live rock must mark or tag the material deposited. These requirements are needed to aid fishery enforcement activities and for purposes of gear identification of lost or damaged gear and related civil proceedings.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Third-party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 6, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–3489 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020702A]

Endangered Species; Permits

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

ACTION: Receipt of an application for an enhancement permit (1361).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for an enhancement permit from Mr. Robert Metzger, of Metzger Wildlife Surveys (1361).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on March 15, 2002.

ADDRESSES: Written comments on the new application should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Permits, Conservation and Education Division, F/PR1, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–2289, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Lillian Becker, Silver Spring, MD (phone: 301–713–2319, fax: 301–713–0376, e-mail: Lillian.Becker@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10 (a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see

ADDRESSES). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Sea turtles

Threatened and endangered green turtle (*Chelonia mydas*)
Endangered hawksbill turtle (*Eretmochelys imbricata*)
Endangered Kemp's ridley turtle (*Lepidochelys kempii*)
Endangered leatherback turtle (*Dermochelys coriacea*)
Threatened loggerhead turtle (*Caretta caretta*)

Application 1361

The applicant is applying for a 5–year permit to trawl for turtles, as needed, at dredge and other construction/destruction sites to remove the turtles to a safe location. The turtles will be captured, tagged, measured and released offshore away from the dredging activities. The applicant expects to capture and relocate 95 green, 11 hawksbill, 160 loggerhead, 14 Kemp's ridley and 4 leatherback turtles on the Atlantic coast and 105 green, 17 hawksbill, 160 loggerhead, 50 Kemp's ridley and 11 leatherback turtles on the Gulf coast.

Dated: February 7, 2002.

Jill Lewandowski,

Acting Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–3522 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Issuance of Nationwide Permits; Notice; Correction

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final notice; correction.

SUMMARY: This document contains corrections to the final notice of issuance of Nationwide Permits (NWPs) which was published in the **Federal Register** on Tuesday, January 15, 2002 (67 FR 2020–2095).

ADDRESSES: HQUSACE, ATTN: CECW–OR, 441 ''G'' Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, at (703) 428–7570, Mr. Kirk Stark, at (202) 761–4664 or Ms. Leesa Beal at (202) 761–4599 or access the U.S. Army Corps of Engineers Regulatory Home Page at: http://www.usace.army.mil/inet/functions/cw/cecwo/reg/.

SUPPLEMENTARY INFORMATION: In the **SUMMARY** section on page 2020, the third and fourth sentences are corrected to read: ''All NWPs except NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on February 11, 2002. Existing NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on March 18, 2002.'' In the last sentence of the **SUMMARY** section, the expiration date is corrected as ''March 18, 2007'', instead of ''March 19, 2007''.

On page 2020, in second sentence of the **DATES** section, the expiration date is corrected as ''March 18, 2007'', instead of ''March 19, 2007''. Therefore, the NWPs published in the January 15, 2002; **Federal Register** will expire on March 18, 2007, five years from their effective date of March 18, 2002.

On page 2020, in the fifth paragraph of the *Background* section, the third and fourth sentences are corrected to read: ''All NWPs except NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on February 11, 2002. Existing NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on March 18, 2002.'' The expiration date in the last sentence of this paragraph is corrected as ''March 18, 2007'', instead of ''March 19, 2007''.

On page 2020, the paragraph in the section entitled ''*Grandfather Provision for Expiring NWPs at 33 CFR 330.6*'' is corrected to read: ''Activities authorized by the current NWPs issued on December 13, 1996, (except NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44), that have commenced or are under contract to commence by February 11, 2002, will have until February 11, 2003, to complete the activity. Activities authorized by NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44, that were issued on March 9, 2000, that are commenced or under contract to commence by March 18, 2002, will have until March 18, 2003, to complete the activity.''

On page 2020, in the ''*Clean Water Act Section 401 Water Quality Certification (WQC) and Coastal Zone Management Act (CZMA) Consistency Agreement*'' section, the date in the fifth sentence is corrected as ''February 11, 2002'', instead of ''February 11, 2001''.

On page 2023, third column, last sentence, the number 29 is replaced with the number 19, because this sentence refers to General Condition 19.

On page 2024, first column, in the fourth sentence of the last paragraph the phrase ''less than'' is replaced by ''greater than'' because the 30 day completeness review period for NWP pre-construction notifications is greater than the 15 day completeness review period for standard permit applications.

On page 2031, second column, second full paragraph, the number 31 is replaced with the number 3 because this paragraph refers to NWP 3.

On page 2044, second column, fourth complete paragraph, the title is corrected to read ''Stream and Wetland Restoration Activities'' because that is the title of NWP 27.

On page 2054, second column, the year cited in the third sentence of the second paragraph is the year 2000, not 1996.

On page 2058, third column, in the second sentence of the second complete paragraph the word ''intermittent'' is inserted before the phrase ''stream bed'' because the waiver for filling or excavating greater than 300 linear feet of stream beds can apply only to intermittent stream beds.

On page 2072, third column, last sentence, the number 19 is inserted after the term ''General Condition'' since this sentence refers to General Condition 19.

On page 2076, second column, the street address for the Walla Walla District Engineer is corrected to read ''201 N. Third Avenue''.

On page 2080, second column, third paragraph from the top of the column (in the ''Notification'' section of NWP 12), the word ''or'' at the end of paragraph (e) is deleted and the period at the end of the fourth paragraph (paragraph (f)) is replaced with ''; or''.

On page 2080, second column, paragraph (a) of NWP 13 is corrected to read: ''No material is placed in excess of the minimum needed for erosion protection;'' The change was not intended and we are correcting this paragraph by reinstating the original text as it appeared in the version of NWP 13 published in the December 13, 1996, **Federal Register** (61 FR 65915).

On page 2080, third column, the word ''or'' is inserted at the end of paragraph (a)(1) of NWP 14, Linear Transportation Projects. Paragraph (a) of NWP 14 is corrected to read: ''a. This NWP is subject to the following acreage limits: (1) For linear transportation projects in non-tidal waters, provided the discharge does not cause the loss of greater than ½-acre of waters of the US; or (2) For linear transportation projects in tidal waters, provided the discharge does not cause the loss of greater than ⅓-acre of waters of the US.''

On page 2085, second column, the last sentence of NWP 36 is corrected to read as follows: ''Dredging to provide

access to the boat ramp may be authorized by another NWP, regional general permit, or individual permit pursuant to section 10 if located in navigable waters of the United States. * * *'' The change was not intended and we are correcting this paragraph by reinstating the original text as it appeared in the version of NWP 36 published in the December 13, 1996, **Federal Register** (61 FR 65919).

On page 2086, in the second full paragraph of the second column, ''paragraph (e)'' in the second sentence is replaced with ''paragraph (f)'' and ''paragraph (i)'' in the third sentence is replaced with ''paragraph (j)'' to accurately cite the previous paragraphs of NWP 39. The last two sentences of the paragraph before the subdivision paragraph were incorrectly divided into two sentences from the original single sentence and identified as being related to General Condition 15. This change was not intended and we are correcting this paragraph by reinstating the original last sentence as it exists in the March 9, 2000, text of NWP 39 (65 FR 12890).

On page 2086, middle column, the parenthetical statement at the end of the **Note** at the end of NWP 39 is corrected to read ''* * * (except for ephemeral waters, which do not require PCNs under paragraph (c)(2), above; however, activities that result in the loss of greater than 1/10 acre of ephemeral waters would require PCNs under paragraph (c)(1), above).'' The addition to the **Note** was intended to clarify that under paragraph (c)(2) only the loss of ephemeral open waters were not included in the requirement for a pre-construction notification (PCN). However, under paragraph (c)(1) all ephemeral waters of the United States are included in the measurement for the 1/10 acre PCN requirement. The correction is needed because the statement in the parentheses could be incorrectly interpreted to apply to paragraph (c)(1) and possibly to all PCNs, not just those affected by paragraph (c)(2).

For clarity, we are providing the text of NWP 39 in its entirety, with the corrections described above:

39. Residential, Commercial, and Institutional Developments. Discharges of dredged or fill material into non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters, for the construction or expansion of residential, commercial, and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, stormwater management facilities, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development). The construction of new ski areas or oil and gas wells is not authorized by this NWP.

Residential developments include multiple and single unit developments. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. The activities listed above are authorized, provided the activities meet all of the following criteria:

a. The discharge does not cause the loss of greater than 1/12-acre of non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters;

b. The discharge does not cause the loss of greater than 300 linear-feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

c. The permittee must notify the District Engineer in accordance with General Condition 13, if any of the following criteria are met:

(1) The discharge causes the loss of greater than 1/10-acre of non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters; or

(2) The discharge causes the loss of any open waters, including perennial or intermittent streams, below the ordinary high water mark (see **Note**, below); or

(3) The discharge causes the loss of greater than 300 linear feet of intermittent stream bed. In such case, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

d. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected special aquatic sites;

e. The discharge is part of a single and complete project;

f. The permittee must avoid and minimize discharges into waters of the US at the project site to the maximum extent practicable. The notification, when required, must include a written statement explaining how avoidance and minimization of losses of waters of the US were achieved on the project site. Compensatory mitigation will normally be required to offset the losses of waters of the US. (See General Condition 19.) The notification must also include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the US. If an applicant asserts that the adverse effects of the project are minimal without mitigation, then the applicant may submit justification explaining why compensatory mitigation should not be required for the District Engineer's consideration;

g. When this NWP is used in conjunction with any other NWP, any combined total permanent loss of waters of the US exceeding 1/10-acre requires that the permittee notify the District Engineer in accordance with General Condition 13;

h. Any work authorized by this NWP must not cause more than minimal degradation of water quality or more than minimal changes to the flow characteristics of any stream (see General Conditions 9 and 21);

i. For discharges causing the loss of 1/10-acre or less of waters of the US, the permittee must submit a report, within 30 days of completion of the work, to the District Engineer that contains the following information: (1) The name, address, and telephone number of the permittee; (2) The location of the work; (3) A description of the work; (4) The type and acreage of the loss of waters of the US (*e.g.,* 1/2-acre of emergent wetlands); and (5) The type and acreage of any compensatory mitigation used to offset the loss of waters of the US (*e.g.,* 1/2-acre of emergent wetlands created on-site);

j. If there are any open waters or streams within the project area, the permittee will establish and maintain, to the maximum extent practicable, wetland or upland vegetated buffers next to those open waters or streams consistent with General Condition 19. Deed restrictions, conservation easements, protective covenants, or other means of land conservation and preservation are required to protect and maintain the vegetated buffers established on the project site.

Only residential, commercial, and institutional activities with structures on the foundation(s) or building pad(s), as well as the attendant features, are authorized by this NWP. The

compensatory mitigation proposal that is required in paragraph (f) of this NWP may be either conceptual or detailed. The wetland or upland vegetated buffer required in paragraph (j) of this NWP will be determined on a case-by-case basis by the District Engineer for addressing water quality concerns. The required wetland or upland vegetated buffer is part of the overall compensatory mitigation requirement for this NWP. If the project site was previously used for agricultural purposes and the farm owner/operator used NWP 40 to authorize activities in waters of the United States to increase production or construct farm buildings, NWP 39 cannot be used by the developer to authorize additional activities in waters of the United States on the project site in excess of the acreage limit for NWP 39 (*i.e.,* the combined acreage loss authorized under NWPs 39 and 40 cannot exceed ½ acre).

Subdivisions: For residential subdivisions, the aggregate total loss of waters of US authorized by NWP 39 can not exceed ½-acre. This includes any loss of waters associated with development of individual subdivision lots. (Sections 10 and 404)

Note: Areas where wetland vegetation is not present should be determined by the presence or absence of an ordinary high water mark or bed and bank. Areas that are waters of the US based on this criterion would require a PCN although water is infrequently present in the stream channel (except for ephemeral waters, which do not require PCNs under paragraph (c)(2), above; however, activities that result in the loss of greater than 1/10 acre of ephemeral waters would require PCNs under paragraph (c)(1), above).

On page 2088, in the sixth sentence of the first paragraph in the first column, the phrase ''an adequate water quality management plan'' is replaced with the phrase ''adequate water quality management measures'' to reflect the modified language in General Condition 9. This sentence is corrected to read ''The facility must have adequate water quality management measures in accordance with General Condition 9, such as a stormwater management facility, to ensure that the recreational facility results in no substantial adverse effects to water quality.''

On page 2089, first column, the second sentence of paragraph (c) of NWP 44 is corrected to read ''Normally, the water quality management measures required by General Condition 9 should address these impacts;''. In addition, the second sentence of paragraph (i) of NWP 44 is corrected to read ''Further the District Engineer may require water quality management measures to ensure the authorized work results in minimal adverse effects to water quality;'' These corrections are necessary to reflect the modified language in General Condition 9.

On page 2089, third column, the text of General Condition 6 is corrected to read: ''The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.'' The change to General Condition 6 that was published in the January 15, 2002, **Federal Register** was not intended and we are correcting this sentence by reinstating the original text as it existed in the March 9, 2000, NWPs.

On page 2090, first column, the word ''Section'' in the parenthetical at the end of General Condition 10 is replaced with ''33 CFR'' so that the parenthetical reads ''(see 33 CFR 330.4(d))''.

On page 2090, at the top of the second column, the second Internet URL is replaced with ''* * * *http://www.nmfs.noaa.gov/prot_res/overview/es.html* * * *'' because the Internet address for the National Marine Fisheries Service home page for endangered species has been changed.

On page 2090, third column, in paragraph (b)(4) of General Condition 13, NWP 40 should be added to the list of NWPs that require submission of delineations of special aquatic sites with pre-construction notifications. Therefore, paragraph (b)(4) of General Condition 13 is corrected to read ''For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (*e.g.,* submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));''

On page 2090, third column, in paragraph (b)(6) of General Condition 13, the word ''Projects'' replaces the word ''Crossings'', because the title of NWP 14 is ''Linear Transportation Projects''.

On page 2090, third column, in paragraph (b)(8) of General Condition 13, the word ''Activities'' is inserted after the word ''Restoration'' because the title of NWP 27 is ''Stream and Wetland Restoration Activities''.

On page 2091, first column, in paragraph (b)(10) of General Condition 13, the word ''Projects'' is replaced with the word ''Facilities'' because the title of NWP 31 is ''Maintenance of Existing Flood Control Facilities''.

On page 2094, third column, we are correcting the definition of ''Loss of Waters of the US'' by deleting the last sentence and inserting the following sentence after the fourth sentence of this definition: ''Impacts to ephemeral streams are not included in the linear foot measurement of loss of stream bed for the purpose of determining compliance with the linear foot limits of NWPs 39, 40, 42, and 43.''

Due to the number of corrections made to the definition of ''Loss of Waters of the US'', we are providing the text of this definition in its entirety, with the corrections described above:

Loss of Waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Impacts to ephemeral streams are not included in the linear foot measurement of loss of stream bed for the purpose of determining compliance with the linear foot limits of NWPs 39, 40, 42, and 43. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US.

In the January 15, 2002, **Federal Register**, it was stated that the definition was being revised (to clarify that ephemeral waters and streams are not included in the acreage or linear thresholds for NWPs) to comport with language in the preamble of the March 9, 2000 **Federal Register** notice. However, the language in the preamble of the March 9, 2000 **Federal Register** notice (65 FR 12881, third column) does not support this revision. Rather, the referenced preamble states, ''During our review of the comments received in response to the July 21, 1999, **Federal Register** notice, we found an error in the proposed definition of the term, ''loss of waters of the United States.'' In the fourth sentence of the draft definition, we stated that the loss of stream bed

includes the linear feet of perennial or intermittent stream bed that is filled or excavated. This statement is inaccurate because ephemeral stream bed that is filled or excavated can also be considered a loss of waters of the United States. However, the 300 linear foot limit for stream beds filled or excavated does not apply to ephemeral streams. We have modified this sentence to define the loss of stream bed as the linear feet of stream bed that is filled or excavated.'' Thus, the modification of this definition was intended to clarify that activities that involve filling or excavating ephemeral streams are not included in the linear foot limits for filling or excavating stream beds in NWPs 39, 40, 42, and 43. However, it was not intended to exempt ephemeral waters or streams from calculations of impacted acreages to determine PCN or maximum acreage requirements in accordance with NWPs 39, 40, 42, and 43.

In the August 9, 2001, **Federal Register** notice (66 FR 42099) we proposed to modify the definition of ''Loss of Waters of the US'' by adding the sentence ''* * * The loss of stream bed includes the linear feet of perennial stream or intermittent stream that is filled or excavated * * *''. The proposed change was in response to a commitment to clearly state in the text of the NWPs (which includes the definitions) that the 300 linear foot limit in NWPs 39, 40, 42, and 43 for filling and excavating stream beds would only apply to intermittent and perennial streams, not to ephemeral streams.

In the January 15, 2002, **Federal Register** notice (67 FR 2074–2075) we erroneously stated that both the acreage and linear limits of the NWPs do not apply to ephemeral waters. This was never intended to be adopted as policy for the NWPs or the Corps regulatory program. A previously stated, in the first column of page 2075 of the January 15, 2002, **Federal Register** notice, we refer to page 12881 of the March 9, 2000, **Federal Register** notice, which only discusses the 300 linear foot limit, not the acreage limits of the NWPs. Our intent is to continue to apply acreage limits of NWPs to activities that result in the permanent loss of ephemeral waters, but the linear foot limits of the NWPs (*i.e.,* NWPs 39, 40, 42, and 43) for filling or excavating stream beds would not apply to activities that involve filling or excavating ephemeral streams. The last sentence of the definition of ''Loss of Waters of the US'' as published in the January 15, 2002, **Federal Register** notice does not comport with remainder of this NWP package. Therefore, we are correcting this definition as described above.

We believe that correcting the text of NWP 39 and the definition of ''Loss of Waters of the US'' through the publication of this correction notice is appropriate. Nevertheless, in order to give all interested parties further opportunity to comment on this matter, we intend to publish a **Federal Register** notice to solicit public comments on those two corrections. If we determine that any other matter relating to the final NWPs requires correction or clarification, but that matter was not adequately dealt with in this correction notice, we will address that additional matter in the forthcoming **Federal Register** notice, as well. We expect to publish that **Federal Register** notice within a few weeks.

Dated: February 7, 2002.

Lawrence A. Lang,

Assistant Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 02–3555 Filed 2–12–02; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Uniformed Services University of the Health Sciences

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:00 a.m. to 4:00 p.m., February 5, 2002.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—November 14, 2001
(2) Faculty Matters
(3) Department Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary, Board of Regents, (301) 295–3116.

Dated: February 8, 2002.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–3683 Filed 2–11–02; 3:32 pm]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 15, 2002.

ADDRESSES: Written comments 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 10202, 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 Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 6, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Student Financial Assistance

Type of Review: Extension.

Title: Student Assistance General Provisions—Subpart I—Immigration Status Confirmation.

Frequency: On Occasion.

Affected Public: Individuals or households; Not-for-profit institutions

Reporting and Recordkeeping Hour Burden:

Responses: 7,310.

Burden Hours: 23,209.

Abstract: Collection of this information used for immigration status confirmation reduces the potential of fraud and abuse caused by ineligible aliens receiving Federally subsidized student finanicial assistance under Title IV of the Higher Education Act (HEA) of 1965, as amended. The respondent population is comprised of 7,310 postsecondary institutions who participate in administration of the Title IV, HEA programs.

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 Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart__ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–3452 Filed 2–12–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–332–003]

ANR Pipeline Company; Notice of Compliance Filing

February 7, 2002.

Take notice that on January 30, 2002, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets identified in Appendix A attached to the filing, with an effective date of April 1, 2002.

ANR states that these tariff sheets are being filed in compliance with Article 5 of the Stipulation and Agreement submitted in the above-referenced docket on July 10, 2001 (the Settlement), and the Commission's Order on Order No. 637 Settlement issued in the above referenced docket. *ANR Pipeline Company,* 97 FERC ¶ 61, 323 (2001).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3478 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3056–000 and ER01–3056–001]

Cedar Brakes III, L.L.C.; Notice of Issuance of Order

February 7, 2002.

Cedar Brakes III, L.L.C. (Cedar Brakes) submitted for filing a tariff under which Cedar Brakes will engage in the sale of energy and capacity at market-based rates. Cedar Brakes also requested waiver of various Commission regulations. In particular, Cedar Brakes requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Cedar Brakes.

On December 4, 2001, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-West, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Cedar Brakes should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Cedar Brakes is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Cedar Brakes, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Cedar Brakes' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 19, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3467 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–79–000]

Desert Crossing Gas Storage and Transportation System LLC; Notice of Application

February 7, 2002.

Take notice that on February 1, 2002, Desert Crossing Gas Storage and Transportation (''Desert Crossing''), 83 Pine Street, Suite 101, West Peabody, MA 01960, filed a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to rule 207 (a)(5) of the Commission's rules of practice and procedure (18 CFR 385.207(a)(5)), and section 7(c)(1)(B) of the Natural Gas Act (15 U.S.C. 717(c)(1)(B)), seeking approval of an exemption from certificate requirements to perform temporary activities related to establishing an injection well exploratory drilling and testing site. 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).

Any questions regarding the application should be directed to Gregory M Lander, Acting Manager, Desert Crossing, 83 Pine Street, Suite 101, West Peabody, MA 01960; telephone (800) 883–8227.

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 19, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3465 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–037]

Dominion Transmission, Inc.; Notice of Negotiated Rates

February 7, 2002.

Take notice that on February 1, 2002, Dominion Transmission, Inc. (DTI) tendered for filing the following tariff sheet for disclosure of a recently negotiated transaction with Sithe Power Marketing, LP:

Third Revised Sheet No. 1400

DTI states that the tariff sheet relates to a specific negotiated rate transaction between DTI and Sithe Power Marketing, LP. The transaction provides Sithe Power Marketing, LP with firm transportation service and conforms to the forms of service agreement contained in DTI's tariff. The term of the agreement is February 2, 2002, through January 31, 2003.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3469 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3055–000 and ER01–3055–001]

Eagle Point Cogeneration Partnership; Notice of Issuance of Order

February 7, 2002.

Eagle Point Cogeneration Partnership (Eagle Point) submitted for filing a tariff under which Eagle Point will engage in the sale of energy and capacity at market-based rates. Eagle Point also requested waiver of various Commission regulations. In particular, Eagle Point requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Eagle Point.

On December 14, 2001, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-West, granted requests for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Eagle Point should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Eagle Point is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Eagle Point, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Eagle Point's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 19, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3466 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–195–006]

Equitrans, L.P.; Notice of Surcharge Report

February 7, 2002.

Take notice that on January 29, 2002, Equitrans, L.P. (Equitrans) tendered for filing its Extraction Surcharge Report pursuant to Article II of the Stipulation and Agreement (Settlement) filed herein on November 1, 2000.

Equitrans states that the purpose of the filing is to report the amount collected during the period in which Equitrans is authorized by the Settlement to collect a surcharge for underrecovery of gas processing costs.

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 14, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3475 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–935–000]

Florida Power & Light Company; Notice of Filing

February 5, 2002.

Take notice that on January 31, 2002, Florida Power & Light Company (FPL) filed with the Federal Energy Regulatory Commission an unexecuted Interconnection and Operation Agreement between FPL and Enron Broward Generating Company, LLC (Enron Broward) that sets forth the terms and conditions governing the interconnection between Enron Broward's generating project and FPL's transmission system. A copy of this filing has been served on Enron Broward and the Florida Public Service Commission.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: February 21, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–3463 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–390–004]

Granite State Gas Transmission, Inc.; Notice of Compliance Filing

February 7, 2002.

Take notice that on January 31, 2002, Granite State Gas Transmission, Inc. (Granite State) tendered its filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, with an effective date of April 1, 2002.

Granite State states that the filing is being made in compliance with the Commission's January 16, 2002 order in this proceeding.

Granite State states that copies of its filing have been mailed to all firm and interruptible customers, affected state commissions, and parties on the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3479 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–305–007]

Mississippi River Transmission Corporation; Notice of Negotiated Rate

February 7, 2002.

Take notice that on February 4, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet, to be effective January 1, 2002:

Substitute Original Sheet No. 10D

MRT states that the purpose of this filing is to withdraw the initial negotiated rate filing made in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3477 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–369–002]

Mississippi River Transmission Corporation; Notice of Compliance Filing

February 7, 2002.

Take notice that on February 1, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet to be effective April 1, 2002:

Substitute Eighth Revised Sheet No. 80

MRT states that the purpose of this filing is to implement the Internet-related GISB Standards in Version 1.4.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3481 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–050]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

February 7, 2002.

Take notice that on February 4, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing to

become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet No. 26P.03, to be effective February 4, 2002.

Natural states that the purpose of this filing is to implement an amendment to an existing negotiated rate transaction entered into by Natural and Dynegy Marketing and Trade under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's tariff.

Natural states that copies of the filing are being mailed to all parties set out on the official service list at Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3474 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–012]

Questar Pipeline Company; Notice of Tariff Filing

February 7, 2002.

Take notice that on January 31, 2002, Questar Pipeline Company (Questar) tendered for filing a tariff filing to implement a negotiated-rate contract as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, et al.

Questar request waiver of 18 CFR 154.207 so that Thirteenth Revised Sheet No. 7 to First Revised Volume No. 1 of its FERC Gas Tariff may become effective February 1, 2002.

Questar states that a copy of this filing has been served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3476 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–368–002]

Reliant Energy Gas Transmission Company; Notice of Compliance Filing

February 7, 2002.

Take notice that on February 1, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective April 1, 2002:

Substitute Second Revised Sheet No. 435

REGT states that the purpose of this filing is to implement the Internet-related GISB Standards in Version 1.4.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3480 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–154–000]

Texas Gas Transmission Corporation; Notice of Annual Cash-Out Report

February 7, 2002.

Take notice that on January 30, 2002, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a report that compares its cash-out revenues with cash-out costs for the annual billing period November 1, 2000 through October 31, 2001.

Texas Gas states that the filing is being made in accordance with the Commission's December 16, 1993, ''Order on Third Compliance Filing and Second Order on Rehearing'' in Docket Nos. RS92–24, et al. There is no rate impact to customers as a result of this filing.

Texas Gas states that copies of this filing have been served upon all of Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's

rules and regulations. All such motions or protests must be filed on or before February 14, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3483 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–041]

TransColorado Gas Transmission Company; Notice of Compliance Filing

February 7, 2002.

Take notice that on January 31, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff Original Volume No. 1, Forty-First Revised Sheet No. 21 and Fourteenth Revised Sheet No. 22A , to be effective February 1, 2002.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets propose to and a negotiated-rate contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3473 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–71–031]

Transcontinental Gas Pipe Line Corporation; Notice of ICTS Revenue Sharing Refund Report

February 7, 2002.

Take notice that on January 31, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a refund report showing that on January 18, 2002, Transco submitted ICTS revenue sharing refunds (total principal and interest amount of $24,737.99) to all affected shippers in Docket Nos. RP97–71 and RP97–312.

Transco states that section 7 of Transco's Rate Schedule ICTS provides that, during the effectiveness of the Docket No. RP97–71 rate period, which began on May 1, 1997, Transco shall refund annually 75% of the fixed cost component of all revenues collected associated with Rate Schedule ICTS interconnect transfer services charges to maximum rate firm transportation and maximum rate interruptible transportation Buyers (collectively, Eligible Shippers). Transco states that it has calculated that the refund amount for the annual period from May 1, 2000 through April 30, 2001 equals $24,737.99.

Pursuant to section 7 of Rate Schedule ICTS, Transco states that it has refunded that amount to Eligible Shippers based on each Eligible Shipper's actual fixed cost contribution as a percentage of the total fixed cost contribution of all such Eligible Shippers (exclusive of the fixed cost contribution pertaining to service purchased by Seller from third parties).

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 14, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3471 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–71–032]

Transcontinental Gas Pipe Line Corporation; Notice of PBS Revenue Sharing Refund Report

February 7, 2002.

Take notice that on January 31, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a refund report showing that on January 18, 2002, Transco submitted PBS revenue sharing refunds (total principal and interest amount of $220,441.76) to all affected shippers in Docket Nos. RP97–71 and RP97–312.

Transco states that section 3.4 of Transco's Rate Schedule PBS provides that, during the effectiveness of the Docket No. RP97–71 rate period, which began on May 1, 1997, Transco shall refund annually 75% of the fixed cost component of all revenues collected associated with Rate Schedule PBS parking/borrowing charges to maximum rate firm transportation, maximum rate interruptible transportation and maximum rate firm storage Buyers (collectively, Eligible Shippers).

Transco states that it has calculated that the refund amount for the annual

period from May 1, 2000 through April 30, 2001 equals $220,441.76. Pursuant to section 3.4 of Rate Schedule PBS, Transco states that it has refunded that amount to Eligible Shippers based on each Eligible Shipper's actual fixed cost contribution as a percentage of the total fixed cost contribution of all such Eligible Shippers (exclusive of the fixed cost contribution pertaining to service purchased by Seller from third parties).

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 14, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3472 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–375–002]

Vector Pipeline L.P.; Notice of Negotiated Rates

February 7, 2002.

Take notice that on February 1, 2002, Vector Pipeline L.P. (Vector) tendered for filing the following tariff sheet for the disclosure of a recently completed negotiated rate transaction with Crete Energy Ventures, LLC:

Original Sheet No. 175

Vector states that copies of its letter of transmittal and enclosures have been served upon Vector's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3482 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–48–000, et al.]

Otter Tail Power Company, et al. Electric Rate and Corporate Regulation Filings

February 6, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Otter Tail Power Company, a division of Otter Tail Corporation

[Docket No. EC02–48–000]

Take notice that on January 31, 2002, Otter Tail Power Company, a division of Otter Tail Corporation, (Otter Tail) tendered for filing, an Application to Transfer Contractual Rights Over Transmission Facilities to the Midwest Independent Transmission System Operator, Inc. under section 203 of the Federal Power Act. This application is intended to fill in the gaps of Otter Tail's prior application for which the Commission authorized transfer of operational control over transmission facilities. Otter Tail Power Co., 97 FERC ¶61,226, (2001). This application regards the transfer of Otter Tail's contractual rights, as provided by certain agreements, in certain jointly-owned facilities to the Midwest Independent Transmission System Operator, Inc.

Comment Date: February 21, 2002.

2. Keystone Power LLC

[Docket No. EG02–82–000]

Take notice that on February 1, 2002, Keystone Power LLC filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA). The applicant states that it is a limited liability company organized under the laws of the State of Delaware that will increase to 6.17 percent its undivided interests in the Keystone Generating Station in Shelocta, Pennsylvania (Facilities) and sell electric energy at wholesale. The total capacity of the applicant's interest in the Facilities is 105.7 MW. Determinations pursuant to section 32(c) of PUHCA have been received from the State commissions of Delaware, Maryland, New Jersey, and Virginia.

Comment Date: February 27, 2002.

3. Conemaugh Power LLC

[Docket No. EG02–83–000]

Take notice that on February 1, 2002, Conemaugh Power LLC filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA). The applicant states that it is a limited liability company organized under the laws of the State of Delaware that will increase to 7.55 percent its undivided interests in the Conemaugh Generating Station in New Florence, Pennsylvania (Facilities) and sell electric energy at wholesale. The total capacity of the applicant's interest in the Facilities is 128.8 MW. Determinations pursuant to section 32(c) of PUHCA have been received from the State commissions of Delaware, Maryland, New Jersey, and Virginia.

Comment Date: February 27, 2002

4. Mirant Sugar Creek, LLC

[Docket No. EG02–84–000]

Take notice that on February 4, 2002, Mirant Sugar Creek, LLC (Sugar Creek) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Sugar Creek proposes to own a 560 MW generating facility located in West Terre Haute, Indiana (Facility). The proposed Facility is expected to commence commercial operation in June, 2002. All output from the Facility will be sold by Sugar Creek exclusively at wholesale.

Comment Date: February 27, 2002.

5. San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, Respondents. Investigation of Practices of the California Independent System Operator and the California Power Exchange, Public Meeting in San Diego, California, Reliant Energy Power Generation Inc., Dynegy Power Marketing, Inc., and Southern Energy California, L.L.C., Complainants, v. California Independent System Operator Corporation, Respondent. California Electricity Oversight Board, Complainant, v. All Sellers of Energy and Ancillary Services Into the Energy and Ancillary Services Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, Respondents. California Municipal Utilities Association, Complainant, v. All Jurisdictional Sellers of Energy and Ancillary Services Into the Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, Respondents. Californians for Renewable Energy, Inc. (CARE), Complainant, v. Independent Energy Producers, Inc., and All Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; All Scheduling Coordinators Acting on Behalf of the Above Sellers; California Independent System Operator Corporation; and California Power Exchange Corporation, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council.

[Docket Nos. EL00–95–058, EL00–98–050, EL00–107–009, EL00–97–003, EL00–104–008, EL01–1–009, EL01–2–003, EL01–68–011]

Take notice that on January 25, 2002, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing pursuant to the Commission's December 19, 2001 ''Order Accepting In Part And Rejecting In Part Compliance Filings,'' 97 FERC ¶ 61,293; the December 19, 2001 ''Order On Clarification and Rehearing,'' 97 FERC ¶ 61,275; and the December 19, 2001 ''Order Temporarily Modifying The West-Wide Price Mitigation Methodology,'' 97 FERC ¶ 61,294. Also the ISO filed an erratum to the above-referenced compliance filing on January 29, 2002.

The ISO has served copies of these filings on all parties in the above-captioned proceedings.

Comment Date: February 15, 2002.

6. Old Dominion Electric Cooperative

[Docket No. ER97–4314–007]

Take notice that on October 26, 2000, Old Dominion Electric Cooperative (Old Dominion) filed with the Federal Energy Regulatory Commission (Commission) an amended version of its October 17, 2000 filing with the Commission of a Request for Determination That Updated Market Analysis is Not Necessary or, in the Alternative, for Extension of Time in the above-referenced proceeding.

Comment Date: February 27, 2002.

7. Northern Indiana Public Service Company

[Docket No. ER01–2541–001]

Take notice that on January 28, 2002, Northern Indiana Public Service Company (Northern Indiana) filed Amendment No. 1 to interconnection and Operating Agreement with Whiting Clean Energy, Inc. The filing is made in compliance with an order issued by the Commission in Docket No. ER01–2541–000. Northern Indiana has requested an effective date of July 9, 2001.

Copies of this filing have been sent to Whiting Clean Energy, Inc., the Indiana utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment Date: February 22, 2002.

8. GNE, LLC

[Docket No. ER02–159–002]

Take notice that on January 28, 2002, GNE, LLC (GNE) hereby submits to the Federal Energy Regulatory Commission (Commission) additional information regarding a change in the ownership of GNE, which GNE submits is a non-material departure from the characteristics that the Commission relied upon in approving GNE's market-based rate authorization.

Comment Date: February 19, 2002.

9. New England Power Pool

[Docket No. ER02–940–000]

Take notice that on February 1, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include Emera Energy Services, Inc. (Emera), Allegheny Energy Supply Company, LLC (Allegheny), RWE Trading Americas Inc. (RWE), Maclaren Energy Inc. (Maclaren) and Leonard LaPorta (LaPorta). The Participants Committee requests an effective date of February 1, 2002, for commencement of participation in NEPOOL by Allegheny and Maclaren, March 1, 2002 for RWE, and April 1, 2002 for Emera and LaPorta.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: February 22, 2002.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–941–000]

Take notice that on February 1, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.16 of the Commission's regulations, 18 CFR 35.16 (2001), the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Succession for certain Transmission Service Agreements and Network Transmission Service and Operating Agreements held by Southern Indiana Gas & Electric Company (SIGECO).

Copies of this filing were sent to all applicable customers under the SIGECO Open Access Transmission Tariff by placing a copy of the same in the United States mail, first-class postage prepaid.

Comment Date: February 22, 2002.

11. Cinergy Services, Inc.

[Docket No. ER02–942–000]

Take notice that on February 1, 2002, Cinergy Services, Inc. (Provider) tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Provider and Cinergy Services, Inc. (Customer) (AREF# 69646977). This service agreement has a yearly firm transmission service with American Electric Power via the Gibson Generating Station.

Provider and Customer are requesting an effective date of January 31, 2002.

Comment Date: February 22, 2002.

12. California Independent System Operator Corporation

[Docket No. ER02–943–000]

On February 1, 2002, the California Independent System Operator Corporation (ISO) submitted a notice

concerning the termination of the Meter Service Agreement for Scheduling Coordinators between the ISO and California Polar Power Brokers, LLC (CALPOL).

The ISO states that this filing has been served on CALPOL and the persons listed on the service list for Docket No. ER98–1864–000.

Comment Date: February 22, 2002.

13. California Independent System Operator Corporation

[Docket No. ER02–944–000]

On February 1, 2002, the California Independent System Operator Corporation (ISO) submitted a notice concerning the termination of the Scheduling Coordinator Agreement between the ISO and California Polar Power Brokers, LLC (CALPOL).

The ISO states that this filing has been served on CALPOL and the persons listed on the service list for Docket No. ER98–999–000.

Comment Date: February 22, 2002.

14. Louisville Gas and Electric Company Kentucky Utilities Company

[Docket No. ER02–945–000]

Take notice that on February 1, 2002, Louisville Gas and Electric Company and Kentucky Utilities Company filed a proposal to cancel parts of its Open Access Transmission Tariff and substitute an Ancillary Services Form of Agreement. Such cancellation and substitution are proposed in order to accommodate the start-up of Midwest Independent Transmission System Operator, Inc. Open Access Transmission Tariff administration.

Comment Date: February 22, 2002.

15. Southern Company Services, Inc.

[Docket No. ER02–946–000]

Take notice that on February 1, 2002, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively Southern Companies), filed a service agreement under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5) (Tariff) with Duke Energy Corporation regarding OASIS request 314698. This agreement has been designated Service Agreement No. 446 under Southern Companies' Tariff.

Comment Date: February 22, 2002.

16. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–947–000]

Take notice that on February 1, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing revisions to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, Original Volume No. 1, which are intended to accommodate retail customer choice in Illinois, Michigan and Ohio.

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: February 22, 2002.

17. PJM Interconnection, L.L.C.

[Docket No. ER02–948–000]

Take notice that on February 1, 2002, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission) one executed umbrella agreement for short-term firm point-to-point transmission service with Allegheny Energy Supply Company, LLC (Allegheny Energy).

PJM requests a waiver of the Commission's notice regulations to permit effective date for the agreement of January 3, 2002. Copies of this filing were service upon Allegheny Energy, as well as the state utility regulatory commissions within the PJM control area.

Comment Date: February 22, 2002.

18. Progress Energy On behalf of Florida Power Corporation

[Docket No. ER02–949–000]

Take notice that on February 1, 2002, Florida Power Corporation (FPC) tendered for filing a Service Agreement for Long-Term Firm Point-to-Point Transmission Service with Central Power & Lime, Inc. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of FPC.

FPC is requesting an effective date of February 1, 2002 for this Service Agreement. A copy of the filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment Date: February 22, 2002.

19. Puget Sound Energy, Inc.

[Docket No. ER02–950–000]

Take notice that on February 1, 2002, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Parallel Operation Agreement with the Public Hospital District No. 1 of King County, Washington, doing business as the Valley Medical Center (Valley Medical Center).

A copy of the filing was served upon Valley Medical Center.

Comment Date: February 22, 2002.

20. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–951–000]

Take notice that on February 1, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.16 of the Commission's regulations, 18 CFR 35.16 (2001), the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Succession for certain Transmission Service Agreements and Network Transmission Service and Operating Agreements held by Northern States Power Company (NSP).

Copies of this filing were sent to all applicable customers under the NSP Open Access Transmission Tariff by placing a copy of the same in the United States mail, first-class postage prepaid.

Comment Date: February 22, 2002.

21. New England Power Company

[Docket No. ER02–952–000]

Take notice that on February 1, 2002, New England Power Company (NEP) submitted for filing complete revised Service Agreement No. 6 between NEP and Granite State Electric Company (Granite State) under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP states that a copy of this filing has been served upon Granite State and the New Hampshire Public Utilities Commission.

Comment Date: February 22, 2002.

22. New England Power Company

[Docket No. ER02–953–000]

Take notice that on February 1, 2002, New England Power Company (NEP) submitted Second Revised Service Agreement No. 129 (Service Agreement) between NEP and New Hampshire Electric Cooperative, Inc. For network integration transmission service under NEP's open access transmission tariff—New England Power Company, FERC Electric tariff, Second Revised Volume No. 9. This Service Agreement is an amended version of the First Revised Service Agreement that was filed on

August 9, 2001, in Docket No. ER01–2802–000. The terms of the amended agreement are identical to the terms of the original agreement, except for the addition of new delivery points and a change in the agreement's expiration date. NEP requests an effective date of February 1, 2002.

NEP states that a copy of this filing has been served upon the appropriate state regulatory agencies and parties to the agreement.

Comment Date: February 22, 2002.

23. Somerset Windpower LLC

[Docket No. ER02–954–000]

Take notice that on February 1, 2002, Somerset Windpower LLC (Somerset) filed with the Federal Energy Regulatory Commission an application to amend its existing authorization to sell capacity and energy at market-based rates pursuant to Section 205 of the Federal Power Act. Somerset is engaged exclusively in the business of owning and operating a 9 MW wind-powered electric generating facility located in Somerset Township, Somerset County, Pennsylvania and selling its capacity and energy at wholesale to Exelon Power Generation LLC.

Comment Date: February 22, 2002.

24. Mill Run Windpower LLC

[Docket No. ER02–955–000]

Take notice that on February 1, 2002, Mill Run Windpower LLC (Mill Run) filed with the Federal Energy Regulatory Commission (Commission) an application to amend its existing authorization to sell capacity and energy at market-based rates pursuant to Section 205 of the Federal Power Act.

Mill Run is engaged exclusively in the business of owning and operating a 15 MW wind-powered electric generating facility located in Springfield and Stuart Townships, Fayette County, Pennsylvania and selling its capacity and energy at wholesale to Exelon Power Generation LLC.

Comment Date: February 22, 2002.

25. PECO Energy Company

[Docket No. ER02–956–000

Take notice that on February 1, 2002 PECO Energy Company (PECO) submitted for filing an Interconnection Agreement by and between PECO and Philadelphian Owners Association for Generation Interconnection and Parallel Operation, designated as Service Agreement No. 633 under PJM Interconnection, L.L.C.'s FERC Electric Tariff, Fourth Revised Volume No. 1, to be effective on February 4, 2002. Copies of this filing were served on Philadelphian Owners Association and PJM.

Comment Date: February 22, 2002.

26. Commonwealth Edison Company

[Docket No. ER02–957–000]

Take notice that on February 4, 2002, Commonwealth Edison Company (ComEd) submitted for filing an interconnection agreement between ComEd and Crete Energy Ventures, LLC. ComEd requests an effective date for the interconnection agreement of February 5, 2002, and, accordingly, seeks waiver of the Commission's notice requirements.

ComEd states that a copy of the filing was served on Crete Energy Ventures, LLC and the Illinois Commerce Commission.

Comment Date: February 22, 2002.

27. PECO Energy Company

[Docket No. ER02–958–000]

Take notice that on February 1, 2002 PECO Energy Company (PECO) submitted for filing an Interconnection Agreement by and between PECO and Phoenix Foods for Generation Interconnection and Parallel Operation, designated as Service Agreement No. 634 under PJM Interconnection, L.L.C.'s FERC Electric Tariff, Fourth Revised Volume No. 1, to be effective on February 4, 2002. Copies of this filing were served on Phoenix Foods and PJM.

Comment Date: February 22, 2002.

28. UAE Mecklenburg Cogeneration LP

[Docket No. QF89–339–005]

Take notice that on February 1, 2002, UAE Mecklenburg Cogeneration LP (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a 132 megawatt (net) topping-cycle pulverized coal cogeneration facility (the Facility) located in Clarksville, Virginia. The Facility is interconnected with the Virginia Electric and Power Company system and power from the Facility is sold to Virginia Electric and Power Company. The Facility's backup power supply when the Facility is not operating is provided by Mecklenburg Electric Cooperative, Inc.

Comment Date: March 4, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3450 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–176–000 and CP01–179–000]

Georgia Strait Crossing Pipeline LP; Notice of a Public Comment Meeting on the Draft Environmental Impact Statement for the Proposed Georgia Strait Crossing Project

February 7, 2002.

The staff of the Federal Energy Regulatory Commission (FERC) has prepared a draft environmental impact statement (DEIS) that discusses the environmental impacts of the Georgia Strait Crossing Project. This project involves construction and operation of facilities by Georgia Strait Crossing Pipeline LP (GSX–US) in Whatcom and San Juan Counties, Washington. The facilities includes about 47 miles of 20- and 16-inch-diameter pipeline (33.4 miles onshore, 13.9 miles offshore), the Sumas Interconnect Facility (receipt point meter station, pig launcher, interconnect piping, and mainline valve), the Cherry Point Compressor Station (a 10,302-horsepower compressor unit, pig launcher/receiver, and mainline /tap valves), and other associated aboveground facilities (four

mainline valves and an offshore tap valve).

This notice is being sent to all persons to whom we[1] mailed the DEIS.

In addition to or in lieu of sending written comments on the DEIS, we invite you to attend a public comment meeting that the FERC will conduct in the project area. The location and time for the meeting is listed below:

Date and Time/ Location

February 26, 2002, 7 p.m.—Lynden High School, Cafeteria, 1201 Bradley Road, Lynden, WA 98264

The public meetings are designed to provide you with an opportunity to offer your comments on the DEIS in person. A transcript of the meetings will be made so that your comments will be accurately recorded.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3464 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11566–000––Maine Damariscotta Mills Project]

Ridgewood Maine Hydro Partners, L.P.; Notice Modifying a Restricted Service List for Comments on a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

February 7, 2002.

On October 18, 2001, the Federal Energy Regulatory Commission (Commission) issued a notice for the Damariscotta Mills Hydroelectric Project (FERC No. 11566–000) proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement for managing properties included in or eligible for inclusion in the National Register of Historic Places. The Damariscotta Mills Hydroelectric Project is located on the Damariscotta River, in Lincoln County, Maine. Ridgewood Maine Hydro Partners, L.P. is the licensee.

Rule 2010 of the Commission's rules of practice and procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The following additions are made to the restricted service list notice issued on October 18, 2001, for Project No. 11566–000:

Mr. Dale Wright, Chairman, Town of Nobleboro, 192 US Highway 1, Nobleboro, ME 04555.

Mr. Jonathan C. Hull, Esq., P.O. Box 880, Damariscotta, ME 04543.

Ms. Rosa Sinclair, Chair, Town of Jefferson, 58 Washington Road, Jefferson, ME 04348.

Alec Giffen, Land & Water Associates, 9 Union Street, Hallowell, ME 04347.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3468 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

[1] "We" refers to the environmental staff of the Office of Energy Projects.

[1] 18 CFR 385.2010.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7143–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Acid Rain Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Acid Rain Program ICR, EPA ICR Number: 1633.13, OMB Control Number: 2060–0258, Expiration Date: September 30, 2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 15, 2002.

ADDRESSES: The current ICR is available on the internet at *www.epa.gov/airmarkets/AcidRainICR.pdf.*

FOR FURTHER INFORMATION CONTACT: Contact Kenon Smith at (202–564–9164) or (*smith.kenon@epa.gov*).

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which participate in the Acid Rain Program.

Title: Acid Rain Program ICR; (OMB Control No. 2060–0258; EPA ICR No. 1633.13) expiring 9/30/2002.

Abstract: The Acid Rain Program was established under Title IV of the 1990 Clean Air Act Amendments. The program calls for major reductions of the pollutants that cause acid rain while establishing a new approach to environmental management. This information collection is necessary to implement the Acid Rain Program. It includes burden hours associated with developing and modifying permits, transferring allowances, monitoring emissions, participating in the annual auctions, completing annual compliance certifications, participating in the Opt-in program, and complying with Nox permitting requirements. Most of this information collection is mandatory under 40 CFR parts 72–78. Some parts of it are voluntary or to obtain a benefit, such as participation in the annual auctions under 40 CFR part 73, subpart E. 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 EPA would like to solicit comments to:

(i) 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;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) 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.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 132 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 previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 850.

Estimated Number of Respondents: 850.

Frequency of Response: Varies by task.

Estimated Total Annual Hour Burden: 1,330,327 hours.

Estimated Total Annualized Capital and Start-up Cost: $92,058,000.

Estimated Total Annualized Operation and Maintenance Cost: $43,574,000.

Dated: February 4, 2002.

Janice Wagner,

Chief, Market Operations Branch.

[FR Doc. 02–3547 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181085; FRL–6822–9]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were granted during the period October 1, 2001 to December 31, 2001 to control unforseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption or denial for the name of a contact person. The following information applies to all contact persons: Team Leader, Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366.

SUPPLEMENTARY INFORMATION: EPA has granted or denied emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you petition EPA for authorization under section 18 of FIFRA to use pesticide products which are otherwise unavailable for a given use. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Federal Government	9241	Federal agencies that petition EPA for section 18 pesticide use authorization
State and Territorial government agencies charged with pesticide authority	9241	State agencies that petition EPA for section 18 pesticide use authorization

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table in this unit could also be regulated. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR part 166. 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 or Copies of this Document or Other Documents?

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–181085. 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

Under FIFRA section 18, EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A ''specific exemption'' authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. ''Quarantine'' and ''public health'' exemptions are a particular form of specific exemption issued for quarantine or public health purposes. These are rarely requested.

3. A ''crisis exemption'' is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the ''reasonable certainty of no

harm standard'' of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document, EPA identifies the State or Federal agency granted the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

A. U.S. States and Territories

Arizona
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

California
Environmental Protection Agency, Department of Pesticide Regulation
Denial: On November 29, 2001, EPA denied the use of avermectin on leaf lettuce to control leafminers. This request was denied because at this time, the Agency is unable to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Contact: (Barbara Madden).
Specific: EPA authorized the use of maneb on walnuts to control walnut blight; November 8, 2001 to June 15, 2002. Contact: (Libby Pemberton)

EPA authorized the use of avermectin on spinach to control leaf miners; November 1, 2001 to October 31, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of carboxin on onion seed to control onion smut; November 13, 2001 to May 31, 2002. Contact: (Andrew Ertman)

EPA authorized the use of imidacloprid on strawberries to control silverleaf whiteflies; December 24, 2001 to December 23, 2002. Contact: (Andrew Ertman)

EPA authorized the use of cyhalofop-buty on rice to control bearded sprangletop; April 15, 2002 to August 15, 2002. Contact: (Barbara Madden)

Colorado
Department of Agriculture
Specific: EPA authorized the use of bifenazate on greenhouse grown tomatoes to control spider mites; December 12, 2001 to December 11, 2002. Contact: (Barbara Madden)

Connecticut
Department of Environmental Protection
Specific: EPA authorized the use of triazamate on Christmas trees to control root aphids; November 8, 2001 to September 30, 2002. Contact: (Andrew Ertman)

Florida
Department of Agriculture and Consumer Services
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; January 19, 2002 to January 18, 2003. Contact: (Barbara Madden)

Georgia
Department of Agriculture
Specific: EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; December 6, 2001 to July 1, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; January 19, 2002 to January 18, 2003. Contact: (Barbara Madden)

Idaho
Department of Agriculture
Specific: EPA authorized the use of flufenacet on wheat and triticale to control annual ryegrass; October 3, 2001 to June 30, 2002. Contact: (Barbara Madden)

EPA authorized the use of pendimethalin on mint to control kochia and redroot pigweed; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

Louisiana
Department of Agriculture and Forestry
Crisis: On November 7, 2001, for the use of azoxystrobin on strawberries to control crown rot disease. This program ended on November 23, 2001. Contact: (Libby Pemberton)

Michigan
Michigan Department of Agriculture
Specific: EPA authorized the use of tebuconazole on asparagus to control rust; October 2, 2001 to November 1, 2001. Contact: (Barbara Madden)

Minnesota
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

Mississippi
Department of Agriculture and Commerce
Specific: EPA authorized the use of niclosamide in commercially operated, man-made levee containment ponds for catfish production to control ram's horn snail, an intermediate host to the yellow grub trematode (*Bolbophorus confusus*); November 21, 2001 to November 21, 2002. Contact: (Barbara Madden)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

Missouri
Department of Agriculture
Specific: EPA authorized the use of clethodim on tall fescue to suppress stem and seedhead formation in tall fescue pasture or hay to reduce toxin producing endophyte-fungus; November 8, 2001 to April 15, 2002. Contact: (Barbara Madden)

New Mexico
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of propiconazole in sorghum to control sorghum ergot; June 1, 2002 to September 30, 2002. Contact: (Dan Rosenblatt)

North Dakota
Department of Agriculture
Specific: EPA authorized the use of tebuconazole on wheat to control *Fusarium* Head Blight; May 15, 2002 to September 1, 2002. Contact: (Meredith Laws)

EPA authorized the use of tebuconazole on barley to control *Fusarium* Head Blight; May 15, 2002 to September 1, 2002. Contact: (Meredith Laws)

Oklahoma
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

Oregon
Department of Agriculture
Denial: On October 4, 2001, EPA denied the use of propoxycarbazone-sodium on wheat to control jointed goatgrass. This request was denied because it was not demonstrated that wheat growers will suffer significant economic losses without its use. Contact: (Libby Pemberton)
Specific: EPA authorized the use of flufenacet on wheat and triticale to control annual ryegrass; October 3, 2001 to June 30, 2002. Contact: (Barbara Madden)

EPA authorized the use of clopyralid on cranberries to control lotus, Douglas aster, and clover; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of pendimethalin on mint to control kochia and redroot pigweed; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

South Carolina
Clemson University
Crisis: On November 16, 2001, for the use of flufenacet on wheat to control annual ryegrass. This program ended

December 31, 2001. Contact: (Barbara Madden)
Specific: EPA authorized the use of flufenacet on wheat to control annual ryegrass; November 29, 2001 to December 31, 2001. Contact: (Barbara Madden)

Texas

Department of Agriculture
Crisis: On March 21, 2001, for the use of bifenthrin on citrus to control weevils. This program is expected to end on November 14, 2002. Contact: (Andrea Conrath)
Specific: EPA authorized the use of bifenthrin on citrus to control weevils; November 14, 2001 to November 14, 2002. Contact: (Andrea Conrath)

EPA authorized the use of azoxystrobin on cabbage to control leaf spot caused by *Cercospora brassicicola* and *Alternaria bassicae*; November 29, 2001 to March 18, 2003. Contact: (Libby Pemberton)

EPA authorized the use of propiconazole in sorghum to control sorghum ergot; December 14, 2001 to December 13, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of imazapic-ammonium on bermudagrass hay meadows and pastures to control grassy weeds; February 1, 2002 to October 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of bifenazate on greenhouse grown tomatoes to control spider mites; June 13, 2002 to June 12, 2003. Contact: (Barbara Madden)

Virginia

Department of Agriculture and Consumer Services
Specific: EPA authorized the use of flufenacet on wheat to control annual ryegrass; October 1, 2001 to December 31, 2001. Contact: (Barbara Madden)

Washington

Department of Agriculture
Specific: EPA authorized the use of flufenacet on wheat and triticale to control annual ryegrass; October 3, 2001 to June 30, 2002. Contact: (Barbara Madden)

EPA authorized the use of clopyralid on cranberries to control lotus, Douglas aster, and clover; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of pendimethalin on mint to control kochia and redroot pigweed; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

B. Federal Departments and Agencies

Environmental Protection Agency

Office of Solid Waste and Emergency Response
Crisis: On November 9, 2001, for the use of chlorine dioxide liquid on structures or other property identified as contaminated or potentially contaminated by *Bacillus anthracis* to control anthrax. This program is expected to end on November 9, 2002. Contact: (Barbara Madden)

On November 16, 2001, for the use of hydrogen peroxide and dimethylbenzyl ammonium chlorides on structures or other property identified as contaminated or potentially contaminated by *Bacillus anthracis* to control anthrax. This program is expected to end on November 16, 2002. Contact: (Barbara Madden)

On November 30, 2001, for the use of chlorine dioxide gas in the Hart Senate Office Building to control anthrax (*Bacillus anthracis*). This program ended on February 1, 2002. Contact: (Barbara Madden)

On December 7, 2001, for the use of ethylene oxide to fumigate items retrieved from Congressional Offices that were contaminated or potentially contaminated by *Bacillus anthracis*. This program is expected to end by December 6, 2002. Contact: (Barbara Madden)

On December 17, 2001, for the use of ethylene oxide to fumigate mail received by the Department of Justice that may have been contaminated or potentially contaminated by *Bacillus anthracis*. This program ended on January 1, 2002. Contact: (Barbara Madden)

List of Subjects

Environmental protection, Pesticides and pest.

Dated: January 30, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–3099 Filed 2–12–02; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7143–5]

Operating Permits Program; Notice of Location of Response Letters to Citizens Concerning Program Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is identifying a website which contains letters from EPA to citizens which respond to the citizens' comments on alleged deficiencies in State and local air operating permits programs. The citizen comments were submitted to EPA as a result of a 90-day comment period EPA provided for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs required by title V of the Clean Air Act (Act). The 90-day comment period was from December 11, 2000, until March 12, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Herring, C304–04, Information Transfer and Program Integration Division, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711. Telephone: 919–541–3195. Internet address: *herring.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 11, 2000 (65 FR 77376), EPA announced a 90-day comment period during which the public could submit comments identifying deficiencies they perceived to exist in State and local agency operating permits programs required by title V of the Act. The 90-day comment period ended on March 12, 2001.

The December 11, 2000 notice solicited comment from the public regarding either deficiencies in the elements of the approved program, such as deficiencies in the States' approved regulations, or deficiencies in how a permitting authority was implementing its program. The Agency indicated that it would consider information received from the public and determine whether it agreed or disagreed with the purported deficiencies and would then publish notices of those findings. Where the Agency agreed that a claimed shortcoming constituted a deficiency, it indicated it would issue a notice of deficiency. Where the Agency disagreed as to the existence of a deficiency, it indicated it would respond to the citizen comments by December 1, 2001, for comments on programs granted interim approval as of December 11, 2000. For programs granted full approval as of December 11, 2000, EPA indicated it would respond to citizen comments by April 1, 2002.

In accordance with the procedures set forth in the December 11, 2000, notice and outlined above, EPA has issued notices of deficiency for several State permitting authorities in connection with the citizen comment letters submitted pursuant to the December 11, 2000, notice. Notices of deficiency have been published in the **Federal Register** for the following permitting authorities:

Permitting authority	Citation
State of Michigan	66 FR 64038, December 11, 2001.
State of Indiana	66 FR 64039, December 11, 2001.
District of Columbia	66 FR 65947, December 21, 2001.
State of Washington	67 FR 72, January 2, 2002.
State of Texas	67 FR 732, January 7, 2002.

Also in accordance with the December 11, 2000, notice, EPA has issued Agency response letters to citizen comments which explain EPA's reasoning in those instances where the Agency disagrees that particular alleged problems constitute deficiencies within the meaning of part 70. The EPA hereby notifies the public that these letters are available via the internet at the following web address: *(http://www.epa.gov/air/oaqps/permits/response/)*. The EPA notes further that the terms ''deficiency'' and ''notice of deficiency'' are terms of art under the operating permits regulations in part 70. Thus, as explained in our letters responding to citizen comments, in some instances where EPA declined to issue a notice of deficiency, it was because the Agency disagreed that there was a problem with the State program or its implementation that requires correction. In other instances, however, EPA agreed in whole or in part with commenters that a program was not being properly implemented but nevertheless did not issue a notice of deficiency. Rather, EPA determined that the alleged deficiency had been corrected because the State had made a firm commitment to correct program implementation shortcomings where that could be accomplished on a timely basis by the State administratively without additional rulemaking or legislation.

Background

Pursuant to section 502(b) of the Act, EPA has promulgated regulations establishing the minimum requirements for State and local air agency operating permits programs. We promulgated these regulations on July 21, 1992 (57 FR 32250), in part 70 of title 40, chapter I, of the Code of Federal Regulations. Section 502(d) of the Act requires each State to develop and submit to EPA an operating permits program meeting the requirements of the part 70 regulations and requires us to approve or disapprove the submitted program. In some cases, States have delegated authority to local city, county, or district air pollution control agencies to administer operating permits programs in their jurisdictions. These operating permits programs must meet the same requirements as the State programs. In accordance with section 502(g) of the Act and 40 CFR 70.4(d), for 99 State and local operating permits programs, we granted ''interim'' rather than full approval because the programs substantially met, but did not fully meet, the provisions of part 70. For interim approved programs, we identified in the notice of interim approval those program deficiencies that would have to be corrected before we could grant the program full approval. As of December 11, 2000, some of those 99 programs had since been granted full approval and the remainder still had interim approval status.

After a State or local permitting program is granted full or interim approval, EPA has oversight of the program to insure that the program is implemented correctly and is not changed in an unacceptable manner. Section 70.4(i) of the part 70 regulations requires permitting authorities to keep us apprised of any proposed program modifications and also to submit any program modifications to us for approval. Section 70.10(b) requires any approved operating permits program to be implemented '' * * * in accordance with the requirements of this part and of any agreement between the State and the Administrator concerning operation of the program.''

Furthermore, §§ 70.4(i) and 70.10(b) provide authority for us to require permitting authorities to correct program or implementation deficiencies. As explained previously, EPA has exercised these authorities by in some instances issuing notices of deficiency and in other instances issuing letters explaining why we do not agree that deficiencies exist.

Dated: February 5, 2002.

Anna B. Duncan,

Acting Director, Information Transfer and Program Integration Division.

[FR Doc. 02–3548 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Thursday, February 14, 2002

February 7, 2002.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 14, 2002, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Common Carrier	*Title:* Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; and Universal Service Obligations of Broadband Providers. *Summary:* The Commission will consider a Notice of Proposed Rule Making initiating a thorough examination of the appropriate legal and policy framework under the Communications Act of 1934, as amended, for broadband access to the Internet provided over domestic wireline facilities.
2	Common Carrier	*Title:* Federal-State Joint Board on Universal Service (CC Docket No. 96–45); 1998 Biennial Regulatory Review (CC Docket No. 98–171); Telecommunications Services for Individuals with Hearing and Speech Disabilities (CC Docket No. 90–571); Administration of the North American Numbering Plan (CC Docket No. 92–327); Number Resource Optimization (CC Docket No. 99–200); Telephone Number Portability (CC Docket No. 95–116); and Truth-in-Billing and Billing Format (CC Docket No. 98–170). *Summary:* The Commission will consider a Further Notice of Proposed Rulemaking and Order concerning the system for assessment and recovery of universal service contributions.

Item No.	Bureau	Subject
3	Mass Media	*Title:* Reexamination of the Comparative Standards for Noncommercial Educational Applicants (MM Docket No. 95–31); and Association of America's Public Television Stations' Motion for Stay of Low Power Television Auction (No. 81). *Summary:* The Commission will consider a Second Further Notice of Proposed Rule Making to adopt new procedures for licensing spectrum in which both commercial and noncommercial educational entities have an interest.
4	International	*Title:* Amendment of the Commission's Space Station Licensing Rules and Policies; and 2000 Biennial Regulatory Review—Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of and Spectrum Usage by Satellite Network Earth Stations and Space Stations (IB Docket No. 00–248). *Summary:* The Commission will consider a Notice of Proposed Rule Making and First Report and Order inviting comments on revising the procedures for considering satellite license applications.
5	Consumer Information	*Title:* Establishment of Rules Governing Procedures to Be Followed When Informal Complaints Are Filed by Consumers Against Entities Regulated by the Commission; and Amendment of Subpart E of Chapter 1 of the Commission's Rules Governing Procedures to Be Followed When Informal Complaints Are Filed Against Common Carriers—2000 Biennial Regulatory Review (CC Docket No. 94–93). *Summary:* The Commission will consider a Notice of Proposed Rule Making to establish a uniform consumer complaint process applicable to all services regulated by the Commission which are not currently covered by the common carrier informal complaint rules.
6	Office of Engineering and Technology	*Title:* Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153). *Summary:* The Commission will consider a First Report and Order to provide for new ultra-wideband devices.
7	Wireless Tele-Communications and Office of Engineering and Technology.	*Title:* The 4.9 GHz Band Transferred from Federal Government Use (WT Docket No. 00–32). *Summary:* The Commission will consider a Second Report and Order regarding the allocation and designation of the 4940–4990 MHz band; and a Further Notice of Proposed Rule Making concerning the service rules for this band.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@apl.com*

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 834–1470 Ext. 10. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <*http://www.fcc.gov/realaudio/*>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–3576 Filed 2–8–02; 4:38 pm]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 2:25 p.m. on Thursday, February 7, 2002, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Director James E. Gilleran (Director, Office of Thrift Supervision), seconded by Director John M. Reich (Appointive), concurred in by Chairman Donald E. Powell, and Ms. Julie L. Williams, acting in the place and stead of Director John D. Hawke, Jr. (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B))

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: February 8, 2002.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 02–3613 Filed 2–11–02; 10:49 am]

BILLING CODE 6714–01–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.: 011325–027.

Title: Westbound Transpacific Stabilization Agreement.

Parties: American President Lines, Ltd. and APL Co. PTE Ltd. (operating as a single carrier) A.P. Moller-Maersk Sealand, China Ocean Shipping (Group) Co., Evergreen Marine Corporation, Hanjin Shipping Company, Ltd., Hapag-Lloyd Container Linie GmbH, Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line Limited, P&O Nedlloyd B.V., P&O Nedlloyd Limited., Yangming Marine Transport Corp.

Synopsis: The proposed amendment authorizes the parties to establish a reefer trade management program whereby participating members will have certain program shares designated for one-year periods and will pay for overcarriage or receive payments for undercarriage of containerized refrigerated cargoes.

Agreement No.: 011737–004.

Title: The MCA Agreement.

Parties: Allianca Navegacao E. Logistica Ltda., Antillean Marine Shipping Corporation CMA CGM S.A., Compania Chilena De Navegacion Interoceanica S.A., Companhia Libra de Navegacao, Compania Sud Americana de Vapores S.A., CP Ships (UK) Limited d.b.a. ANZDL and d.b.a. Contship Containerlines, Crowley Liner Services, Inc., Dole Ocean Cargo Express, Far Eastern Shipping Company, Hamburg Sud d.b.a. Columbus Line and d.b.a. Crowley, American Transport, Hapag-Lloyd Container Linie, King Ocean Central America S.A., King Ocean Service De Colombia S.A., King Ocean Service De Venezuela S.A., Lykes Lines Limited, LLC, Montemar Maritima S.A., Norasia Container Line Limited, Tecmarine Lines, Inc., TMM Lines Limited LLC, Tropical Shipping & Construction Co., Ltd., Wallenius Wilhelmsen Lines AS.

Synopsis: The proposed amendment adds Companhia Libra de Navegacao, Compania Sud Americana de Vapores S.A., CP Ships (UK) Limited d.b.a. ANZDL and d.b.a. Contship Containerlines, Dole Ocean Cargo Express, Inc., Hapag-Lloyd Container Linie, Montemar Maritima S.A., Norasia Container Line Limited, and Wallenius Wilhelmsen Lines AS as parties to the agreement. The amendment also corrects the name of Mexican Line Limited to TMM Lines Limited, LLC and changes the name of the administrators of the agreement from Maritime Credit Alliance, Inc. to Maritime Credit Alliance, LLC.

Agreement No.: 011789.

Title: Contship/Zim Indian Subcontinent Space Charter Agreement.

Parties: Contship Containerlines, a division of CP Ships (UK) Limited, Zim Israel Navigation Company Ltd.

Synopsis: The proposed agreement authorizes Zim to charter space from Contship on vessels operated under F.C. Agreement No. 011692 from the U.S. East Coast to ports in the Indian Subcontinent.

Agreement No.: 201114–001.

Title: Oakland Evergreen Terminal Use Agreement.

Parties: City of Oakland: Board of Port Commissioners Evergreen Marine Corp. (Taiwan) Ltd., Lloyd Triestino di Navigazione S.p.A.

Synopsis: The amendment adds an additional party. The agreement continues to run through July 31, 2005.

Agreement No.: 201128.

Title: Florida Ports Conference II.

Parties: Canaveral Port Authority, Broward County, Port Everglades Department, Jacksonville Port Authority, Port of Key West, Manatee County Port Authority, Miami-Dade County, Port of Miami, Ocean Highway and Port Authority, Nassau County, Port of Palm Beach District, Panama City Port Authority, City of Pensacola, Port of Pensacola, Tampa Port Authority.

Synopsis: The proposed agreement will establish a voluntary discussion and cooperative working agreement authorizing the parties to confer, discuss, and agree on rates, charges, practices regulations, definitions, administration, and matters of interest to the ports. It will supercede the present Florida Ports Conference, F.C. Agreement No. 200887.

Agreement No.: 201129.

Title: Port Manatee Warehouse Lease Agreement.

Parties: Manatee County Port Authority, WSI of The Southeast, L.L.C.

Synopsis: The agreement is a lease for a warehouse and is effective through December 31, 2003.

Dated: February 8, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–3523 Filed 2–12–02; 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 Applicant:

GSA Shipping, Inc., 500 W. 140th Street, Gardena, CA 90248. Officers:, Marq Shim, President, (Qualifying Individual), John Kim, General Manager.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant:

Fastcarga, LLC, 2111 NW 79th Avenue, Miami, FL 33122. Officers: Michael P. McCarthy, Traffic Manager, (Qualifying Individual), Carolina Avelianeda, Operation Manager.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Air Sea Transport Inc., 268 Howard Avenue, Des Plaines, IL 60018. Officers: Frank Ku, President, (Qualifying Individual), Tommy Shing, Vice President.

M & N Seatank Agencies, Inc., 118 East 92nd Street, #3D, New York, NY 10128. Officers: Evangelos N. Sakellarios, President, (Qualifying Individual), Nicholas E. Sakellarios, Vice President.

Ridgeway International (USA) Inc., 1080 Military Turnpike, Plattsburgh, NY 12901. Officers: Wendy Wray, Compliance Officer, (Qualifying Individual), Guy M. Tombs, President.

Dated: February 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–3524 Filed 2–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 27, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Randi Lynn Cohen, Owings Mills, Maryland; to acquire additional voting shares of Maryland Permanent Capital Corporation, Owings Mills, Maryland, and thereby indirectly acquire additional voting shares of Maryland Permanent Bank and Trust Company, Owings Mills, Maryland.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Benjamin Louis Doskocil, Sr., Arlington, Texas; to acquire additional voting shares of ANB Financial Corporation, Arlington, Texas, and thereby indirectly acquire additional voting shares of Arlington National Bank, Arlington, Texas.

Board of Governors of the Federal Reserve System, February 7, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–3397 Filed 2–12–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System

TIME AND DATE: 11:00 a.m., Tuesday, February 19, 2002.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR MORE INFORMATION PLEASE CONTACT: Michelle Smith, Assistant to the Board at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 11, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–3651 Filed 2–11–02; 12:34 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Office of Communications; Revision of SF 820, Review of Federal Advisory Committees

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA), Office of Governmentwide Policy revised the SF 820, Review of Federal Advisory Committees to remove unneeded information and collect additional data that will improve the operation of the program. You can access this form from the following web site: *http://www.facadatabase.gov.*

FOR FURTHER INFORMATION CONTACT: Charles Howton, General Services Administration, (202) 273–3561.

DATES: Effective February 13, 2002.

Dated: February 4, 2002.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General services Administration.

[FR Doc. 02–3448 Filed 2–02–02; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0235]

Submission for OMB Review; Comment Request Entitled Price Reductions Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of a request for an extension to an existing OMB clearance 3090–0235, Price Reductions Clause.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration, Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Price Reductions Clause. A request for public comments was published at 66 FR 54772, October 20, 2001. No comments were received.

Public comments are particularly invited on: Whether the information collection generated by the GSAR Clause, Price Reductions is necessary to determine an offeror's price is fair and reasonable; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: *Comment Due Date:* March 15, 2002.

ADDRESSES: Comments regarding this collection of information should be submitted to Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Office of GSA Acquisition Policy (202) 208–6750.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0235, Price Reductions Clause. The Price Reductions Clause used in multiple award schedule contracts ensures that the Government maintains its relationship with the contractor's customer or category of customers, upon which the contract is predicated.

B. Annual Reporting Burden

Number of Respondents: 9,547.

Total Annual Responses: 19,094.

Percentage of these responses: 100 *collected electronically.*

Average hours per response: 7.5 hours.

Total Burden Hours: 143,205.

Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0235, Price Reductions Clause.

Dated: January 29, 2002.

Al Matera,

Director, Acquisition Policy Division

[FR Doc. 02–3533 Filed 2–12–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Government Travel and Transportation Policy; National Travel Forum 2002

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) is announcing that it will hold the National Travel Forum 2002: Excellence in Government Travel and Transportation (NTF 2002) on June 17–20, 2002, at the Opryland Hotel in Nashville, Tennessee. Nearly 1,500 travel, transportation and other professionals within Federal, State, and local governments, as well as the private sector will attend. Much of the focus will be on travel and transportation safety, electronic travel, the Federal Premier Lodging Program and revised travel rules. Also included will be best practices in Government travel and transportation, retirement of the Government Bill of Lading (GBL) and adoption of Commercial Bills of Lading (CBLs), implementation of order entry systems and unique numbering systems, promotional items, as well as a full range of other travel and transportation topics. To attend, exhibit, or hold an agencywide meeting, visit the web site at *www.nationaltravel2002.org.*

FOR FURTHER INFORMATION CONTACT: Jane Graot, Federal Travel Regulation, Office of Governmentwide Policy, at (202) 501–4318, or by e-mail to *jane.groat@gsa.gov.*

Dated: February 7, 2002.

Timothy J. Burke,

Director, Travel Management Division.

[FR Doc. 02–3449 Filed 2–12–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration).

ACTION: Notice of modified or altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an SOR, ''Long Term Care-Minimum Data Set' (LTCMDS), System No. 09–70–1516. We propose to assign a different CMS sequential identification number this system to correct the inadvertent publication of 2 CMS systems with the same system identifying number. The new identifying number for this system should read: System No. 09–70–1517. We propose to broaden the purpose to include the administration of payment for hospital swing bed services. To assist in this purpose, we will add a new routine use to permit certain disclosures to national accrediting organizations. We will also delete published routine use number 2 pertaining to the ''Bureau of the Census,'' number 5 pertaining to contractors, number 6 pertaining to an agency of a state government or an agency established by state law, number 7 pertaining to another Federal agency, number 8 pertaining to certain contractors, and numbers 9, 10, and 11 pertaining to disclosures to combat fraud and abuse in certain health benefits programs.

Routine use number 2 unnecessarily duplicated Exception 4 of the Privacy Act allowing release of data to the Bureau of the Census. Disclosures authorized under published routine use number 5 will be permitted by proposed routine use number 1. Disclosures permitted under routine uses number 6, and 7 will be made a part of proposed routine use number 2. The scope of routine use number 2 will be broaden to allow for release of information to ''another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent.'' Disclosures authorized under published routine use number 8 will be permitted by proposed routine use number 4 authorizing release to Peer Review Organizations (PRO). We propose to delete routine use number 11 and modify routine uses number 9 and 10 to combat fraud and abuse in certain Federally funded health care programs.

The security classification previously reported as ''None'' will be modified to reflect that the data in this system is considered to be ''Level Three Privacy Act Sensitive.'' We are modifying the language in the remaining routine uses to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the system is to aid in the administration of the survey and certification, and payment of Medicare Long Term Care services, which include skilled nursing facilities (SNFs), nursing facilities (NFs) SNFs/NFs, and hospital swing beds, and to study the effectiveness and quality of care given in those facilities. Information in this system will also be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) Peer Review Organizations (PRO); (4) other insurers for processing individual insurance claims; (5) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (6) support constituent requests made to a congressional representative; (7) support litigation involving the Agency; (8) combat fraud and abuse in certain health benefits programs, and (10) national accrediting organizations. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

Effective Dates: CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 7, 2002. To ensure that all parties have adequate time in which to comment, the modified or

altered SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution, CMS, Mail-stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Helene Fredeking, Director, Division of Outcomes and Improvements, Center for Medicaid and State Operations, CMS, 7500 Security Boulevard, S2–14–26, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–7304.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified System

A. Background

CMS published a notice that identified a newly established SOR, ''Long Term Care Minimum Data Set,'' System No. 09–70–1516 at 63 **Federal Register** (FR) 28396 (May 22, 1998). Additional global routine uses affecting this system were published at 63 FR 38414 (July 16, 1998) (added three fraud and abuse uses), and 65 FR 50552 (Aug. 18, 2000) (deleted one and modified two fraud and abuse uses).

B. Statutory and Regulatory Basis for System

Authority for maintenance of the system is given under sections 1102(a), 1819(b)(3)(A), 1819(f), 1919(b)(3)(A), 1919(f), and 1864 of the Social Security Act (the Act).

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The system contains information related to Medicare enrollment and entitlement and Medicare Secondary Payer (MSP) data containing other party liability insurance information necessary for appropriate Medicare claim payment. It contains hospice election, premium billing and collection, direct billing information, and group health plan enrollment data. The system also contains the individual's health insurance numbers, name, geographic location, race/ethnicity, sex, and date of birth.

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release LTCMDS information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use. We will only disclose the minimum personal data necessary to achieve the purpose of LTCMDS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, e.g., developing and refining payment systems, determine effectiveness, and monitoring the quality of care provided to patients.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the LTCMDS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We have provided a brief explanation of the routine uses we are proposing to establish or modify for disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been engaged by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies in their administration of a Federal health program may require LTCMDS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided;

In addition, other state agencies in their administration of a Federal health program may require LTCMDS information for the purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the state;

The Social Security Administration may require LTCMDS data to enable them to assist in the implementation and maintenance of the Medicare program;

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Act, and for the administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state;

We also contemplate disclosing information under this routine use in situations in which state auditing agencies require LTCMDS information for auditing state Medicaid eligibility considerations. CMS may enter into an agreement with state auditing agencies to assist in accomplishing functions relating to purposes for this system.

3. To PROs in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

PROs will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. PROs will assist the state agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

4. To insurance companies, underwriters, third party administrators (TPA), employers, self-insurers, group health plans, health maintenance organizations (HMO), health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, liability insurers, no-fault medical automobile insurers, workers compensation carriers or plans, other groups providing protection against medical expenses without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting (a) an individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the MSP provision at 42 U.S.C. 1395y (b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific function. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

Other insurers may require LTCMDS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

5. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

LTCMDS data will provide research, evaluations and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

6. To a Member of Congress or congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries often request the help of a Member of Congress in resolving an issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

7. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

8. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend

against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require LTCMDS information for the purpose of combating fraud and abuse in such Federally funded programs.

10. To a national accrediting organization whose accredited facilities are presumed to meet certain Medicare requirements for inpatient hospital (including swing beds) services; e.g., the Joint Commission for the Accrediting of Healthcare Organizations (JCAHO). Information will be released to accrediting organizations only for those facilities that they accredit and that participate in the Medicare program.

CMS anticipates providing those national accrediting organizations with LTCMDS information to enable them to target potential or identified problems during the organization's accreditation review process of that facility.

B. Additional Circumstances Affecting Routine Use Disclosures

This SOR contains Protected Health Information as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, 65 FR 82462 (12–28–00), as amended by 66 FR 12434 (2–26–01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.''

In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

A. Administrative Safeguards

The LTCMDS system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: The Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act (PRA) of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix III, ''Security of Federal Automated Information Resources.'' CMS has prepared a comprehensive system security plan as required by the OMB Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, ''Guide for Developing Security Plans for Information Technology Systems.'' Paragraphs A–C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

Authorized users: Personnel having access to the system have been trained in Privacy Act and systems security requirements. Employees and contractors who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. In addition, CMS is monitoring the authorized users to ensure against excessive or unauthorized use. Records are used in a designated work area or workstation and the system location is attended at all times during working hours.

To assure security of the data, the proper level of class user is assigned for each individual user as determined at the Agency level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- Database Administrator class owns the database objects, e.g., tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects;
- Quality Control Administrator class has read and write access to key fields in the database;
- Quality Indicator Report Generator class has read-only access to all fields and tables;
- Policy Research class has query access to tables, but are not allowed to access confidential patient identification information; and
- Submitter class has read and write access to database objects, but no database administration privileges.

A. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the LTCMDS system: Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination which grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System (AIS) resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- User Log-ons—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.
- Workstation Names—Workstation naming conventions may be defined and implemented at the Agency level.
- Hours of Operation—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the Agency level.
- Inactivity Log-out—Access to the NT workstation is automatically logged out after a specified period of inactivity.
- Warnings—Legal notices and security warnings display on all servers and workstations.
- Remote Access Services (RAS)—Windows NT RAS security handles resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security as stated previously in this section. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the Modified System on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will

collect, use, and disseminate information only as prescribed therein.

We will only disclose the minimum personal data necessary to achieve the purpose of LTCMDS. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of data in this system.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: January 30, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

09–70–1517

SYSTEM NAME:

''Long Term Care-Minimum Data Set (LTCMDS),'' Department of Health and Human Services (HHS)/Centers for Medicare & Medicaid Services (CMS)/ Center for Medicaid and State Operations (CMSO).

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850, and at various other remote locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Residents in all long-term care facilities that are Medicare and/or Medicaid certified, including private pay individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the individual's health insurance numbers, name, geographic location, race/ethnicity, sex, date of birth, as well as clinical status data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under sections 1102(a), 1819(b)(3)(A), 1819(f), 1919(b)(3)(A), 1919(f), and 1864 of the Social Security Act (the Act).

PURPOSE(S):

The primary purpose of the system is to aid in the administration of the survey and certification, and payment of Medicare Long Term Care services, which include skilled nursing facilities (SNFs), nursing facilities (NFs) SNFs/ NFs, and hospital swing beds, and to study the effectiveness and quality of care given in those facilities. Information in this system will also be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) Peer Review Organizations (PRO); (4) other insurers for processing individual insurance claims; (5) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (6) support constituent requests made to a congressional representative; (7) support litigation involving the Agency; (8) combat fraud and abuse in certain health benefits programs, and (10) national accrediting organizations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the LTCMDS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

This SOR contains Protected Health Information as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, 65 FR 82462 (12–28–00), as amended by 66 FR 12434 (2–26–01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). We are proposing to establish or modify the following routine uses for disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been engaged by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

3. To PROs in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

4. To insurance companies, underwriters, third party administrators (TPA), employers, self-insurers, group health plans, health maintenance organizations (HMO), health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, other groups providing protection against medical expenses of their enrollees without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting (a) an individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer (MSP) provision at 42 U.S.C. 1395y (b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific

function. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

5. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

6. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

7. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

8. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

10. To a national accrediting organization whose accredited facilities are presumed to meet certain Medicare requirements for inpatient hospital (including swing beds) services; e.g., the Joint Commission for the Accrediting of Healthcare Organizations. Information will be released to accrediting organizations only for those facilities that they accredit and that participate in the Medicare program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

All Medicare records are accessible by HIC number or alpha (name) search. This system supports both online and batch access.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the LTCMDS system. For computerized records, safeguards have been established in accordance with the Department of Health and Human Services (HHS) standards and National Institute of Standards and Technology guidelines, e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information Systems Security Program; CMS Automated Information Systems Guide, Systems Securities Policies, and Office of Management and Budget Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Outcomes and Improvements, CMSO, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, health insurance claim number, address, date of birth, and sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and social security number (SSN). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

The data contained in these records are furnished by the individual, or in the case of some MSP situations, through third party contacts. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Railroad Retirement Board, and the Master Beneficiary Record maintained by the Social Security Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–3451 Filed 2–12–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel SPORES.
Date: March 12–13, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Timothy C. Meeker, MD, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852, 301/594–1279.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3418 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Technologies for the Molecular Analysis of Cancer.
Date: March 6–8, 2002.
Time: 7 pm to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, 6116 Executive Boulevard, Room 8068, Bethesda, MD 20892, (301) 435–1822.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3419 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Agency 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 Caner Institute Initial Review Group, Subcommittee G—Education.
Date: March 4–6, 2002.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Harvey P. Stein, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8137, Bethesda, MD 20892, (301) 496–7841.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research, 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3420 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, International Tobacco and Health Research and Capacity Building Program.
Date: March 4–5, 2002.
Time: 8 am to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mary Jane Slesinski, PHD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892, 301/594–1566.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology

Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3421 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grant Program for Behavioral Research in Cancer Control.

Date: March 12, 2002.

Time: 8 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Jane Slesinski, PHD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institute of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892, 301/594–1566.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3422 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: February 19, 2002.

Time: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles G. Hollingsworth, DRPH, Director, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Drive, Room 6018, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, 301–435–0806, *charlesh@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: February 21, 2002.

Time: 8 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eric H. Brown, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6075 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6018, Bethesda, MD 20892–7965, 301–435–0815, *brown@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: February 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3430 Filed 2–12–02; 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 grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mentored Patient Oriented Research Career Development Award.

Date: February 8, 2002.

Time: 11 am to 12:15 pm.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Room 4212, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Diane M. Reid, MD, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3434 Filed 2–12–02; 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 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, Cardiac Disease in Children with Chronic Renal Failure.

Date: February 8, 2002.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, (Telephone Conference Call).

Contact: Diane M. Reid, MD, Scientific Review Administrator, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases of Resources Research, National Institutes of Health, HHS)

Dated: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3435 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research 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 provision set fort in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group, Genome Research Review Committee.

Date: March 5, 2002.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NHGRI Conference Rm B2B32, 31 Center Dr, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzati, PHD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3444 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research 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 hte following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in other. 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 Human Genome Research Institute Special Emphasis Panel.

Date: March 5, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate granta applications.

Place: NHGRI Conference Rm B2B32, 31 Center Dr., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, PHD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3445 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: February 12, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Arthur D. Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: February 14–15, 2002.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Cleveland Hotel at Playhouse Square, 1260 Euclid Avenue, Cleveland, OH 44115.
Contact Person: Ramesh Vemuri, PHD, National Institute on Aging The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C2212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: February 20–21, 2002.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Radisson Hotel and Suites Chicago, 160 East Huron Street, Chicago, IL 60611.
Contact Person: Aliccja L. Markowska, PhD, DSC, Scientific Review Office, Gateway Building/Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20817.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: February 24–25, 2002.
Time: 6 p.m. to 5 p.m.
*Agenda:*To review and evaluate grant applications.
Place: Providence Biltmore Hotel, Kennedy Plaza, 11 Dorrance Street, Providence, RI 02903.
Contact Person: James P. Hardwood, PHD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.
Date: March 4–6, 2002.
Time: 6 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666, *harwood@mail.nih.gov.*

Name of Committee: National Institute of Aging Initial Review Group, Clinical Aging Review Committee.
Date: March 7–8, 2002.
Time: 6 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Rd, Bethesda, MD 20814.
Contact Person: Alicja L. Markowska, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *markowsa@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Special Emphasis Panel (SEP).
Date: March 11, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Four Points Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: March 13–14, 2002.
Time: 6 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham Checkers, 535 South Grand Avenue, Los Angeles, CA 90071.
Contact Person: Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3423 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''High-throughput Screening of Functional Activity of Proteins Using Biosensor-based, Technology''.
Date: February 14, 2002.
Time: 10 am to 12 pm.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, 301–435–1437.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Novel Drug Delivery System for the Mouse''.
Date: February 21, 2002.
Time: 10 am to 12 pm.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office Of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, 301–435–1437.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards: 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3425 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of 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 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 Dental and Craniofacial Research Special Emphasis Panel 02–39, Review of R13 Grants.

Date: February 13, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PHD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–60, Review of R–44 Grants.

Date: February 21, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–57, Review of R44 Grants.

Date: March 19, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–37, Review of R25 Grants.

Date: March 19, 2002.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PHD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–46, Review of R01 Grants.

Date: March 21, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3426 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Program Project.

Date: March 25, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 6001 Executive Boulevard, Suite 3158, Bethesda, MD 20892–9547, (Telephone Conference Call).

Contact Person: Khursheed Asghar, PHD, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9574, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93–277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3427 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual other conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: March 10–12, 2002.

Closed: March 10, 2002, 8 p.m. to 9:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27709.

Open: March 11, 2002, 8:30 a.m. to 5 p.m.

Agenda: An overview of the organization and conduct of research in the Laboratory of Reproductive & Developmental Toxicology.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: March 12, 2002, 8:30 AM to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27709

Contact Person: Steven K. Akiyama, PhD, Acting Deputy Scientific Director, Division of Intramural Research, Nat. Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, MSC A2–09, Research Triangle Park, NC 27709, 919/541–3467, akiyama@niehs.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3428 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of P01 Applications.

Date: February 19–21, 2002.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel-Denver, Stapleton Plaza, 3333 Quebec Street, Denver, CO 80207.

Contact Person: Brenda K. Weis, PHD, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel To Review Program Project Applications.

Date: March 4–6, 2002.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 120 West Broadway, Louisville, KY 40202.

Contact Person: Linda K. Bass, PHD, Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3431 Filed 2–12–02; 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 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 Mental Health Special Emphasis Panel.

Date: February 21, 2002.

Time: 1 p.m. to 3 p.m.

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.

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. 93.242, 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: February 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3432 Filed 2–12–02; 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.

Date: March 12, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Adriana Costero, PHD, Scientific Review Administrator, NIAID/DEA, Scientific Review Program, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 2089–2761, 301–496–2550.

(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: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3438 Filed 2–12–02; 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, 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 ''Statistical and Clinical Coordinating Center: Immunologic Approaches to Reduce Asthma''.

Date: February 21, 2002.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract 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, *pm18b@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: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3439 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed 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 of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of Program Project Applications.

Date: March 4–6, 2002.

Time: 7 pm to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, Two Albany Street, New Brunswick, NJ 08901.

Contact Person: Ethel B. Jackson, DDS Chief, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–7846, *jackson4@niehs,nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resoruces and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3440 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: March 12, 2002.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Carolyn Miles, PhD, Scientific Research Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: March 20, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Blvd., Room 756, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maxine Lesniak, Scientific Research Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3441 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice of 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 Diabetes and Digestive and Kidney Diseases Initial Review Group Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: March 7–8, 2002.

Time: 12 pm to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20853.

Contact Person: Michele L. Barnard, Ph.D., Scientific Research Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 657, 6707 Democracy Boulevard, Bethesda, MD 20892, 301/594–8898.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Kidney, Urologic and Hematologic D Subcommittee.

Date: March 8, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Neal A. Musto, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 750, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7798, *muston@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Digestive Diseases and Nutrition C Subcommittee.

Date: March 12–13, 2002.

Time: 1 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Carolyn Miles, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metalobic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3442 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: February 28, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Blvd., Room 746, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 746, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, 301–594–7637, *davila-bloomm@extra.niddk.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3443 Filed 2–12–02; 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 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 21, 2002.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700–B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yen Li, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, *yli@niaid.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: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3446 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: March 7–8, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: RAC will review and discuss: selected human gene transfer protocols; data management activities related to human gene transfer clinical trials; informed consent issues; Liver-Directed Gene Transfer of rAAV for Hemophilia B; Update of Clinical Protocol and Data. The RAC meeting will be Web cast and can be viewed at *http://www.webconferences.com/nihoba* during the meeting.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Laurie Harris, RAC Program Assistant, Office of Biotechnology Activities, Rockledge 1, Room 750, Bethesda, MD 20892, 301–496–9839.

Information is also available on the Institute's/Center's home page: *www4.od.nih.gov/oba/,* where an agenda and any additional Information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions tot he information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3429 Filed 2–12–02; 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: Surgery, Radiology and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: February 20–21, 2002.

Time: 1 pm to 1 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Mirage I, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Gerald L. Becker, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170.

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 21, 2002.

Time: 3 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia Greenwel, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, (301) 435–1169, *greenwelp@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 24–26, 2002.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Mushtaq A. Khan, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, (301) 435–1778, *khanm@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 24, 2002.

Time: 6:30 pm to 9:30 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Prabha L. Atreya, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

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: Genetic Sciences Integrated Review Group, Genome Study Section.

Date: February 24–26, 2002.

Time: 7:30 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sally Ann Amero, Ph.D. Scientific Review Administrator, Center for Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC7890, Bethesda, MD 20892–7890, 301–435–1159, *ameros@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: Oncological Sciences Integrated Review Group, Metabolic Pathology Study Section.
Date: February 24–26, 2002.
Time: 7:30 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street NW., Washington, DC 20007.
Contact Person: Angela Y. Ng, Ph.D. MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, 301–435–1715, *nga@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 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

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: Endocrinology and Reproductive Sciences Integrated Review Group, Human Embryology and Development Subcommittee 1.
Date: February 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Michael Knecht, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

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 25–26, 2002.
Time: 8 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, Washington, DC 20037.
Contact Person: Gloria B. Levin, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, *leving@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 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Nadarajen A. Vydelingum, Ph.D. Scientific Review Administrator, Special Study Section—8, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7854, Rm 5122, Bethesda, MD 20892, (301) 435–1176, *vydelinn@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 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, NW., Bethesda, MD 20814.
Contact Person: Dharam S. Dhindsa, DVM, Ph.D. 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.*

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: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Alcohol and Toxicology Subcommittee 3.
Date: February 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham Washington Hotel, 1400 M Street NW., Washington, DC 20005–2750.
Contact Person: Christine Melchior, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7816, Bethesda, MD 20892, (301) 435–1713.

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: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Nursing Research Study Section.
Date: February 25–26, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.
Contact Person: Gertrude McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784.

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: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 4.
Date: February 25–26, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Cheri Wiggs, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

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: Pathophysiological Sciences Integrated Review Group, Lung Biology and Pathology Study Section.
Date: February 26–28, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel & Suites, 2033 M Street, NW., Washington, DC 20036.
Contact Person: George M. Barnas, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0696, *george_barnas@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Peter J. Perrin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Pathology A Study Section.
Date: February 26–27, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Virology Study Section.
Date: February 26–27, 2002.
Time: 8:30 am to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Rona L. Hirschberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, (301) 435–1150.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26–27, 2002.
Time: 9 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245. *richard.marcus@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 3 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 7 pm to 11 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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–28, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Gopal C. Sharma, DVM, MS, Ph.D. Diplomat American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *sharmag@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Microbial Physiology and Genetics Subcommittee 1.
Date: February 27–28, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Alicia J. Dombroski, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, 301–435–1149, *dombrosa@csr.nih.gov.*

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, General Medicine A Subcommittee 1.
Date: February 27–28, 2002.
Time: 8:30 am to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Harold M. Davidson, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1776, *davidsoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–28, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.
Contact Person: Gertrude K. McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784, *mcfarlag@drg.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27, 2002.
Time: 10 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Royal Sonesta Hotel, 300 Bourbon Street, New Orleans, LA 70140–1014.
Contact Person: Charles N. Rafferty, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, Bethesda, MD 20892, (301) 435–3562.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–March 1, 2002.
Time: 7:30 pm to 10:30 am.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Noni Byrnes, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, 301–435–1217, *byrnesn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–March 1, 2002.
Time: 8 pm to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Peter J. Perrin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–March 1, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, (301) 435–1024, *rodewalr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–March 1, 2002.
Time: 8 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: La Jolla Coves Suites, 1155 Coast Blvd., La Jolla, CA 92037.
Contact Person: Tracy E. Orr, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 5118, Bethesda, MD 20892, (301) 435–1259, *orrt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–March 1, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, 301–435–0676, *siroccok@csr.nih.gov.*

Name of Committee: Immunological Sciences Integrated Review Group, Immunological Sciences Study Section.
Date: February 28–March 1, 2002.
Time: 8:30 am to 6 pm.
Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Alexander D. Politis, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, *politisa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Harold M. Davidson, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1777, *davidsoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 PM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Ann Guadagno. Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7770, Bethesda, MD 20892, (301) 451–8011.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sally Ann Amero, Ph.D. Scientific Review Administrator, Center for Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892–7890, 301–435–1159, *ameros@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael A. Oxman, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892, 301/435–3565, *oxmanm@mail.nih.gov.*

(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: February 5, 2002.

Laverne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3424 Filed 2–12–02; 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.

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Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 7, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *shamag@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: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: LaJolla 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.

Name of Committee: Nutrional and Metabolic Sciences Integrated Review Group, Metabolism Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892, (301) 435–4514.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant appliations.

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, *bradleye@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group, Physiological Chemistry Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 21, 2002.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 7.

Date: February 21–22, 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: Joanne T. Fujii, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435–1178, *fujiij@drg.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 8.

Date: February 21–22, 2002.

Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892, (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Washington, 515 15th Street, NW., Washington, DC 20004.
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: Cell Development and Function Integrated Review Group, Cell Development and Function 1.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.
Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *sayrem@csr.nih.gov*.

Name of Committee: Immunological Sciences Integrated Review Group, Allergy and Immunology Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152, *edwardss@csr.nih.gov*.

Name of Committee: Cell Development and Function Integrated Review Group, International and Cooperative Projects Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7840, Bethesda, MD 20892, (301) 435–1019.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Biophysical Chemistry Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.
Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, (301) 435–1153.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Experimental Virology Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892, 301 435–1050, *freundr@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 6.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Radison Barcelo Hotel, 2121 P Street, NW., Washington, DC 20037.
Contact Person: Michael Nunn, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *nunnm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, 1250 22nd Street, NW., Washington, DC 20037.
Contact Person: Jay Cinque, MSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252.

Name of Committee: Biochemical Sciences Integrated Review Group, Biochemistry Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Bethesda, MD 20815.
Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739, *gangulyc@csr.nih.gov*.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Bio-Organic and Natural Products Chemistry Study Section.
Date: February 21–22, 2002.
Time: 8:45 AM to 1 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, (301) 435–1728, *radtkem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 9 AM to 6 PM.
Agenda: To review and evaluate grant applications.
Place: Madison Hotel, Fifteenth & M Streets NW., Washington, DC 20005.
Contact Person: Ellen K. Schwartz, EDD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, (301) 435–0681, *schwarte@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 9 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, Versailles III, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mary Ann Guadagno, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7770, Bethesda, MD 20892, (301) 451–8011.

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 3.
Date: February 21–22, 2002.
Time: 9 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
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: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Social Sciences, Nursing, Epidemiology and Method 3.
Date: February 21–22, 2002.
Time: 9 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Robert Weller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694.

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 6.
Date: February 21–22, 2002.
Time: 9 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Anita Miller Sostek, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–1260.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Social Sciences, Nursing, Epidemiology and Method 2.
Date: February 21–22, 2002.
Time: 9 AM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Yvette Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21, 2002.
Time: 4:30 p.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *tathamt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 22, 2002.
Time: 7 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 3.
Date: February 22–23, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin St. Francis, 355 Powell Street, San Francisco, CA 94102.
Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 22, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW., Washington, DC 20037.
Contact Person: Calbert A. Laing, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, (301) 435–1221, *laingc@csr.nih.gov.*

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Metallobiochemistry Study Section.
Date: February 22, 2002.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW., Washington, DC.
Contact Person: Janet Nelson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1723, *nelsonj@csr.nih.gov.*

(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: February 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3433 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, DHHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreements for the Comprehensive Community Mental Health Services For Children and Their Families Program, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application. Please note that, by statutory mandate, this program requires that the applicant entity will provide, directly or through donations from public or private entities, non-federal contributions. These matching requirements are further detailed in Part I of the GFA.

Activity	Application deadline	Estimated funds FY 2001	Estimated number of awards	Project period
Cooperative Agreements for the Comprehensive Community Mental Health Service for Children and Their Families Program.	April 26, 2002 ..	$13 million	13–16	6 years

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310.

SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which

includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: Knowledge Exchange Network, P.O. Box 42490, Washington, DC 20015, 800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) announces the availability of fiscal year (FY) 2002 funds for grants to develop systems of care that deliver effective comprehensive community mental health services for children and adolescents with serious emotional disturbance and their families. The cooperative agreements will award funds to develop community service systems for the target population, and also to fund a broad array of services within these community service systems.

Eligibility: Under Federal regulations, eligibility is limited to state governments, Indian tribes or tribal organizations (as defined in section 4(b) and section 4(c) of the Indian Self-determination and Education Assistance Act), political subdivision of a state (e.g., a county or city), the District of Columbia, and the territories of Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. This program has specific limitations on eligibility that are further detailed in Part I, Cooperative Agreements for the Comprehensive Community Mental Health Services For Children and Their Families Program.

Availability of Funds: In FY 2002, approximately $13,000,000 will be available for the total costs (direct and indirect) of 13 to 16 awards. Awards will be made in annual increments. Actual funding levels will vary depending on the availability of appropriated funds.

Period of Support: An award may be requested for a project period of up to 6 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: Diane L. Sondheimer, M.S., M.P.H. or Rolando L. Santiago, Ph.D., Child, Adolescent, and Family Branch, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration 5600 Fishers Lane, Room 11C–16, Rockville, MD 20857, (301) 443–1333, E-Mail: dsondhei@samhsa.gov, *rsantiag@samhsa.gov.*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: shudak@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep state and local health officials apprized of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: February 7, 2002.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Administration.

[FR Doc. 02–3462 Filed 2–12–02; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4740–N–01]

Letter of Transmittal; Resolution of Board of Director and Certificate of Authorized Signatures; and Master Servicing Agreement; Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date*: April 15, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya Suarez, Office of Program Operations, Department of Housing & Urban Development, 451 7th Street, SW., Room 6226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya Suarez, Ginnie Mae, (202) 708–2772 (this is not a toll-free number) for copies for the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: (1) Letter of Transmittal, (2) Resolution of Board of Directors and Certificate of Authorized Signatures, and (3) Master Servicing Agreement.

OMB Control Number, if applicable: 2503–0016.

Description of the Need for the Information and Proposed Use

The purpose of the Letter of Transmittal is to provide issuers with a form to transmit documentation to Ginnie Mae when requesting Ginnie Mae's action on certain activities such as requests for commitment authority and pool numbers. The Resolution of Board of Directors and Certificate of Authorized Signature is used by the issuers to provide a list of the names and signatures of officers of the company authorized to execute documents with respect to issuance of securities. The Master Servicing Agreement is used to provide assurance to Ginnie Mae that servicing the mortgages backing the securities approved for issuance will be performed in accordance with acceptable standards of mortgage servicing. It is also used to determine whether the issuer of the pool is the sole servicer or whether the issuer has established a sub-contract servicer arrangement with another institution to perform certain servicing functions on behalf of the issuer.

Agency form numbers, if applicable: HUD form 11700, 11702, and 11707.

Members of affected public: For profit business (mortgage companies, thrifts, savings & loans, etc.)

ESTIMATION OF THE TOTAL NUMBERS OF HOURS NEEDED TO PREPARE THE INFORMATION COLLECTION INCLUDING NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, AND HOURS OF RESPONSE

HUD form	Respondents	Frequency of response	Hours per response *	Total annual responses	Total hours
11700	275	2	.17	500	93.5
11702	275	1	.17	275	46.8
11707	275	1	.17	275	46.8
Total				1,100	187.1

* Approximately 10 minutes.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 5, 2002

George S. Anderson,

Executive Vice President, Ginnie Mae.

[FR Doc. 02–3415 Filed 2–12–02; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–03]

Notice of Submission of Proposed Information Collection to OMB; Mortgagor's Certificate of Actual Cost

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 15, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0112) should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of ours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Mortgagor's Certificate of Actual Cost.

OMB Approval Number: 2502–0112.

Form Numbers: HUD–92330.

Description of the Need for the Information and its Proposed Use: The Mortgagor's Certificate of Actual certifies cost the development in order to make an informed determination of mortgage insurance acceptability and to prevent windfall profits. It provides a basis for evaluating housing programs, labor costs, and physical improvements in connection with the construction of multifamily housing.

Respondents: Business or other for-profit.

Frequency of Submission: At final endorsement.

Reporting burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	500		1		8		4,000

Total Estimated Burden Hours: 4,000.

Status: Reinstatement, without changed.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 5, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–3414 Filed 2–12–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–04]

Notice of Submission of Proposed Information Collection to OMB for Emergency Review; Comment Request for Proposed Changes to Generic Application, Religious Status, and Budget Forms Contained in Grant Applications; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of The Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 20, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number) and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package containing additional alternatives to the SF 424, Application for Federal Assistance, and directly related forms intended to offer standardized, consolidated and streamlined grant application processes in accordance with the provisions of Public Law 106–107, The Federal Financial Assistance Improvement Act of 1999. The two additional forms are a detailed budget and a voluntary indicator of religious status. This submission also proposes minimal changes to the budget summary form to be included in grant applications.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also listed the following information:

Title of Proposal: Emergency Comment Request for Proposed Changes to Generic Application, Religious Status, and Budget Forms Contained in Grant Applications.

OMB Control Number: 2501–0017.

Agency Form Numbers: HUD–424, HUD–424–B, HUD–424–C, HUD–424–CB, HUD–424–M, HUD–424–F.

Members of Affected Public: State, Local or Tribal Government, Not-for-Profit Institutions.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: An estimation of the total number of hours need to prepare the forms for each grant application is 1, however, the burden will assessed against each individual grant program submission under the Paperwork Reduction Act; Estimated number of respondents is 9,091; frequency of response is on the occasion of application for benefits.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 7, 2002.

Wayne Eddins,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–3416 Filed 2–13–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council; Standard Grant Application Instructions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice includes instructions for applying for standard grants (see **SUPPLEMENTARY INFORMATION**) under the U.S. North American Wetlands Conservation Act.

DATES: Proposals may be submitted at any time. To ensure adequate review time prior to upcoming North American Wetlands Conservation Council (Council) meetings, the Council Coordinator must *receive* proposals by March 1, 2002 and July 26, 2002.

ADDRESSES: For detailed application instructions, sample proposal information, frequently asked questions, and summaries of recently approved proposals, visit the North American Wetlands Conservation Act (NAWCA) web site at *http://birdhabitat.fws.gov.* If you cannot access the web site, contact the Council Coordinator at U.S. Fish and Wildlife Service, Division of Bird Habitat Conservation, 4401 North Fairfax Drive, Room 110, Arlington, VA 22203 or by phone at 703–358–1784 or by fax at 703–358–2282 or by e-mail at *dbhc@fws.gov.* Send proposals to the Council Coordinator at the above address by mail (faxed proposals are not accepted). Mail one original, three copies, and a computer disk version of the proposal to the Council Coordinator. Send a copy of the proposal to your U.S. North American Waterfowl Management Plan (NAWMP) Coordinator (see next section) and all partners in the proposal.

FOR FURTHER INFORMATION CONTACT: North American Wetlands Conservation Council Coordinator at (703) 358–1784 or *dbhc@fws.gov,* Bettina Sparrowe at (703) 358–1784 or *bettina__sparrowe@fws.gov* or a NAWMP Joint Venture Coordinator (Coordinator) at the numbers given below. Coordinators can give you advice about developing a proposal and about proposal ranking and can provide compliance requirements for the National Environmental Policy Act, Endangered Species Act, National Historic Preservation Act, and contaminant surveys. Even though all areas of all States are not in a Joint Venture, each Coordinator is available to provide information to NAWCA applicants. To determine which Coordinator to call, consult the following Joint Venture list (note that only the States in Joint Ventures are listed below) or consult the NAWMP Joint Venture map at *http://birdhabitat.fws.gov/NAWCA/images/namap.gif.*

Atlantic Coast (CT, DE, FL, GA, MA, MD, ME, NC, NH, NJ, NY, PA, Puerto Rico, RI, SC, VA, VT, WV) 413–253–8269

Central Valley (Central Valley of CA) 916–414–6459

Gulf Coast (AL, LA, MS, TX) 505–248–6876

Intermountain West (AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, WY) 801–975–3330 x 129

Lower Mississippi Valley (AR, KY, LA, MS, OK, TN, TX) 601–629–6600

Pacific Coast (CA,OR, WA) 360–696–7630

Playa Lakes (CO, KS, NM, OK, TX) 303–659–8750

Prairie Pothole (IA, MN, MT, ND, SD) 303–236–8155 x 252

Rainwater Basin (NE) 308–382–8112

San Francisco Bay (San Francisco Bay in CA) 916–414–6459

Upper Mississippi River-Great Lakes (IA, IL, IN, KS, MI, MN, MO, NE, OH, WI) 612–713–5433

SUPPLEMENTARY INFORMATION: The Council has two U.S. conservation grants programs for acquisition, restoration, and enhancement of wetlands in the U.S. Any individual or organization who has a long-term, partner-based project with matching funds can apply. The focus of this notice is standard grant proposals for requests from $51,000 to $1,000,000 per proposal. A separate notice will be issued later this year for small grant proposals for requests up to $50,000 per proposal.

This notice provides general instructions to develop and submit a NAWCA standard grant proposal. In order to complete a proposal correctly, consult the web site at *http://birdhabitat.fws.gov* for detailed instructions. If you cannot access the web site or want a printed version of the instructions or a personal computer disk that contains proposal forms, contact the Council Coordinator.

We prepare the instructions to assist partners in developing proposals that comply with NAWCA. The NAWCA established the Council, a Federal-State-private body that recommends projects to the Migratory Bird Conservation Commission (MBCC) for final approval and requires that proposals contain a minimum 1:1 ratio of non-Federal matching funds to grant funds. ''Match'' (as referred to throughout this document) can be cash, in-kind services, or land acquired/title donated for wetlands conservation purposes.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501), the Office of Management and Budget has assigned clearance number 1018–0100 to this information collection authorized by the North American Wetlands Conservation Act of 1989, as amended (16 U.S.C. 4401 *et seq.*). The information collection solicited is necessary to gain a benefit in the form of a grant, as determined by the Council and MBCC, is necessary to determine the eligibility and relative value of wetland projects, results in an approximate paperwork burden of 400 hours per application, and does not carry a premise of confidentiality. Your response is voluntary. 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 public is invited to submit comments on the accuracy of the estimated average burden hours for application preparation and to suggest ways in which the burden may be reduced. Comments may be submitted to: Information Collection Clearance Officer, Mail Stop 224 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240 and/or Desk Officer for Interior Department (1018–0100), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Standard Grant Instructions

This **Federal Register** notice contains basic information about NAWCA standard grant proposals. Detailed instructions are available at the NAWCA web site at *http://birdhabitat.fws.gov.* A standard grant proposal is a 4-year plan of action supported by a NAWCA grant and partner funds to conserve wetlands and wetlands-associated fish and wildlife through acquisition (including easements and land title donations), restoration, and/or enhancement (including creation). Match must be non-Federal and at least equal the grant request (referred to as a 1:1 match). Match is eligible up to two years prior to the year the proposal is submitted, and grant and match funds are eligible during the two-year future Grant Agreement period.

Proposal Format. The Summary has a specific format. With the exception of the one-page Cover Page, Matching Contributions Plan, Standard Form 424, and two-page Summary, there are no page number limitations. The ultimate size of the proposal will depend on its complexity, but we request that you attempt to minimize the size of the proposal. Each page should be no larger than 8.5 by 11 inches. Neither the original proposal, nor required copies, should be permanently bound. A proposal contains the following sections: Project Officer's Page; Summary; Purpose and Scope; Budget and Matching Contributions Plan; Technical Assessment Questions; Funding Commitment Letters; Tract and Location Information; Standard Form 424 and Attachments; and Required Attachments.

Proposal Project Officer's Page and Checklist. This part contains the following sections: Proposal Title, State(s), Latitude/Longitude; Date Submitted; Previous and Future Proposals; Project Officer Information; Project Officer's Statements; and Comments on the NAWCA Program. Correspondence is sent only to the Project Officer. Each proposal can have only one Project Officer, who must belong to the grant recipient's organization. The Project Officer states that partners have reviewed the Grant Agreement, so the Grant Agreement is available via the NAWCA web site at *http://birdhabitat.fws.gov/NAWCA/grant.pdf.*

Proposal Summary. The Summary is the only narrative material provided to the Council and MBCC, so it must be descriptive and succinct. This part contains the following sections: Proposal Title, Congressional Districts, States; and Narrative.

Proposal Purpose and Scope. Use this part to describe how all the pieces of the proposal fit together to form a solid wetlands and migratory bird conservation proposal that should be funded under NAWCA. This part contains the following sections: Context of the NAWCA Proposal; Threat and Special Circumstances; Public and Private Use and Support; and Work Plan.

Proposal Budget and Matching Contributions Plan. This part contains the following sections: Compliance Statement; Subrecipients; Budget Justification; Justification for Grant Request that Exceeds $1,000,000; and Matching Contributions Plan. The Budget Justification displays activities and costs broken out by grant funding and partner funding according to cost categories (Non-contract Personnel and Travel, Fee Title Acquisitions and Donations, Easement and Lease Acquisitions and Donations, Materials and Equipment, Contracts, and Indirect and Other Costs) and contains eligibility information about partner matching funds/work and cost details.

If you have matching funds in addition to those used in the proposal and you need to maintain the eligibility of those funds beyond two years for future proposals, you may request approval to use the match in the future by submitting a one-page Matching Contributions Plan (Match Plan) with the proposal. A Match Plan is optional, but, if submitted, must include the following information: Match Plan Amount and Purpose; Match Intent; Match Need; and a chart.

Technical Assessment Questions. The Council uses seven Technical Assessment Questions, site visits, available funding, and other information to select proposals. See the table at the end of this notice that shows the Technical Assessment Questions and point values. Questions 1 and 2 include priority lists of species, so you need to refer to the web site or the Council Coordinator's office to complete a proposal. Answer the questions for the completed proposal and all tracts in the proposal (grant and match).

Funding Commitment Letters. To document match, send signed commitment letters from all matching and non-matching partners, including the grant recipient and private landowners (if providing funds or land as match), with the proposal. The proposal will be returned if the 1:1 match is not documented by partner letters. Letters must document the exact contribution level identified in the proposal and whether the contribution is in cash, goods, services, or land; the partner's responsibility in the proposal's implementation, including land donations; how the partner was involved in proposal planning; and that the partner is fully aware of how the contribution will be spent. Letters have 3 sections: Contributions Statements; Compliance Statements; and Partnership Statements.

Tract and Location Information. Give the following information for each tract in the proposal: (1) Acreage; (2) Activity, method, and schedule for work on the tract; (3) Funding source; (4) Township, range, section, county, and state; (5) Title holder at completion of proposal; and (6) Whether tract is affected by a Matching Contributions Plan.

Provide one to two 8.5 by 11-inch color (preferred) maps with the following information: (1) Location of tracts within State(s) and counties where grant and match funds have or will be spent; (2) Identification of fee-title, easement, and lease tracts or acquisition priority areas if specific tracts cannot be given; (3) Location of major water control structures and other restoration/enhancement features; (4) Location of natural features, such as rivers or lakes, to show how the proposal fits into the natural landscape; and (5) If applicable, location of previous and future NAWCA grant proposal sites; and (6) If applicable, where the proposal is in relation to a larger wetlands conservation project. The proposal title should be on each map. One to two aerial photographs may also be submitted.

Required Attachments. If applicable, attach 8.5 by 11-inch copies of the following: (1) Easements and leases in place when the proposal was submitted; (2) Model easements and leases; (3) Your negotiated indirect cost rate agreement; and (4) Sample/model landowner agreements.

Standard Form 424 ''Application for Federal Assistance'' and Assurances Forms B ''Non-construction'' and D ''Construction.'' All applicants, except the U.S. Fish and Wildlife Service, must send an SF 424 and the B, D, or both Assurances forms with the proposal. All applicants must comply with the laws listed on the Assurances forms. The forms are available via the Internet at *http://www.gsa.gov/forms/,* at *http://www.nctc.fws.gov/fedaid/toolkit/toolkit.pdf* or from the Council Coordinator.

Exhibits and Examples. Examples of various sections of a proposal, lists of eligible and ineligible activities and costs, general process information about the NAWCA program, and people and organizations who may be contacted for

assistance are available via the web site or from the Council Coordinator and should be consulted at some time in the proposal development process.

Blank Proposal Forms. The following forms are available from the web site for you to download and use to develop a proposal: (1) A blank proposal form developed using Microsoft Word; (2) A blank proposal form using Word Perfect; and (3) A blank optional budget table using Microsoft Excel (very useful for planning and may be submitted with the proposal).

Dated: January 15, 2002.

Steve Funderburk,

Acting Deputy Assistant Director, Migratory Birds and, State Programs, U.S. Fish and Wildlife Service.

Technical assessment questions	Points = 100
#1. How does the proposal contribute to the conservation of waterfowl habitat?	Maximum = 15
A. High priority species	0–7
B. Other priority species	0–5
C. Other waterfowl	0–3
#2. How does the proposal contribute to the conservation of other wetland-dependent or wetland-associated migratory birds?	Maximum = 15
A. Bird Conservation Regions and high priority birds.	
B. Other wetland-associated birds.	
#3. How does the proposal benefit the North American Waterfowl Management Plan and contribute to sites that have been recognized for wetland values?	Maximum = 15
A. Joint Ventures and Areas of Concern: Prairie Pothole Joint Venture, Other Joint Ventures, Areas of Concern, combination.	0–10, 0–8, 0–4, 0–?
B. Specially recognized sites	0–5
#4. How does the proposal relate to the National status and trends of wetlands types?	Maximum = 10
A. Decreasing wetlands types	0–10
B. Stable wetlands types	0–4
C. Increasing wetlands types	0–1
D. No trend data types	0–?
E. Uplands	0–8
#5. How does the proposal contribute to long-term conservation of wetlands and associated habitats?	Maximum = 15
A. Benefits in perpetuity	0–12
B. Benefits for 26–99 years	0–8
C. Benefits for 10–25 years	0–6
D. Benefits for <10 years	0–4
E. Significance to long-term conservation	0–3
#6. How does the proposal contribute to the conservation of habitat for Federally listed, proposed, and candidate endangered species, State-listed species, and other wetland-dependent fish and wildlife?	Maximum = 10
A. Federal endangered, threatened, proposed or candidate species (1, 2, >2)	0–3, 0–4, 0–5
B. State-listed species (≥1)	0–3
C. Other wetland-dependent fish and wildlife (≥1)	0–2
#7. How does the proposal satisfy the partnership purpose of the North American Wetlands Conservation Act?	Maximum = 20
A. Ratio of non-Federal match to grant (≤ 1:1, 1.01–1.49:1, 1.5–1.99:1, ≥ 2:1)	0, 1, 3, 6
B. Matching partners contributing 10% of the grant request (0–, 1, 2, 3, >3)	0, 1, 2, 3
C. Partner categories (1, 2, 3, >3)	0, 2, 3, 4
D. Important partnership aspects	0–7

[FR Doc. 02–3459 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EM, WYW6266]

Federal Coal Lease Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Decision Record Finding of No Significant Impact (DR/FONSI) and Environmental Assessment (EA) and notice of public hearing on the Modification of Federal Coal Lease WYW6266 at the Black Butte Mine operated by Black Butte Coal Company, in Sweetwater County, WY.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and implementing regulations and other applicable statutes, the Bureau of Land Management (BLM) announces the availability of the DR/FONSI for the modification of Federal coal lease WYW6266 east of Rock Springs, Wyoming, and announces the scheduled date and place for a public hearing pursuant to 43 CFR part 3432, 3425.3 and 3425.4. The DR/FONSI addresses the impacts of modifying this Federal coal lease and mining the modification area as a part of the Black Butte Mine, Pit 10 operated by Black Butte Coal Company, in Sweetwater County, WY. The purpose of the hearing is to solicit public comments on the DR/FONSI, the fair market value, the maximum economic recovery, and the proposed noncompetitive offer of the coal included in the proposed lease modification. This lease modification is being considered for offer as a result of a request received from Black Butte Coal Company on August 7, 2000. The tract as requested includes 80.00 acres containing approximately 2.6 million tons of Federal coal reserves.

DATES: A public hearing will be held at 1 p.m. MDT, on February 7, 2002, at the BLM Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming. Written comments on the DR/FONSI will be accepted for 30 days from the date this notice is published.

ADDRESSES: Please address questions, comments or requests for copies of the DR/FONSI to the BLM Rock Springs Field Office, Attn: Scott Sanner, 280 Highway 191 North, Rock Springs, WY 82901; or you may fax them to 307–352–0329.

FOR FURTHER INFORMATION CONTACT: Scott Sanner or Ted Murphy at the above address, or phone: 307–352–0256.

SUPPLEMENTARY INFORMATION: The BLM Rock Springs Field Office has received a request to modify an existing Federal

coal lease at the Black Butte Mine. This mine is operated by Black Butte Coal Company, and is located east of Rock Springs in Sweetwater County, WY. On August 7, 2000, Black Butte Coal Company filed an application with the BLM to modify Federal lease WYW6266 by adding the following lands:

T. 19 N., R. 100 W., 6th PM, Wyoming
Section 24: NWNW, W2NENW, N2SWNW.

This tract is adjacent to Black Butte Mine, Pit 10 and includes 80.00 acres more or less with an estimated 2.6 million tons of coal. This application was filed as a lease modification under the provisions of 43 CFR part 3432.

BLM believes that this lease modification serves the interest of the United States because it will avoid a bypass of Federal coal reserves. This area is a natural extension of the existing mine workings of the Black Butte Mine, Pit 10 of the current lease. This modification area is logically recovered as a part of the planned operations on the existing lease, and would avoid the bypass of these Federal coal reserves. This coal is ripe for recovery and is easily incorporated into Black Butte's current operation. If this coal is recovered in concert with the existing lease, it would result in minimal additional surface disturbance.

BLM further believes that there is no current competitive interest in the lands proposed for lease modification. Under the lease modification process, the modified lands would be added to the existing lease without competitive bidding. Before offering the lease modification the BLM will prepare an appraisal of the fair market value of the lease. The United States would receive fair market value of the lease for the added lands.

The proposed lease modification is within the mine permit area of the Black Butte Mine. No new facilities or employees would be needed to mine the coal. Physical extraction of these reserves would begin in 2004 and continue through 2007. BLM prepared a DR/FONSI for this action. If this tract is modified into the current lease, the new lands must be incorporated into the existing mining plans for the Black Butte Mine. The Office of Surface Mining Reclamation and Enforcement (OSM) is a cooperating agency in the preparation of the environmental document because it is the Federal agency that is responsible for any required actions necessary to incorporate these lands into the current mining plan.

In addition to preparing the DR/FONSI, BLM will also develop possible stipulations regarding mining operations, determine the fair market value of the tract and evaluate maximum economic recovery of the coal in the proposed tract while processing this lease modification.

Comments on the DR/FONSI, the fair market value, the maximum economic recovery, and the proposed noncompetitive offer of the coal included in the proposed lease modification, will be available for public review at the address below during regular business hours (7:45 a.m.–4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: January 11, 2002.

Alan Rabinoff,

Deputy State Director, Minerals and Lands.

[FR Doc. 02–3454 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–929–1320–HN; MTM 88970]

Notice of Availability of Environmental Assessment; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A copy of an environmental assessment (EA) for the transfer of Federal mineral rights in lands designated as Otter Creek Tracts 1, 2, and 3 to the State of Montana is available for review. This EA assesses the impacts of the compliance by the Secretary of the Interior with Section 503 of Public Law 105–83 regarding the transfer of mineral assets to the State of Montana.

DATES: Comments must be post marked no later than February 27, 2002.

ADDRESSES: Comments should be sent to the Bureau of Land Management (920), Montana State Office, 5001 Southgate Drive, Billings, Montana 59102.

SUPPLEMENTARY INFORMATION: We welcome your comments on this document. The Bureau of Land Management is collecting comments on behalf of the Secretary of the Interior. We regret that as of February 4, 2002, we do not have internet capability. Therefore, this document is not posted on the internet and comments cannot be received through that medium. Copies of the EA are available at the BLM Montana State Office at the above address.

Comments, including names and addresses of respondents, will be available for public review at the above address during regular business hours (9 a.m. to 4 p.m.) Monday through Friday, except during holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such request will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. Thank you for participating in the environmental process.

Dated: February 4, 2002.

Roberta A. Moltzen,

Acting State Director, BLM Montana State Office.

[FR Doc. 02–3518 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–020–E01–18; WYW–134032]

Notice of Realty Action Direct Sale of Public Land in Big Horn County, Wyoming, Cody Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has determined that the following land is suitable for direct sale to Hawkins & Powers Aviation Inc. (H&P) under sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976 , (90 Stat. 2750, 2757), (43 U.S.C. 1713, 1719), (43 CFR 2711.3–3[1] and [5] and (43 CFR part 270) at not less than fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

Sixth Principal Meridian, Wyoming

T. 52 N., R. 93 W.,
Section 6, Lot 9
Parcel 9A (Cadastral Survey)
Containing 0.99 acres more or less.

FOR FURTHER INFORMATION CONTACT: Duane Feick, Cody Field Office Realty Specialist, Bureau of Land Management, 1002 Blackburn, Cody, Wyoming, 82414; (307) 578–5900.

SUPPLEMENTARY INFORMATION: The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, which ever occurs first. The land would be offered by direct sale to Hawkins and Powers Aviation Inc., an adjacent private landowner, at fair market value. This sale is consistent with Bureau of Land Management policies and the Cody Resource Management Plan (RMP) approved November 8, 1990. As indicated in the Cody RMP, the preferred method of land disposal to a private landowner is by exchange. However, because of the small acreage and relatively low dollar value involved, BLM believes a sale is more appropriate.

The purpose of the sale is to allow consolidation of Hawkins and Powers Aviation Inc. land holdings in the area, and to allow H&P to construct a parking area on the parcel in conjunction with their Museum of Aerial Fire Fighting. This tract is adjoined on three sides by land owned by Big Horn County, and on one side by land owned by the Federal Highway Administration. Access to the parcel is via an existing public county road. The tract is composed of a level gravel terrace with very little vegetation. Public comments were solicited on this proposed direct sale at an open house held in June 1998—no adverse comments were received.

Hawkins & Powers Aviation, Inc. will be required to submit a nonrefundable application fee of $50 in accordance with 43 CFR part 2720, for conveyance of all unreserved mineral interests in the lands. There are no grazing privileges associated with the land.

Any deed issued will be subject to all valid existing rights. Specific patent reservations are:

1. A right-of-way for ditches and canals constructed by authority of the United States pursuant to the Act of August 30, 1890, (43 U.S.C. 945).

2. All oil and gas will be reserved to the United States, together with the right to prospect for, mine and remove the same.

3. All other existing rights of record.

The fair market value, planning document and environmental assessment covering the proposed sale will be available for review at the Bureau of Land Management, Cody Field Office, 1002 Blackburn, Cody, Wyoming 82414.

For a period of 45 days from the date of this notice published in the **Federal Register**, interested parties may submit comments to the Cody Field Office, P.O. Box 518, Cody, WY 82414. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

Comments, including names and addresses of respondent will be available for public review at the Cody Field Office, 1002 Blackburn, Cody, Wyoming during regular business hours (7:30 a.m.–4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and address from public review, or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: December 3, 2001.

Michael Blymyer,

Cody Field Manager.

[FR Doc. 02–3532 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[86% to CO–956–1420–BJ–0000–241A; 14% to CO–956–9820–BJ–CO01–241A]

Colorado: Filing of Plats of Survey

January 14, 2002.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., January 14, 2002. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The plat representing the entire record of the dependent resurvey of M.S. No. 2318, Champion Lode, Suspended T 43 N., R. 6 W., New Mexico Principal Meridian, Group 1238, Colorado, was accepted October 24, 2001.

The plat representing the entire record of the dependent resurvey of certain mineral claims, Suspended T. 44 N., R. 5 W., New Mexico Principal Meridian, Group 1238, Colorado, was accepted October 24, 2001.

The plat representing the entire record of the dependent resurvey of certain mineral claims. T44 N., R. 4 W., New Mexico Principal Meridian, Group 1238, Colorado, was accepted October 24, 2001.

The plat (in two sheets) representing the entire record of the corrective dependent resurvey and dependent resurvey of a portion of the subdivisional lines, Mineral Survey No. 228, Hayden Placer, and Lot 78, in section 31, T. 11 S., R. 79 W., Sixth Principal Meridian, Group 724, Colorado, was accepted October 24, 2001.

The plat representing the limited corrective dependent resurvey of a portion of the Georgetown Townsite, T. 4 S., R. 74 W., Sixth Principal Meridian, Group 696, Colorado, was accepted October 31, 2001.

The plat representing the dependent resurvey of portions of the Eleventh Correction Line North, First Guide Meridian West, subdivisional lines, and the subdivision of section 31, T. 45 N., R. 8 W., New Mexico Principal Meridian, Group 1343, Colorado, was accepted December 5, 2001.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 16, T. 1 N., R. 80 W., Sixth Principal Meridian, Group 1287, Colorado, was accepted December 20, 2001.

The supplemental plat creating new lots in sections 4, 5, 8, 9, and 17, in T. 11 N., R. 79 W., Sixth Principal Meridian, Colorado, is based upon the memo dated May 12, 1998, canceling certain lodes of Mineral Survey No. 20796, and plats approved April 18, 1941, April 21, 1953, July 26, 1982 and January 14, 1983, was accepted November 15, 2001.

The supplemental plat creating new lots 168, 169, and 170, from original lot 164 in the SE¼SE¼ of section 6, T. 1 N., R. 72 W., Sixth Principal Meridian, Colorado, is based upon the Dependent Resurvey and Survey Plat approved January 31, 1996, and the Supplemental Plat approved March 8, 1999, was accepted December 3, 2001.

The supplemental plat creating new lots 171 through 175, and depicting certain private land tracts in the SW¼SW¼ and the W½SE¼SW¼ section 6, is based upon the Dependent Resurvey and Survey plats (sheets 9 and 10 of 12) approved January 31, 1996, the Supplemental plat of the SE¼SE¼ of section 6, approved December 3, 2001 and the official records of mineral claims M.S. 13766, M.S. 17695 and M.S. 20071, was accepted December 3, 2001.

The supplemental plat creating new lots 176 and 177, from original lot 136 in the N½NW¼SW¼ of section 6, is based upon the Dependent Resurvey and Survey plats (sheets 1 and 8 of 12) approved January 31, 1996, the Supplemental plat of the SW¼SW¼ and the W½SE¼SW¼ section 6, approved December 3, 2001, was accepted December 3, 2001.

These surveys and supplemental plats were requested by the Bureau of Land Management for administrative purposes.

The plat representing the entire record of the dependent resurvey and survey to create an irregular lot under the Small Tracts Act, in section 28, T. 6 N., T. 71 W., Sixth Principal Meridian, Group 632, Colorado, was accepted October 3, 2001.

The plat representing the dependent resurvey of the North Boundary, and portions of M.S. No. 15969 A and B, in sections 2 and 3, T. 5 S., R. 75 W., Sixth Principal Meridian, Group 1186, Colorado, was accepted December 20, 2001.

These surveys were requested by the Forest Service for administrative purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 02–3543 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–1420–BJ–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described lands is scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 40 N., R. 116 W., accepted September 28, 2001

T. 41 N., R. 116 W., accepted September 28, 2001

T. 40 N., R. 117 W., accepted September 28, 2001

T. 41 N., R. 117 W., accepted September 28, 2001

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest these surveys must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest within thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

If protests against these surveys, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

FOR FURTHER INFORMATION CONTACT: John P. Lee, (307) 775–6216, Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: January 14, 2002.

John P. Lee,

Chief Cadastral Surveyor for Wyoming.

[FR Doc. 02–3544 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–935–1430–ET; COC–23653]

Notice of Proposed Extension of Withdrawal; Opportunity for Public Meeting; Colorado

December 6, 2001.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Agriculture, Forest Service, proposes to extend Public Land Order No. 6311 for a 20-year period. This order withdrew public lands from operation of the public land laws, including location and entry under the U.S. mining laws, to protect a Forest Service administrative site. The land has been and remains open to mineral leasing. This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by April 15, 2002.

ADDRESSES: Comments and meeting requests should be sent to the Colorado State Director, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius at 303–239–3706.

SUPPLEMENTARY INFORMATION: The Department of Agriculture, Forest Service, has requested that Public Land Order No. 6311 be extended for another 20-year period. This withdrawal was made to protect constructed buildings and storage facilities at the Rifle District Office. This withdrawal will expire August 10, 2002.

The withdrawal is for the Fravert Administrative Site which is used in management of the White River National Forest. The withdrawal comprises 4.84 acres of public land described as lot 1 in Section 8, T. 6 S., R. 93 W., 6th Principal Meridian in Garfield County .

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed extension, or to request a public meeting may present their views in writing to the Colorado State Director at the address shown above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed extension. Any interested persons who desire a public meeting for the purpose of being heard on this proposed action should submit a written request to the Colorado State Director within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days prior to the scheduled date of the meeting.

This extension will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 02–3545 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 2, 2002. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW., Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by February 28, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Orange County

Greystone Villa—Cabin 18, Sievers Canyon, Trabuco Ranger District, Cleveland National Forest, 02000151

COLORADO

Denver County

Gates, Russell and Elinor, Mansion, 1365–1375 Josephine, Denver, 02000152

MASSACHUSETTS

Franklin County

East Northfield School, 13 Pine St., Northfield, 02000156

Sunderland Center Historic District, Roughly along S. Main St., from Old Amherst Rd. to French's Ferry Rd., Sunderland, 02000157

Norfolk County

Inness—Fitts House and Studio/Barn, 406 Main St., Medfield, 02000153

Suffolk County

Greenwood Memorial United Methodist Church, 378A–380 Washington St., Boston, 02000154

Worcester County

Dodge Block and Sawyer Building, Bancroft Trust Building (Worcester MRA), 60 Franklin St., Worcester, 02000155

MICHIGAN

Lake County

Podjun, John and Katharine Tunkun, Farm, 9581 E 1 mi. Rd., Ellsworth, 02000160

Oakland County

Axford—Coffin Farm, 384–388 W. Predmore Rd., Oakland Township, 02000159

Botsford—Graser House, 24105 Locust Dr., Farmington Hills, 02000158

Saginaw County

Saginaw Armory, 234 S. Water St., Saginaw, 02000161

MISSOURI

Boone County

Virginia Building, 111 S. Ninth St., Columbia, 02000163

Knox County

Edina Double Square Historic District, 118–124 S. Main St., Edina, 02000164

Platte County

Pleasant Ridge United Baptist Church, Jct. of MO P and Woodruff Rd., Weston, 02000162

NEW HAMPSHIRE

Coos County

Balsams, The, NH 26, 10 mi. E of Colebrook, Dixville, 02000166

Rockingham County

James, Benjamin, House, 186 Towle Farm Rd., Hampton, 02000168

NEW JERSEY

Sussex County

Black Creek Site—28-Sx-297, Maple Grange Rd., Vernon, 02000167

NORTH CAROLINA

Wake County

Peeny, Jesse, House and Outbuildings, NC 1379, 1 mi. SW of NC 1371, Raleigh, 02000165

OKLAHOMA

Beckham County

Danner, J.W., House, 408 N. Fourth St., Sayre, 02000169

Cherokee County

Ross Cemetery, 0.5 mi. S of jct. of Murrell Rd. and N4530 Rd., Park Hill, 02000170

Harper County

Cooper Bison Kill Site, Address Restricted, Fort Supply, 02000171

Jefferson County

First Presbyterian Church, 124 West Broadway, Waurika, 02000175

Rock Island Passenger Station, 105 S. Meridian, Waurika, 02000173

Oklahoma County

Harding Junior High School, 3333 N. Shartel Ave., Oklahoma City, 02000172

Hightower Building, 105 N. Hudson, Oklahoma City, 02000176

VIRGINIA

Highland County

Monterey High School, Spruce St., 0.5 mi. S of US 250, Monterey, 02000178

Loudoun County

Rock Spring Farm, 329 Loudoun St. SW, Leesburg, 02000177

Lynchburg Independent city Lynch's Brickyard House, 700 Jackson St., Lynchburg (Independent City), 02000180

Phaup, William, House, 911 Sixth St., Lynchburg (Independent City), 02000182

Nottoway County

Mountain Hall, 181 Mountain Hall Dr., Crewe, 02000184

Orange County

Rebel Hall, 151 May-Fray Ave., Orange, 02000179

Richmond Independent city

St. Christopher's School, 711 St. Christopher's Rd., Richmond (Independent City), 02000183

Shenandoah County

Munch, Daniel, House, 2588 Seven Fountains Rd., Fort Valley, 02000181

WASHINGTON

Spokane County

Weaver, Lawrence and Lydia, House, 520 W. 16th Ave., Spokane, 02000186

WISCONSIN

Crawford County

Larsen Cave, (Wisconsin Indian Rock Art Sites MPS) Address Restricted, Eastman, 02000187

Milwaukee County

Kenwood Park—Prospect Hill Historic District, Roughly bounded by N. Hackett Ave., E. Edgewood Ave., N. Lake Dr. and E. Newberry Ave., Milwaukee, 02000185

Walworth County

Main Street Historic District, Roughly Main St., from Center St. to Broad St., Lake Geneva, 02000188

A request of REMOVAL has been made for each of the following resources:

ILLINOIS

Cook County

Lewis Round Barn (Round Barns in Illinois TR), NW of Clayton, Clayton vicinity, 84000916

New Michigan School, 2135 S. Michigan Ave., Chicago, 83003562

Washington School, 7970 Washington Blvd., River Forest, 96000855

Johnson County

Ater-Jaques House, 207 W. Elm St., Urbana, 96000855

Kane County

Old Hotel, 241 Main St., Sugar Grove, 89001464

Vermilion County

Temple Building, 102–1–06 N. Vermilion St. Danville, 00001457

SOUTH DAKOTA

Oahe Addition Historic District, Roughly bounded by N. Poplar, LaBarge Ct., and #3rd and 4th Sts. Pierre, 00000599

[FR Doc. 02–3509 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 26, 2002. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW, Suite 400, Washington DC 20002; or by fax, 202–343–1836 . Written or faxed comments should be submitted by February 28, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ARIZONA

Navajo County

Lower Cibecue Lutheran Mission, Fort Apache Indian Reservation, Lower Cibecue, White Mountain Apache, 02000126

MASSACHUSETTS

Essex County

Old Lynn High School, 50 High St., Lynn, 02000130

Norfolk County

Endicott Estate, 656 East St., Dedham, 02000128

Plymouth County

Island Grove Park National Register District, Park Ave., Abington, 02000127

Worcester County

Tuttle Square School, 41 South St., Auburn, 02000129

NEW JERSEY

Monmouth County

Lauriston, Addriess Restricted, Rumson, 02000134

Somerset County

Van Horne House, 941 E. Main St., Bridgewater Township, 02000133

NEW YORK

Albany County

Merchant, Walter, House, 188 Washington Ave., Albany, 02000137

Allegany County

Canaseraga Four Corners Historic District, 42–64 and 43–69 Main St., 9 S. Church St., Canaderaga, 02000145

Cortland County

First Presbyterian Church Complex, 23 Church St., Cortland, 02000142

Greene County

Bronk-Silvester House, 188 Mansion St., Coxsackie, 02000140

Jefferson County

Thomas Memorial AME Zion Church, 715 Morrison St., Watertown, 02000144

Orange County

Paramount Theatre, South St., Middletown, 02000136

Walden, Jacob T., Stone House, N. Montgomery St., Walden, 02000138

Otsego County

Otsdawa Baptist Church, Cty Rd. 8, Otsdawa, 02000143

Suffolk County

Wells, Joshua, House, 525 N. Suffolk Rd., Cutchogue, 02000139

Ulster County

Bevier Stone House, 2687 NY 209, Marbletown, 02000135

Westchester County

Yonkers Trolley Barn, 92 Main St., Yonkers, 02000141

NORTH CAROLINA

Greene County

Coward, Edward R. and Sallie Ann, House, NC 1405, 0.2 mi. E of jct. with NC 1400, Ormondsville, 02000131

NORTH DAKOTA

Ramsey County

Devils Lake Carnegie Library, (Philanthropically Established Libraries in North Dakota MPS), 623 4th Ave., Devils Lake, 02000132

TEXAS

Bowie County

Garland Community School Teacherage, TX 2, 2.5 mi. W of Dekalb, Dekalb, 02000146

WISCONSIN

Door County

Little Lake Archeological District, Address Restricted, Washington Island, 02000147

Fond Du Lac County

Dana, George and Mary Agnes, House, 136 Sheboygan St., Fond du Lac, 02000148

North Main Street Historic District, Roughly along Main St., from Merrill to Sheboygan, Fond du Lac, 02000149

[FR Doc. 02–3510 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–458]

Certain Digital Display Receivers and Digital Display Controllers and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') terminating the above-captioned investigation in its entirety by granting the unopposed motion of complainant Silicon Image, Inc. (''SII'') to withdraw its complaint and terminate the investigation.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3012. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 29, 2001, based on a complaint filed by Silicon Image, Inc., of Sunnyvale, California (''SII''). 66 FR 29173 (2001). The notice of investigation named two respondents: Genesis Microchip Inc., of Thornhill,

Ontario, Canada, and Genesis Microchip Corp. of Alviso, California (collectively, ''Genesis''). *Id.* The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain digital display receivers and digital display controllers and products containing same by reason of infringement of claims 1–12, 14, and 20 of U.S. Letters Patent 5,905,769. *Id.*

On December 7, 2001, complainant SII moved to withdraw the complaint and to terminate the investigation on the basis of the withdrawal of the complaint. On December 13, 2001, the Commission investigative attorney filed a response in support of the motion. On December 18, 2001, respondents Genesis filed a response stating that they did not oppose the motion. On January 24, 2002, the presiding ALJ issued an ID (Order No. 7) granting the motion. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.42 of the Commission's rules of practice and procedure (19 CFR 210.42).

Issued: February 7, 2002.

By order of the Commission.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–3485 Filed 2–12–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 98–475 JJF]

Public Comments and Response on Proposed Final Judgment in United States v. Federation of Physicians and Dentists, Inc.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States of America hereby publishes below the comment received on the proposed Final Judgment in United States v. Federation of Physicians and Dentists, Inc., Civil Action No. 98–475 JJF, filed in the United States District Court for the District of Delaware, together with the United States' response to the comment.

Copies of the comment and response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530, Telephone: (202) 514–2481, and at the office of the Clerk of the United States District Court for the District of Delaware, Federal Building, Room 4209, 844 King Street, Wilmington, Delaware 19801. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger Enforcement.

Comments of Jones, Day, Reavis & Pogue

Jones, Day, Reavis & Pogue, pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''Tunney Act''), submits these comments on the Final Judgment proposed by the United States Department of Justice to settle charges that the Federation of Physicians and Dentists (the ''Federation'') violated the antitrust laws by coordinating an understanding among competing physicians to negotiate exclusively through the Federation.

Summary

The proposed Final Judgment provides injunctive relief prohibiting unlawful collective negotiations by the Federation and its members, and contains a number of other provisions to protect payers that wish to negotiate with individual providers rather than dealing through the Federation. In one particular area, however, the proposed Final Judgment could be strengthened to provide additional protection.

The provisions of the Final Judgment should prohibit retaliation against payers that decline to communicate with providers through the Federation. Such a restriction would prevent the Federation and its members from taking adverse actions against payers that choose not to deal with the Federation. Such adverse actions could prevent individual negotiations, thereby circumventing the Final Judgment's prohibition on exclusive negotiations through the Federation.

The Final Judgment Should Prohibit Retaliation Against Payers That Decline To Communicate With Providers Through the Federation

I. Background

The Final Judgment settles charges that the Federation unlawfully coordinated an understanding among competing physicians to negotiate exclusively through the Federation. The illegal agreement among the Federation and its members was enforced through a concerted refusal by Federation members to deal with payers individually. These refusals to deal impaired the ability of payers to seek lower prices from Federation members.

In carrying out the illegal agreement, the Federation and its members claimed that they were acting pursuant to the ''messenger model,'' a method of communicating with payers that does not entail an agreement among the competing providers who use the messenger. A concerted refusal to deal, however, is not a legitimate use of a messenger model. To the contrary, the messenger model was developed to avoid concerted action by competing providers. See United States Department of Justice and Federal Trade Commission *Statements of Antitrust Enforcement Policy in Healthcare,* 4 Trade Reg. Rep. (CCH) ¶13,153 at 20,831 (Aug. 28, 1996). Thus, the Federation and its members improperly invoked the messenger model.

II. The Proposed Final Judgement

The proposed Final Judgment prohibits the Federation and its members from entering into or facilitating an agreement among competing providers to deal with payers exclusively through the Federation. With respect to the use of a messenger model, the proposed Final Judgment expressly forbids the Federation and its members from requiring that a payer deal only with providers through the messenger (or other agent or representative of the providers) (Paragraph IV.A.2.), and requires the Federation, when acting as a messenger, to inform payers that they are free to decline to communicate with providers through the messenger (Paragraph IV.A.8.f.). Thus, the proposed Final Judgment directly prohibits the unlawful conduct engaged in by the Federation and its members.

The protection afforded by the proposed Final Judgment appears, however, to be incomplete. If a payer declines to deal with the Federation, and chooses to deal with individual providers instead, the proposed Final Judgment does not directly prohibit retaliation against that payer. For example, the proposed Final Judgment does not expressly forbid the Federation from assisting a member to ''unilaterally'' terminate an existing contract with a payer that declines to deal through the Federation. If the Federation and individual providers are able to engage in such retaliation, the ability of payers to decline to deal through the Federation could provide to be illusory.

III. Proposed Language Modifying the Final Judgment

The gap in coverage identified above could easily be remedied with one small change to the Final Judgment. The following language, which would be inserted as a new Subparagraph 9 in Paragraph IV.A., would prevent the Federation from orchestrating provider retaliation against payers that declined to deal though the Federation. The Federation would be prohibited from:

> encouraging, facilitating, assisting, or participating in the termination of any existing contract or in any other action adverse to any payer after that payer has declined to communicate with a physician through defendant.

Thus, any adverse action taken by the Federation after a payer declines to deal with providers collectively would be presumed to be in furtherance of an unlawful agreement. With this language, attempts to circumvent the prohibitions of the Final Judgment by retaliating against payers that declined to deal with the Federation would be prohibited.

Conclusion

The proposed Final Judgment imposes strict requirements to prevent the Federation and its members from engaging in the unlawful behavior that prompted this litigation, and provides significant protections for payers that do not wish to engage in collective negotiations with competing physicians. With the additional language outlined above, the Federation and its members will not be able to retaliate against such payers, and the protection afforded by the Final Judgment will be enhanced.

Dated: January 18, 2002.

Respectfully submitted,
Jones, Day, Reavis & Pogue

Toby G. Singer,

Jones, Day, Reavis & Pogue, 51 Louisiana Avenue, NW., Washington, DC 20001–2113, Telephone: (202) 879–939.

United States Response to Public Comments

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act (the ''APPA''), 15 U.S.C. 16(b)–(h), the United States responds to public comments received regarding the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Procedural History

On August 12, 1998, the United States filed a civil antitrust Complaint alleging that defendant, Federation of Physicians and Dentists, Inc. (''the Federation''), restrained competition in the sale of orthopedic surgical services, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that the Federation, in coordination with certain of its members—nearly all private practice orthopedic surgeons located in Delaware—organized and became the hub of a conspiracy to oppose and prevent reductions in payments for orthopedic services by Blue Cross and Blue Shield of Delaware (''Blue Cross'').

On October 22, 2001, the United States filed a proposed Final Judgment (D.I. 228) and a Stipulation (D.I. 226) signed by both it and defendant, agreeing to entry of the Final Judgment following compliance with the APPA. Pursuant to the APPA, the Stipulation, proposed Final Judgment, and Competitive Impact Statement (''CIS'') (D.I. 227) were published in the **Federal Register** on November 20, 2001, at 66 FR 58,163–69 (2001). A summary of the terms of the proposed Final Judgment and CIS were published for seven consecutive days in the Washington Post from October 25 through October 31, 2001, and in The News Journal from November 15 through November 21, 2001. Pursuant to 15 U.S.C. 16(b)–(d), the 60-day period for public comments on the proposed Final Judgment began on November 21, 2001 and expired on January 22, 2002. During that period, one comment was received.

II. Summary of the Complaint's Factual Allegations

The defendant Federation is a labor organization with its headquarters in Tallahassee, Florida. The Federation has traditionally acted, in employment contract negotiations, as a collective bargaining agent under federal and state labor laws for physicians who are employees of public hospitals or other health care entities. For several years, however, the federation has recruited economically independent physicians in private practice in several states to encourage these independent physicians to use the Federation in negotiating their fees and other terms in their contracts with health care insurers.

The Federation and its Delaware orthopedic surgeon members allegedly conspired to restrain competition in the sale of orthopedic surgical services in various areas of Delaware. This alleged conspiracy developed in the fall of 1996 when the Federation began recruiting orthopedic surgeons in Delaware, touting itself as a vehicle for increasing their bargaining leverage with insurers in fee negotiations. During 1997, the Federation succeeded in recruiting nearly all of the orthopedic surgeons in private practice in Delaware.

In August 1997, Blue Cross notified all of its network physicians, including orthopedic physicians, of a planned fee reduction. By this action, Blue Cross sought to set the fees for Delaware orthopedic surgeons at levels closer to those paid to orthopedic surgeons in nearby ares, such as metropolitan Philadelphia. To resist Blue Cross's proposed fee reductions, the Federation and its orthopedic-surgeon members allegedly reached an understanding that Federation members would negotiates fees with Blue Cross solely through the Federation's executive director, John ''Jack'' Seddon.

The purpose of the Federation's and its members' alleged agreement was to force Blue Cross to rescind the proposed fee reduction for orthopedic surgeons and to inhibit Blue Cross effort to contract with those surgeons at reduced fees. In some cases, Blue Cross subscribers who needed to receive orthopedic services either paid higher prices to receive care from their former physicians as non-participating providers or had to forego or delay receiving such care.

III. Response to Public Comment

The only comment received (copy attached) recognizes that the decree contains ''strict requirements'' to prevent a reoccurrence of the challenged conduct and provides ''significant protection'' for payers that prefer not to engage in collective contractual negotiations with competing physicians. Comment at 4. Nevertheless, the comment argues that in ''one particular area'' the decree ''could be strengthened to provide additional protection.'' *Id.* at 1. Specifically, the comment asserts that the proposed Final Judgment does not expressly forbid the Federation from ''orchestrating provider retaliation'' or ''assisting a member to 'unilaterally' terminate an existing contract with a payer that declines to deal through the Federation.'' *Id.* at 3. The comment, therefore, proposes adding a provision that prohibits retaliation against payers that decline to communicate with provides through the Federation.[1]

The comment's proposed addition is unnecessary because the proposed Final Judgment already prohibits such activity. The proposed Final Judgment contains a prophylactic measure to preclude the Federation from influencing individual members' contractual decisions. Section IV(A)(4)

[1] The comment suggests inserting a new subparagraph 9 in section IV(A), prohibiting the Federal from: encouraging, facilitating, assisting, or participating, in the termination of any existing contract or in any other action adverse to any payer after that payer has declined to communicate with a physician through defendant.

Comment at 3.

enjoins the Federation from directly or indirectly ''making any recommendation to competing physicians about any actual or proposed payer contract or contract term or whether to accept or reject any such payer contract or contract term.'' Moreover, Section IV(A)(2) of the proposed Final Judgment enjoins the Federation from directly or indirectly ''participating in, encouraging, or facilitating any agreement or understanding between competing physicians to deal with any payer exclusively through a messenger rather than individually or through other channels.'' Consequently, any Federal recommendation that competing providers' concerted termination of their contracts in retaliation against payers' declination to communicate with them through the Federation would violate the proposed Final Judgment.

These injunctive provisions prevent the Federation from engaging in the sort of conduct addressed by the comment: retaliation against payers that refuse to deal with the Federation. Therefore, the proposed modification is not necessary to provide an effective and appropriate remedy for the antitrust violation alleged in the complaint.

IV. Conclusion

The United States has concluded that the proposed Final Judgment reasonably and appropriately addresses the harm alleged in the Complaint. Therefore, following publication of this response to comments, pursuant to the APPA, and submission of the United States' certification of compliance with the APPA, the United States intends to request entry of the proposed Final Judgment once the Court determines that entry is in the public interest.

Dated: January 31, 2002.

Respectfully submitted,

Steven Kramer,
Richard S. Martin,
Scott Scheele,
Adam J. Falk,
Attorneys, Antitrust Division, Department of Justice, 325 Seventh St NW., Ste. 400, Washington, DC 20530, Tel: (202) 307–0997, Fax: (202) 514–1517.
Virginia Gibson-Mason,
Assistant U.S. Attorney, Chief, Civil Division, 1201 Market Street, Suite 1100, Wilmington, DE 19801, (302) 573–6277.

[FR Doc. 02–3396 Filed 2–12–02; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1345]

Drug-Free Communities Support Program

AGENCY: Office of National Drug Control Policy, Executive Office of the President, and Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of funding availability.

SUMMARY: The Executive Office of the President, Office of National Drug Control Policy (ONDCP), and the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), are requesting applications for the fiscal year 2002 Drug-Free Communities Support Program to reduce substance abuse among youth and, over time, among adults. Approximately 70 grants of up to $100,000 each will be awarded to community coalitions that are working to prevent and reduce substance abuse among youth.

DATES: Applications must be received by April 24, 2002.

ADDRESSES: All applications must be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *FY 2002 Drug-Free Communities Support Program Application Package,* which includes the Program Announcement, required forms, and instructions on how to apply at OJJDP's Web site at *http://www.ojjdp.ncjrs.org* (click on ''Grants & Funding'').

FOR FURTHER INFORMATION CONTACT: One of the following Program Managers at the Office of Juvenile Justice and Delinquency Prevention:

- Tom Bell, Northwest Region, at 202–616–3664 or e-mail *bell@ojp.usdoj.gov*
- Mark Morgan, Southwest Region, at 202–353–9243 or e-mail *morganm@ojp.usdoj.gov*
- Jay Mykytiuk, Midwest/West Region, at 202–514–1351 or e-mail *mykytiuk@ojp.usdoj.gov*
- Judy Poston, Southeast Region, at 202–616–1283 or e-mail *poston@ojp.usdoj.gov*
- James Simonson, Northeast/East Region, at 202–353–9313, or e-mail simonson@ojp.usdoj.gov
- Gwen Williams, Central Region, at 202–616–1611, or e-mail *williamg@ojp.usdoj.gov*

[These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: The Drug-Free Communities Support Program was established by the Drug-Free Communities Act of 1997 (Pub. L. 105–20). On December 14, 2001, Pub. L. 107–82 reauthorized the program for 5 years. The program is designed to strengthen community antidrug coalitions and reduce substance abuse among youth.

Grantees will receive up to $100,000 in funding and training and technical assistance to reduce substance abuse among youth by addressing the factors in a community that serve to increase or decrease the risk of substance abuse and establish and strengthen collaboration among communities, including Federal, State, local, and tribal governments and private nonprofit agencies to support community coalition efforts to prevent and reduce substance abuse among youth.

Eligible applicants are community coalitions whose members have worked together on substance abuse reduction initiatives for a period of not less than 6 months. The coalition will use entities such as task forces, subcommittees, community boards, and any other community resources that will enhance the coalition's collaborative efforts. With substantial participation from community volunteer leaders, the coalition will implement multisector, multistrategy, long-term plans designed to reduce substance abuse among youth. Coalitions may be umbrella coalitions serving multicounty areas.

Dated: February 6, 2002.

Gregory L. Dixon,

Administrator, Drug-Free Communities Support Program, Office of National Drug Control Policy.

Dated: February 6, 2002.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 02–3312 Filed 2–12–02; 8:45 am]
BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents

summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of January, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,961; WRS Motion Picture and Video Lab, Pittsburgh, PA

TA–W–39,438; United Veil Dyeing and Finishing, Jersey City, NJ

TA–W–40,605; Powerbrace Corp., Kenosha, WI

TA–W–40,478; Dimension Carbide, Inc., Guys Mills, PA

TA–W–40,480; Flambeau Corp., Sun Prairie, WI

TA–W–40,058; Belco Tool and Manufacturing, Inc., Meadville, PA

TA–W–39,925; Baker Enterprises, Inc., Alpena, MI

TA–W–40,528; Syst-A-Matic Tool and Design, Inc., Meadville, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,360 & A; Reptron Electronics, Reptron Manufacturing Services, Tampa, FL and Gaylord, MI

TA–W–40,288; Compaq Computer Corp., CCM6 Plant, Houston, TX

TA–W–40,256; Lucent Technologies (now known as Celestica), Columbus Works, Columbus, OH

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–40,636; King Manufacturing Co., Inc., Corinth, MS

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date followed the company name and location of each determination references the impact date for all workers of such determination.

TA–W–40,043; Steelcase Architectural Walls, Inc., a/k/a Clestra Hauserman, Inc., Solon, OH: August 24, 2000.

TA–W–40,184; Parker Hannifin Corp., Belleville, NJ: September 26, 2000.

TA–W–40,431 & A,B: Acme Steel Co., Riverdale, IL, Acme Coke Plant, Chicago, IL and Acme Furnace Plant, Chicago, IL: November 28, 2000.

TA–W–40,499; Swift Spinning Mills, Main Mill and Open End Spin Plant, Columbus, GA: December 19, 2000.

TA–W–40,541; Americold, A Div. Of AB Electrolux, Cullman, AL: November 28, 2000.

TA–W–40,554; Beltex Underwear Co., LLC, Formerly Beltex Corp., Belmont, NC: December 20, 2000.

TA–W–40,593; TRW, Inc., Steering Product Center, Rogersville, TN: October 18, 2000.

TA–W–40,660; Mettler Toledo Process Analytical, Inc., Woburn, MA: December 3, 2000.

TA–W–40,690; Willacy Apparel, Div. Of Indiana Knitwear Corp., Lyford, TX: October 23, 2000.

TA–W–40,356; Littonian Shoe Co, Littlestown, PA: January 25, 2002.

TA–W–38,887; Schlage Lock Co., San Jose, CA: March 8, 2000.

TA–W–39,410; North Star Steel, Wilton, IA: May 22, 2000.

TA–W–39,625; Kimlor Mills, Inc., Orangeburg, SC: June 30, 2000.

TA–W–39,845; R.B. and W. Manufacturing, LLC, Coraopolis, PA: August 6, 2000.

TA–W–40,088; R&V Industries, Inc. d/b/a Shape Global Technology, Sanford, ME: April 15, 2000.

TA–W–40,450; A.O. Smith, Electrical Products Co., Lexington, TN: November 28, 2000.

TA–W–40,517; Artex International, Boiling Springs, NC: November 23, 2000.

TA–W–40,524; Intermetro Industries, Corp., Douglas, GA: November 19, 2000.

TA–W–40,568; Carlisle Engineered Products, Erie, PA: October 25, 2000.

TA–W–40,698; 3M San Marcos, Formerly JM Outfitters, San Marcos, CA: November 2, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of January, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05556A; Alfa Laval, Inc., Formerly known as Tri-Clover, Kenosha, WI: All workers engaged in the production of pumps are denied.

NAFTA–TAA–05717; National Oilwell, McAlester, OK

NAFTA–TAA–05204; Baker Enterprises, Inc., Alpena, MI

NAFTA–TAA–05240; Valley Machining, Rock Valley, IA
NAFTA–TAA–05271; Belco Tool and Manufacturing, Inc., Meadville, PA
NAFTA–TAA–05504; Flambeau Corp., Sun Prairie, WI
NAFTA–TAA–05544; Powerbrace Corp., Kenosha, WI
NAFTA–TAA–05568; Dimension Carbide, Inc., Guys Mills, PA
NAFTA–TAA–04799; B.F. Goodrich Performance Materials, Taylors Plant, Taylors, SC

The workers firm does not produce an article as required for certification under section 250(a), Subchapter D, Chapter 2, Title II, the Trade Act of 1974, as amended.

NAFTA–TAA–05686; Road Machinery Co., Baynard/Chino Branch, Bayard, NM
NAFTA–TAA–05661; Tree Machine Tools, Inc., Div. of Excel Machine Tools Ltd, Franklin, WI

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05556; Alfa Laval, Inc., Formerly Known as Tri-Clover Kenosha, WI: November 19, 2000. All workers engaged in the production of fittings.
NAFTA–TAA–05678; Swift Spinning Mills, Main Mill and Open End Spin Plant, Columbus, GA: December 19, 2000.
NAFTA–TAA–05515; Carlisle Engineered Products, Erie, PA: October 23, 2000.
NAFTA–TAA–05580; Intermetro Industries Corp., Douglas, GA: November 19, 2000.
NAFTA–TAA–05643; A.O. Smith, Electrical Products Co., Lexington, TN: November 30, 2000.
NAFTA–TAA–05697; R.B. and W. Manufacturing, LLC, Coraopolis, PA: December 16, 2000.
NAFTA–TAA–05711; FCI USA, Inc., Emigsville, PA: January 7, 2001.

I hereby certify that the aforementioned determinations were issued during the month of January, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 1, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–3399 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for worker Adjustment Assistance

Petitions have been field with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not late than February 25, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 25, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 22nd day of January, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 01/22/2002]

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
40,589	Agere Systems (IBEW)	Breinigsville, PA	09/06/2001	Fiber-optic devices.
40,590	Alfa Laval, Inc (Wrks)	Kenosha, WI	10/18/2001	Fittings, pumps and valves.
40,591	Parker Hannifin Corp (Co.)	Sarasota, FL	10/17/2001	Hydraulic valves and gear pumps.
40,592	Spectrian (Wrks)	Sunnyvale, PA	10/30/2001	Power amplifiers.
40,593	TRW, Inc (Co.)	Rogersville, TN	10/17/2001	Rack tubes—rack and pinion steering.
40,594	Alcoa Fujikura Ltd (Wrks)	El Paso, TX	10/25/2001	Wire harnesses assemblies.
40,595	Elkem Metals Co (PACE)	Alloy, WV	10/30/2001	Silicon and ferrosilicon alloys.
40,596	Tyco Electronics Power (CWA)	Mesquite, TX	10/22/2001	Power supplies.
40,597	Huhtamaki Food Service (Wrks)	Mt. Carmel, PA	10/29/2001	Plastic containers, lids.
40,598	Parker Hannifin Corp. (Wrks)	Eaton, OH	10/25/2001	Tube fittings.
40,599	Erie Concrete and Steel (Co.)	Erie, PA	10/19/2001	Structural steel beams and plates.
40,600	FiberTech Group, Inc (Co.)	Landisville, NJ	10/18/2001	Non-woven roll goods.
40,601	ArvinMeritor, Inc. (Co.)	Fayette, AL	10/19/2001	Automotive exhaust components.
40,602	Chemwest Systems, Inc. (Wrks)	Portland, OR	11/02/2001	Plastic storage cabinets.
40,603	Tiffany Knits, Inc. (Wrks)	Schuylkill Have, PA	11/05/2001	Circular knit fabrics.
40,604	Matsushita Kotobuki (Co.)	Vancouver, WA	11/13/2001	Electronics.
40,605	Powerbrace Corp (Wrks)	Kenosha, WI	11/13/2001	Railcar gates, lock rods for trucks.
40,606	Hibbing Taconite Co (Wrks)	Hibbing, MN	11/16/2001	Taconite pellets.
40,607	Xerox Corp. (UNITE)	Farmington, NY	11/27/2001	Ink jet printhead cartridges.
40,608	Boeing Defense and Space (Wrks)	Oak Ridge, TN	11/21/2001	Commercial aircraft wings.
40,609	Lebold Vacuum USA, Inc (Wrks)	Export, PA	12/07/2001	Dry vacuum pumps.
40,610	Goodyear Tire and Rubber (USWA)	East Gadsden, AL	11/16/2001	Radial passenger and truck tires.
40,611	Hammond Power Solutions (Co.)	Baraboo, WI	01/11/2002	Dry type electrical transformers.

APPENDIX—Continued

[Petitions instituted on 01/22/2002]

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
40,612	Odetics, Inc. (Co.)	Anaheim, CA	11/26/2001	Electronic video surveillance equip.
40,613	Celestica-Wisconsin (Wrks)	Chippewa Falls, WI	11/30/2001	Printed circuit boards.
40,614	Port Townsend Paper (Wrks)	Portland, OR	11/08/2001	Paper bags.
40,615	Emerson Electronic (Wrks)	Waseca, MN	11/29/2001	RF coaxial connector assemblies.
40,616	Storm Copper Components (Co)	Decatur, TN	11/13/2001	Wire harnesses.
40,617	Bull Moose Tube Co. (Wrks)	Gerald, MO	11/08/2001	Welded steel tubing.
40,618	Acordis Industrial Fibers (Co.)	Scottsboro, AL	11/30/2001	Tire cord fabric.
40,619	Cherry Electrical Product (Wrks)	Pleasant Prairi, WI	11/29/2001	Switch assemblies.
40,620	Ethyl Petroleum Additives (Wrks)	Natchez, MS	11/13/2001	Petroleum additives.
40,621	G.E. Transportation Globa (Wrks)	Warrensburg, MO	11/19/2001	Aluminum/steel bungalows.
40,622	Teva Pharmaceuticals USA (Co.)	Elmwood Park, NJ	11/02/2001	Antibiotics.
40,623	Pacific Scientific (Wrks)	Grants Pass, OR	11/30/2001	Particle counters and software.
40,624	Trion Industries, Inc (Co.)	Wilkes Barre, PA	11/05/2001	Toy products packaging.
40,625	Crane Pumps and Systems (PACE)	Decatur, IL	11/14/2001	Machined parts—water pumps.
40,626	Allegheny Tool and Mfg (Co.)	Meadville, PA	11/27/2001	Spare tooling.
40,627	Holland Company (Co.)	Hays, KS	11/27/2001	Welding.
40,628	Erickson Air-Crane (Wrks)	Central Point, OR	01/08/2002	Logs, timber.
40,629	Hyde Park Foundry (Co.)	Hyde Park, PA	11/15/2001	Steel rolls for metal processing.
40,630	USA Apparel Enterprises (Co.)	Fall River, MA	11/30/2001	Ladies' dresses.
40,631	Skips Cutting, Inc (Wrks)	Ephrata, PA	11/19/2001	Clothing—cut, sewn, dyed.
40,632	Corning, Inc. (AFGWU)	Corning, NY	11/08/2001	Corning products.
40,633	Morrison Berkshire, Inc (Co.)	North Adams, MA	10/28/2001	Textile needle looms.

[FR Doc. 02–3403 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40, 509]

Imerys, Dry Branch, Georgia; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 31, 2001, in response to a worker petition, which was filed by the company on behalf of workers at Imerys, Dry Branch, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of January, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3402 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,326]

Jones and Vining, Inc., Lewiston, ME; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Jones and Vining, Inc., Lewiston, Maine. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–40,326; Jones and Vining, Inc. Lewiston, Maine (January 30, 2002)

Signed at Washington, DC this 30th day of January, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–3401 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 25, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade

Adjustment Assistance, at the address shown below, not later than February 25, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 14th day of January, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 1/14/2002]

TA–W	Subject Firm (Petitioners)	Location	Date of petition	Product(s)
40,536	Rohm and Haas (Co.)	Moss Point, MS	12/19/2001	Liquid polysulfide.
40,537	Protel, Inc. (Wkrs)	Lakeland, FL	12/08/2001	Pay phones.
40,538	JMC LLC—Nexpas (Wkrs)	Rockaway, NY	12/19/2001	Plastic video/DVD cases.
40,539	Kemmer Prazision (Co.)	Chicago, IL	12/13/2001	Carbide cutting tools.
40,540	Beta Steel Corp. (Co.)	Portage, IN	12/26/2001	Hot rolled steel coils.
40,541	Americold (Co.)	Cullman, AL	11/20/2001	Refrigeration compressors.
40,542	Vision Metals-Gulf State (USWA)	Rosenberg, TX	12/08/2001	Steel tubing.
40,543	Steelcase (Wkrs)	Fletcher, NC	12/13/2001	Wood office furniture.
40,544	Tyco Electronics (Wkrs)	Dallas, OR	12/17/2001	Printed circuit boards.
40,545	Appleton Coated (PACE)	Combined Locks, WI	12/27/2001	Carbonless forms.
40,546	Midland Steel Product (Co.)	Janesville, WI	11/19/2001	Truck frame assemblies.
40,547	Cuvahoga Valley Railway (Co.)	Cleveland, OH	12/26/2001	Steel.
40,548	BP Exploration Alaska (Wkrs)	Anchorage, AK	12/27/2001	Oil.
40,549	DB, Inc. (Co.)	Potlatch, ID	12/21/2001	Custom tooling and patterns.
40,550	Nokia Networks (Wkrs)	Ft. Worth, TX	11/07/2001	Prototype and prezero modules.
40,551	Chemical Lime Co. (Co.)	Douglas, AZ	12/21/2001	Calcium oxide.
40,552	Electronic Data Systems (Wkrs)	Copley, OH	12/28/2001	Provide payroll services for LTV steel.
40,553A	Aalfs Manufacturing (Wkrs)	Mena, AR	11/14/2001	Denim jeans and shorts.
40,553B	Aalfs Manufacturing (Wkrs)	Arkadelphia, AR	11/14/2001	Denim jeans and shorts.
40,553C	Aalfs Manufacturing (Wkrs)	Malvern, AR	11/14/2001	Denim jeans and shorts.
40,553D	Aalfs Manufacturing (Wkrs)	Sioux City, IA	11/14/2001	Denim jeans and shorts.
40,553	Aalfs Manufacturing (Wkrs)	Glenwood, AR	11/14/2001	Denim jeans and shorts.
40,554	Beltex Underwear Co (Wkrs)	Belmont, NC	12/11/2001	Men's underwear.
40,555	Tom's Sportswear (UNITE)	Lehighton, PA	12/20/2001	Ladies' sportswear.
40,556	Hunt Foods (ConAgra) (UFCW)	Perrysburg, OH	07/18/2001	Tomato sauces, ketchup and BBQ sauces.
40,557	Midwest Garment Co. (Co.)	Chesterfield, MO	10/16/2001	Bed sheets, pillow cases.
40,558	Pennsylvania Tool & Gages (Co.)	Meadville, PA	10/26/2001	Mold and die tooling, machined component.
40,559	Maysville Garment (Co.)	Maysville, NC	10/12/2001	Knit woven shirts, dresses, & pants.
40,560	DataMark, Inc. (Wkrs)	El Paso, TX	10/22/2001	Forms processing services.
40,561	Thermal Industrial (Wkrs)	Pittsburgh, PA	10/19/2001	Vinyl lineal extrusions.
40,562	Lake Superior & Ishpeming (Co.)	Marquette, MI	10/18/2001	Transport iron ore.
40,563	Best Form Foundations (UNITE)	Johnstown, PA	10/17/2001	Women's under garments.
40,564	Texfi Industries (Co.)	New York, NY	10/23/2001	Apparel fabric.
40,565	Enirons, Inc.	Portland, OR	10/26/2001	Golf outerwear.
40,566	Angelica Image Apparel (Co.)	Winona, MS	10/16/2001	Aprons, tops, pants, shirts.
40,567	Ivaco Steel Processing (Wkrs)	Tonawanda, NY	10/18/2001	Steel.
40,568	Carlisle Engineered Prod (Wkrs)	Erie, PA	10/25/2001	Engine cooling components.
40,569	Tama Sportswear, Inc (Wkrs)	Long Island, NY	11/06/2001	Swimwear.
40,570	ATD Corporation (Wkrs)	Vienna, OH	11/10/2001	Steel and dunnage materials.
40,571	Moon Tool and Die (Co.)	Conneaut Lake, PA	10/22/2001	Injection molds.
40,572	Northeast Bleach and Dye (Wkrs)	Schuylkill Have, PA	11/13/2001	Bleach and dye cotton, poly materials.
40,573	Nortel Networks (Wkrs)	Bohemia, NY	11/07/2001	Computer systems.
40,574	Heckett Multiserv (Co.)	Provo, UT	11/20/2001	Slag & metal reclamation.
40,575	Phoenix Finishing (Co.)	Gaffney, SC	11/01/2001	Finished broadwoven fabrics.
40,576	Joners Apparel Group (Wkrs)	Bristol, PA	11/01/2001	Women's apparel.
40,577	Kurt Manufacturing (Wkrs)	Minneapolis, MN	11/30/2001	Cast molds and tooling.
40,578	Graphic Arts, Inc. (Co.)	Philadelphia, PA	11/27/2001	Commercial printing.
40,579	VDO North America (Co.)	Winchester, VA	11/29/2001	instrumentation and fuel systems.
40,580	Debbie Sue Fashions (UNITE)	Bethlehem, PA	11/20/2001	Ladies' swimwear.
40,581	Young Mens Shop (Wkrs)	Altoona, PA	11/02/2001	Retail clothing store.
40,582	General Electric, Austin (Wkrs)	Youngstown, OH	11/15/2001	Coils for incadecent light bulbs.
40,583	Mocaro Dyeing & Finishing (Co.)	Statesville, NC	11/14/2001	Dyeing and finishing piece goods.
40,584	Rockwell Collins (Co.)	Irvine, CA	01/03/2001	Inflight entertainment systems.
40,585	Center Finishing (UNITE)	Jersey City, NJ	11/29/2001	Printing on woven goods—upholstery.
40,586	VF Services (Co.)	Greensboro, NC	11/26/2001	Provide technical support.
40,587	UCAR Carbon Company (PACE)	Clarksburg, WV	11/14/2001	Specialty graphite products.
40,588	CNG International (Wkrs)	Hastings, MI	11/15/2001	Press repair parts.

[FR Doc. 02–3404 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–39,939 and TA–W–39,939A]

Willamette Industries, Inc., Korpine Particleboard Division, Including Temporary Workers of Express Personnel Services, Bend, Oregon; Willamette Industries, Inc., Particleboard Sales Office, Albany, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 15, 2002, applicable to workers of Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon. The notice was published in the **Federal Register** on January 31, 2002 (67 FR 4750).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that temporary workers of Express Personnel were employed at Willamette Industries, Korpine Particleboard Division to produce industrial pine particleboard at the Bend, Oregon location of the subject firm.

Information also shows that worker separations occurred at the Particleboard Sales Office, Albany, Oregon. Workers provide sales function services for the Korpine Particleboard Division of the subject firm.

Based on these findings, the Department is amending the certification to include temporary workers of Express Personnel Services, Bend, Oregon employed at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon and to include the Particleboard Sales Office, Albany, Oregon.

The intent of the Department's certification is to include all workers of Willamette Industries, Inc., Korpine Particleboard Division adversely affected by imports.

The amended notice applicable to TA–W–39,939 is hereby issued as follows:

''All workers of Willamette Industries, Inc. Korpine Particleboard Division, Bend, Oregon including temporary workers of Express Personnel Services, Bend, Oregon (TA–W–39,939) engaged in employment related to the production of industrial pine particleboard at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon, and all workers of Willamette Industries, Particleboard Sales Office, Albany, Oregon (TA–W–39,939A) who became totally or partially separated from employment on or after August 17, 2000 through January 15, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 4th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3406 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5335]

Antec Corp., a/k/a Arris International Keptel-Antec Division Tinton Falls, New Jersey; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II of the Trade Act of 1974, as amended (19 USC 2331), an investigation was initiated on September 10, 2001, in response to a worker petition that was filed by the company on behalf of its workers at Keptel/Antec Division, Tinton Falls, New Jersey. The workers produced telephone equipment and interface devices.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 5th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3405 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04812]

CEMEX KOSMOS Cement Co. Pittsburgh Plant, Pittsburgh, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 20, 2001 the International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance, applicable to petition number NAFTA 04613. The denial notice was signed on June 26, 2001 and published in the **Federal Register** on July 11, 2001 (66 FR 36329).

The union requested administrative reconsideration based on the belief that Cemex (the acquiring company of the subject plant) replaced the subject plants customer base with imported cement products from Mexico.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 3rd day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–3400 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5574]

VF Corp., LP Lee Jean Division Lebanon, Missouri; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on November 26, 2001, in

response to a petition filed on behalf of workers at VF Corporation, LP, Lee Jean Division, Lebanon Equipment Center, Lebanon, Missouri.

This worker group is subject to an ongoing petition investigation, NAFTA–5681. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 5th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3407 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05251 and NAFTA–05251A]

Williamette Industries, Inc., Korpine Particleboard Division Including Temporary Workers of Express Personnel Services Bend, Oregon; Williamette Industries, Inc., Particleboard Sales Office Albany, Oregon; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on December 7, 2001, applicable to workers of Willamette Industries, Inc., Korpine Division, Bend, Oregon. The Notice was published in the **Federal Register** on December 26, 2001 (66 FR 66427).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Informational provided by the State and the company shows that temporary workers of Express Personnel were employed at Willamette Industries, Korpine Particleboard Division of produced industrial pine particleboard at the Bend, Oregon location of the subject firm.

Information also shows that worker separations occurred at the Particleboard Sales Office, Albany Oregon. Workers provide sales function services for the Korpine Particleboard Division of the subject firm.

Based on these findings, the Department is amending the certification to include temporary workers of Express Personnel Services, Bend, Oregon Employed at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon and to include the Particleboard Sales Office, Albany, Oregon.

The intent of the Department's certification is to include all workers of Willamette Industries, Inc., Korpine Particleboard Div. affected by increased customer imports of industrial pine particleboard from Canada and Mexico.

The amended notice applicable to NAFTA–95251 is hereby issued as follows:

All workers of Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon including temporary workers of Express Personnel Services, Bend,Oregon (NAFTA–5251) engaged in employment related to the production of industrial pine particleboard at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon, and all workers of Willamette Industries, Particleboard Sales Office, Albany, Oregon (NAFTA–5251A) who became totally of partially separated from employment on or after August 17, 2000, through December 7, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 4th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of, Trade Adjustment Assistance.

[FR Doc. 02–3408 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Examinations and Tests of Electrical Equipment

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

ADDRESSES: Send comments to David L. Meyer, Director, Office of Administration and Management, 4015 Wilson Boulevard, Room 615, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to *Meyer-David@msha.gov*, along with an original printed copy. Mr. Meyer can be reached at (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Charlene N. Barnard, Regulatory Specialist, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 725, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Barnard can be reached at barnard-charlene@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Inadequate maintenance of electric equipment is a major cause of serious electrical accidents in the coal mining industry. Improperly maintained electric equipment has also been responsible for many disastrous mine fires and explosions. The most recent example is the mine fire that occurred at the Wilberg Mine, resulting in the deaths of 27 miners. It is imperative that mine operators adopt and follow an effective maintenance program to ensure that electric equipment is maintained in a safe operating condition if electrocutions, mine fires, and mine explosions are to be prevented.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Examinations and Tests of Electrical Equipment. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act submission (*http://www.msha.gov/regspwork.htm*)'', or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for a hard copy.

III. Current Actions

The subject regulations require the mine operator to establish an electrical maintenance program by specifying minimum requirements for the examination, testing, and maintenance of electric equipment. The regulations also contain recordkeeping requirements which may in some instances help operators in implementing an effective maintenance program. The subject records of tests and examinations are examined by coal miners, coal mine officials, and MSHA inspectors. MSHA inspectors examine the records to determine if the required tests and examinations have been conducted and to identify units of electric equipment that may be creating excessive safety problems, and to evaluate the effectiveness of the coal mine operator's electrical maintenance programs. By comparing the records with the actual condition of electric equipment, MSHA inspectors may in some cases be able to identify weaknesses in the coal mine operator's electrical maintenance programs and require that the weaknesses be corrected.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Examinations and Tests of Electrical Equipment.

OMB Number: 1219–0067.

Recordkeeping: 1 year.

Affected Public: Business or other for-profit.

City/reference	Total respondents	Frequency	Total responses	Average time per response	Burden hours
75.512	16,742	Weekly	870,584	42 minutes	593,762
75.703–3(d)(11)	Included with 75.512 calculation.				
77.502	25,485	Monthly	305,820	1 Hr	228,091
75.800–4 and 77.800–2	3,115	Monthly	37,380	45 min	28,035
77.900–2	1,699	Monthly	20,388	45 minutes	15,291
75.900–4	5,970	Monthly	71,640	1.5 hours	107,460
75.1001–1(c)	1,000	6 Months	2,000	1.5 hours	3,000
75.351	647	Monthly	7,764	1.5 hours	9,705
Totals	54,658		1,315,576		994,704

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 7, 2002.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. 02–3520 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–13–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Pine Ridge Coal Company

[Docket No. M–2001–122–C]

Pine Ridge Coal Company, 1970 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Big Mountain No. 16 Mine (I.D. No. 46–07908) located in Boone County, West Virginia. The petitioner proposes to use trailing cables not to exceed 900 feet to supply its shuttle cars, roof bolters, and mobile roof supports. The petitioner states that the trailing cables for the shuttle cars would not be smaller than No. 6 AWG, for mobile roof supports not smaller than No. 4 AWG, and for roof bolters not smaller than No. 2 AWG. The petitioner has outlined in this petition specific procedures that would be used when its alternative method is implemented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Warrior Coal, LLC

[Docket No. M–2001–123–C]

Warrior Coal, LLC, P.O. Box Drawer 1210, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.1103–4(a) (automatic fire sensors and warning device systems; installation; minimum requirements) to its Cardinal Mine (I.D. No. 15–17216) located in Hopkins County, Kentucky. The petitioner proposes to install a carbon monoxide detection system that identifies the location of sensors in lieu of identifying belt flights. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Warrior Coal, LLC

[Docket No. M–2001–124–C]

Warrior Coal, LLC, P.O. Box Drawer 1210, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Cardinal Mine (I.D. No. 15–17216) located in Hopkins County, Kentucky. The petitioner proposes to use air coursed through conveyor belt entries to ventilate working places. The petitioner proposes to install and maintain a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative

method would provide at least the same measure of protection as the existing standard.

4. Oxbow Mining, L.L.C.

[Docket No. M–2001–125–C]

Oxbow Mining, L.L.C., P.O. Box 535, 3737 Highway 133, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Elk Creek Mine (I.D. No. 05–04674) located in Gunnison County, Colorado. The petitioner proposes to use a 480-volt, wye connected, 260 KW portable diesel generator for utility power and to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. The petitioner states that the 480-volt output uses a 300 KVA autom-transformer to develop 995-volts, and the generator would also be used to perform other minor activities in the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Oxbow Mining, L.L.C.

[Docket No. M–2001–126–C]

Oxbow Mining, L.L.C., P.O. Box 535, 3737 Highway 133, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.901 (protection of low- and medium-voltage three-phase circuits used underground) to its Elk Creek Mine (I.D. No. 05–04674) located in Gunnison County, Colorado. The petitioner proposes to use a 260KW, 480-volt portable diesel generator to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. The petitioner states that the 480-volt output uses a 300 KVA auto-transformer to develop 995-volts, and the generator would also be used to perform other minor activities in the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Requests for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 7th day of January 2002.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02–3516 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on March 12–13, 2002, in Room N3437 (B–D), U.S. Department of Labor, located at 200 Constitution Avenue, NW., Washington, DC. The meeting is open to the public and will begin at 1 p.m. on March 12, and last until approximately 5 p.m. The meeting will reconvene on March 13 at 9 a.m. and end at approximately 4 p.m.

The meeting will begin with an overview of activities of the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH). Other agenda items include: a presentation on OSHA's enforcement, compliance assistance, and regulatory issues as well as a presentation by NIOSH on the National Personal Protective Technology Laboratory including its activities related to the World Trade Center disaster.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Vivian Allen at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Veneta Chatmon (phone: 202–693–1912: FAX 202–693–1634) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–693–2350). For additional information contact: Vivian Allen, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue NW., Washington, DC, 20210 (phone: 202–693–1935; FAX: 202–693–1641; e-mail *Vivian.Allen@osha.gov)*; or check the National Advisory Committee on Occupational Safety and Health information pages located at *www.osha.gov.*

Signed at Washington, DC, this 6th day of February, 2002.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 02–3398 Filed 2–2–02; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE (02–019)

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATES: Tuesday, March 5, 2002, 8:30 a.m. to 5:30 p.m., Wednesday, March 6, 2002, 8:30 a.m. to 5:30 p.m., Thursday, March 7, 2002, 8:30 a.m. to 12:30 p.m.

ADDRESSES: NASA Headquarters, Conference Room 9H40, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following:

—Associate Administrator's Budget Presentation
—Division and Program Directors' Reports
—Subcommittee Reports
—Education and Public Outreach Program Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3391 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–020)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee (SSES) Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Astronomical Search for Origins Planetary Systems Subcommittee.

DATES: Wednesday, February 27, 2002, 8:30 a.m. to 5:30 p.m., Thursday, February 28, 2002, 8:30 a.m. to 5:30 p.m., Friday, March 1, 2002, 8:30 a.m. to 5:30 p.m.

ADDRESSES: Holiday Inn Capitol, Columbia II Meeting Room, 500 C Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Solar System Program Update
—Space Science Update
—Mars Program
—Outer Planets Program
—Inner Planets Program
—Technology Issues
—in Space Propulsion
- In-Space Power
- Delta II Launch Vehicle Availability

—Research and Analysis and Data Analysis
—Roadmap

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3392 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–022)]

NASA Advisory Council (NAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC).

DATES: Tuesday, February 26, 2002, 8 a.m. to 5 p.m; and Wednesday, February 27, 2002, 8 a.m. to 12:30 p.m.

ADDRESSES: NASA Johnson Space Center, 2101 NASA Road 1, Building 1, Room 966, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Cleary, Code IC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Receive a status of NASA's restructuring of the International Space Station program
—An evaluation of NASA's Strategic Resources Review
—A discussion on NASA's communication plan for the International Space Station
—Hear Committee reports

Due to increased security measures at the NASA Johnson Space Center (JSC), interested members of the media must contact the JSC newsroom no later than Monday, February 25, 2002, by 12 noon CST (281–483–5111) to make arrangements for transportation onsite and escort while at the Center. Any other interested persons must contact Ms. Abby Cassell no later than Monday, February 25, 2002, by 12 noon CST (281–483–2467) to make arrangements for badging, parking and escort while at the Center. Any requests for access to this meeting received after the cutoff time will not be accommodated due to limited staffing and security issues. Access to JSC will be limited to those who show proper photo identification and who have made prior arrangements to attend as stipulated herein.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3486 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–021)]

Aerospace Safety Advisory Panel Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Thursday, March 7, 2002, 1 p.m. to 3 p.m. Eastern Standard Time.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW, Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lengyel, Aerospace Safety Advisory Panel Executive Director, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0391.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will present its annual report to the NASA Administrator. This presentation is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that

involve the safety of human flight. The major subjects covered will be: Space Shuttle Program, International Space Station Program, Workforce, Mishap Investigation, Medical Operations, Extravehicular Activity, Aero-Space Technology, and Computer Hardware/Software. The Aerospace Safety Advisory Panel is currently chaired by Mr. Richard D. Blomberg and is composed of nine members and nine consultants. The meeting will be open to the public up to the capacity of the room (approximately 60 persons including members of the Panel).

Members of the public should contact Ms. Vickie Smith on (202) 358–1650 if you plan to attend. Upon arrival, you will be required to sign-in with Security where you will be issued a temporary visitor's badge. While you are in the building, you must be escorted by a NASA employee at all times.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3393 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

PPL Susquehanna, LLC, Allegheny Electric Cooperative, Inc., Susquehanna Steam Electric Station, Units 1 and 2; Exemption

1.0 Background

PPL Susquehanna, LLC (PPL, the licensee), is the holder of Facility Operating License Nos. NPF–14 and NPF–22 which authorize operation of the Susquehanna Steam Electric Station, Units 1 and 2 (SSES–1 and 2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors located in Luzerne County in Pennsylvania.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), part 50, Section 50.60(a), requires nuclear power reactors to meet the fracture toughness requirements set forth in 10 CFR part 50, Appendix G. Appendix G of 10 CFR part 50 requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G, states that ''[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G, limits.

To address provisions of amendments to the technical specification (TS) P–T limits in the submittal dated July 17, 2001, as supplemented July 26 and October 15, 2001, the licensee requested, pursuant to 10 CFR part 50, section 50.60(b), that the NRC staff exempt SSES–1 and 2, from application of specific requirements of 10 CFR part 50, section 50.60(a), and Appendix G, and substitute use of ASME Code Case N–640 as the basis for establishing the P–T limit curves. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{Ic} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P–T limits. Because use of the K_{Ic} fracture toughness curve results in the calculation of less conservative P–T limits than the methodology currently required by 10 CFR part 50, Appendix G, an exemption to apply the Code Case would be required by 10 CFR 50.60.

The licensee proposed to revise the P–T limits for SSES–1 and 2, using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limit curves is more technically correct than the K_{Ia} curve because the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the initial conservatism of the K_{Ia} curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. Additionally, P–T curves based on the K_{Ic} curve will enhance overall plant safety by opening the operating window, with the greatest safety benefit in the region of low-temperature operations.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by applying the K_{Ic} fracture toughness, as permitted by Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances include, but are not limited to, the following case:

- Pursuant to 10 CFR 50.12(a)(2)(ii), the circumstance that application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The NRC staff accepts the licensee's determination that an exemption would be required to approve the use of Code Case N–640. The staff examined the licensee's rationale to support the exemption request and concurred that the use of the Code Case would meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR part 50, Appendix G; Appendix G of the Code; and Regulatory Guide 1.99, Revision 2, the staff concluded that application of Code Case N–640 as described would provide an adequate margin of safety against brittle failure of the RPV. Since strict compliance with the requirements of 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, is not necessary to serve the overall intent of the regulations, the NRC staff concludes that application of Code Case N–640 to the P–T limit curves meets the special circumstance provision of 10 CFR

50.12(a)(2)(ii). This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations. Therefore, the NRC staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that the methodology of Code Case N–640 may be used to revise the P–T limits for SSES–1 and 2.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants PPL Susquehanna, LLC, an exemption from the requirements of 10 CFR part 50, section 50.60(a) and Appendix G, for generating the P–T limit curves for SSES–1 and 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 5322).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3507 Filed 2–12–02; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50–461]

Amergen Energy Company, LLC; Clinton Power Station, Unit 1 Draft Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Thermal Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

SUMMARY: The NRC has prepared a draft environmental assessment (EA) as its evaluation of a request by AmerGen Energy Company, LLC (AmerGen or the licensee), for a license amendment to increase the maximum thermal power level at Clinton Power Station, Unit 1 (CPS), from 2894 megawatts thermal (MWt) to 3473 MWt. This represents a power increase of approximately 20 percent for CPS. The proposed amendment would also change the operating license and the technical specifications appended to the operating license to provide for implementing uprated power operation. As stated in the NRC staff's February 8, 1996, position paper on the Boiling-Water Reactor Extended Power Uprate Program, the staff has the option of preparing an environmental impact statement if it believes a power uprate will have a significant impact. The staff did not identify a significant impact from the licensee's proposed extended power uprate at CPS; therefore, the NRC staff is documenting its environmental review in an EA. Also, in accordance with the February 8, 1996, staff position paper, the draft EA and finding of no significant impact is being published in the **Federal Register** with a 30-day public comment period.

DATES: The comment period expires March 15, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only of comments received on or before March 15, 2002.

ADDRESSEES: Submit written comments to Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6 D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland 20852, from 7:45 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be available electronically at the NRC's Public Electronic Reading Room (PERR) link *http://www.nrc.gov/reading-rm/Adams.html* on the NRC Homepage or at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jon B. Hopkins, Office of Nuclear Reactor Regulation, at Mail Stop O–7 D3, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at (301) 415–3027, or by e-mail at *jbh1@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. NPF–62, issued to AmerGen Energy Company, LLC (AmerGen, the licensee) for the operation of the Clinton Power Station, Unit 1 (CPS), located on Clinton Lake in DeWitt County, Illinois. Therefore, pursuant to 10 CFR 51.21 and 51.35, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow AmerGen, the operator of CPS, to increase its electrical generating capacity at CPS by raising the maximum reactor core power level from 2894 MWt to 3473 MWt. This change is approximately 20 percent above the current licensed maximum power level for CPS. The change is considered an extended power uprate (EPU) because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. CPS has not submitted a previous power uprate application. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the condenser to support increased turbine exhaust steam flow requirements. The licensee with input from the plant designer, General Electric Company, evaluated the proposed EPU from a safety perspective and concluded that sufficient safety and design margins exist so that the proposed increase in core thermal power level can be achieved without any risk to health and safety of the public or impact on the environment.

The proposed action is in accordance with the licensee's application for amendment dated June 18, 2001, a letter providing initial environmental information dated September 7, 2001, and additional environmental information provided in a letter dated November 29, 2001. Also, the application was supplemented by letters dated September 28, October 17, 23, 26, and 31, November 8 (2 letters), 20, 21, and 30, and December 5, 6, 7, 13 (2 letters), 20, 21, and 26, 2001, and January 8, 15, 16, and 24, 2002. The proposed amendment would change the operating license and the technical specifications appended to the operating license to provide for implementing uprated power operation.

The Need for the Proposed Action

AmerGen evaluated the need for additional electrical generation capacity in its service area for the planning period 2000–2009. Information provided by the North American

Electric Reliability Council showed that, in order to meet projected demands, generating capacity must be increased by at least 1.6% per year for the Mid-Continent Area Power Pool (MAPP) and the Mid-America Interconnected Network (MAIN).

AmerGen determined that a combination of increased power generation and purchase of power from the electrical grid would be needed to meet the projected demands including an operating margin for reliability. Increasing the generating capacity at CPS was estimated to provide lower cost power than can be purchased on the current and projected energy market. In addition, increasing nuclear generating capacity would lessen the need to depend on fossil fuel alternatives that are subject to unpredictable cost fluctuations and increasing environmental costs.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating license for CPS, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of CPS, which was issued in May 1982. The original operating license for CPS allowed a maximum reactor power level of 2894 MWt. On September 7, 2001, Exelon submitted a supplement to its Environmental Report supporting the proposed EPU and provided a summary of its conclusions concerning the environmental impacts of the EPU at CPS. Based on the staff's independent analyses and the evaluation performed by the licensee, the staff concludes, as described further below, that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES, because the EPU would involve no extensive changes to plant systems that directly or indirectly interface with the environment. Additionally, no changes to any State permit limits would be necessary. This environmental assessment first discusses the non-radiological and then the radiological environmental impacts of the proposed EPU at CPS.

Non-Radiological Impacts at CPS

The following is the NRC staff's evaluation of the non-radiological environmental impacts of the proposed EPU on land use, water use, waste discharges, noise, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at CPS.

Land Use Impacts

The EPU at CPS as proposed will require no changes to the current use of land. Modification plans as submitted do not include building any new structures or materially altering any existing structures to implement EPU activities. With the exception of transportation of equipment and materials, and routine waste disposal, EPU activities will be confined to the area within the plant security fence. Capacity of above or below ground storage tanks are not scheduled to be changed by the EPU. Areas outside the plant security fence would not be affected in any way by the EPU implementation plan as submitted by AmerGen.

The CPS EPU includes replacement of turbine components that will be radiologically contaminated. The proposed maintenance plan includes decontamination and recycling of replaced turbine parts, or transfer to an approved offsite disposal facility. Thus, additional on-site, low-level radioactive waste storage facilities would not be needed. We conclude that the NRC staff's conclusions in the FES on land use would remain valid as a result of implementing the proposed EPU.

Water Use Impacts

No groundwater resources will be affected by the EPU. CPS uses the impounded volume of Clinton Lake (surface water) for all cooling water requirements. The licensee has stated that the EPU will result in a minimal change in the consumptive use of water from the lake. Thus, the NRC staff's conclusions in the FES on water use would continue to be valid under operating conditions expected after the EPU. Also note that in its October 1974 environmental statement for the construction of two units at the Clinton site, the NRC evaluated consumptive use of the lake water with two units operating.

Discharge Impacts

The NRC staff evaluated environmental impacts associated with the proposed EPU cooling water discharge such as fogging, icing, noise, lake water temperature changes, and cold shock.

Cooling Lake Fog and Icing

Environmental impacts such as fogging and icing could result from the increased heat load resulting from discharge of additional cooling water into Clinton Lake. However, the CPS Environmental Report addressed estimates of ground fog frequency and icing and associated environmental impacts for the current power level. These analyses included considerable conservatism, well beyond the projected 20% increase of release heat. The NRC staff concluded in the FES that the operation of the CPS cooling water discharge system was not harmful to the lake and surrounding environment. The NRC staff concludes that ground fog and icing that might be generated by plant operation at the uprated power level is bounded by the conclusions of the FES.

Noise

No significant changes to facilities are planned that would change the character, sources or energy of noise generated at CPS. All new equipment or components needed to modifying existing equipment in order to effect the EPU will be installed within existing plant facilities. No significant increase in ambient noise levels is anticipated in any work areas within the plant. The upgraded turbines are designed to operate at the same speed as under the existing power level. The conclusions regarding noise levels in the Environmental Report remain applicable for noise levels expected under EPU conditions.

Lake Water Temperature Changes

Effluent from the circulating water coolant system is directed back to Clinton Lake. The licensee has stated that it does not expect any increase in circulating water flow as a result of the EPU. However, because more heat must be rejected from the plant, circulating water discharge temperatures will be elevated as a result of the EPU. The Illinois Environmental Protection Agency (IEPA) has established limits for this effluent in the plant's National Pollutant Discharge Elimination System (NPDES) permit in order to protect the resource. The licensee has stated that the plant will continue to be operated in compliance with established limits in the NPDES permit. Consequently, there should not be a thermal impact to the lake as a result of the EPU in excess of that already considered by IEPA. If the NPDES limits prevent operation at full power under some conditions, the licensee will either have to derate the unit during those times or request a change to its permit.

Cold Shock

Cold water shock to aquatic species occurs when the warm water discharge from a plant stops due to an unplanned shutdown. The probability of an unplanned shutdown is independent of the power uprate. In the event of a shutdown the thermal differential will still be within the NPDES limits.

Consequently, the increase in the risk of fish mortality due to cold shock will not be significant, and the total impact will continue to be bounded by the FES.

Terrestrial Biota

The FES for CPS published in May 1982 identified two endangered species that may occur in the vicinity of the site; the bald eagle (Haliaeetus leucocephalus) and the Indiana bat (Myotis sodalis). Operation of the CPS under EPU conditions is expected to have no adverse effect on land use and will not disturb the habitats of any terrestrial plant or animal species as evaluated in the FES. Extended power uprate operating conditions will not significantly increase previously evaluated environmental impacts on terrestrial biota.

Aquatic Biota

As discussed previously, the licensee has stated that it does not expect to have to increase circulating water flow as a result of the EPU. Therefore, there should be no increase in the entrainment and impingement of aquatic species at the intake structure. In addition, the licensee has indicated that it expects the discharge temperature of the water to remain within the limits previously evaluated and approved by IEPA. As long as the plant is operated within these limits, impacts to aquatic species should not exceed those previously considered.

Human Health

In response to an NRC staff request for additional information, CPS submitted the following information regarding Naegleria fowleri in its letter dated November 29, 2001.

During the final regulatory review of the Final Environmental Statement (FES) in 1982, concerns were raised that the elevated temperatures in Clinton Lake due to plant operation might increase the abundance of pathogenic N. fowleri and constitute a risk for primary contact water sports. N. fowleri is the organism that causes a potentially fatal disease know as Primary Amoebic Meningoencephalitis (PAM). Initially, the Illinois Department of Public Health (IDPH) responded to concerns raised by the Illinois Department of Natural Resources (IDNR) and asked for a two-year pre- and post-operational monitoring program for N. fowleri and proposed a ban on primary water contact water sports once the plant went operational. After further review of the initial monitoring studies and projected lake temperatures, and a specially funded medical school review of the risks, the IDPH issued a letter in 1987 stating that there was no reason to restrict primary contact water sports. The IDPH, however requested additional Naegleria fowleri monitoring and lake temperature data collection by CPS. The monitoring program continued through 1990, when it was concluded that no further information was needed and that the risk of N. fowleri from Clinton Lake was insignificant relative to other public health risks.

The summary of the monitoring program results listed below illustrates two critical findings. The first was N. fowleri did exist in Clinton Lake prior to any thermal additions, and second, as expected, it was detected more frequently after thermal additions. However, even during the operational years, the frequency of N. fowleri in Clinton Lake was much lower than that found in ambient temperature lakes in Florida. N. fowleri is common in most fresh water lakes in Florida.

CPS *Naegleria fowleri* MONITORING PROGRAM SUMMARY

Year	Researcher	CPS status	Total # of samples	Positive for *Naegleria fowleri*
1983	Dr. Tyndall (Oak Ridge Nat. Labs)	Pre-operational	82	0
1984	Dr. Tyndall (Oak Ridge Nat. Labs)	Pre-operational	120	0
1986	Dr. Wellings & Dr. Lewis (Fla. D.H.&RS)	Pre-operational	219	1
1987	Dr. Wellings & Dr. Lewis (Fla. D.H.&RS)	Start-up	103	0
1986	Dr. Huizinga (IL State University)	Pre-operational	123	1
1987	Dr. Huizinga (IL State University)	Start-up	148	2
1988	Dr. Huizinga (IL State University)	Operational	400	21
1989	Dr. Huizinga (IL State University)	Operational	176	9
1990	Dr. Huizinga Operational (IL State University)	Operational	400	15

An increase in abundance of Naegleria fowleri does not directly correlate with an increase in the number of cases of PAM caused by this pathogen. As of 1998, there had only been about 54 documented cases of PAM in the entire country. Most of these cases were in Florida and a small isolated region of Virginia. The only case associated with a cooling lake was in Texas, and the victim contracted PAM from a non-heated portion of the lake.

Efforts were made to keep the IDPH informed of the N. fowleri monitoring results and operational changes that impacted lake temperatures. Each year the IDPH was given the N. fowleri monitoring data and temperature data from continuous recorders at key locations in Clinton Lake. When Illinois Power filed a petition in 1988 for a Site-Specific Adjusted Standard for higher thermal discharge limits, the IDPH was given a presentation on the modeled lake temperatures that would result from this Site-Specific Standard. The Site-Specific Standard was granted in 1992 and permitted the maximum daily average discharge temperature to be raised from 99°F to 110.7°F. The Station NPDES permit currently has two temperature limitations. The temperature of discharge water at the second drop structure in the discharge flume is limited to a maximum daily average temperature of 99°F for 90 days in a calendar year, or 110.7°F for any single day. The permit and these limits will not be changed for the EPU, therefore, the reviewed and approved heat load for Clinton Lake will not be changed.

The original monitoring program and subsequent decisions to stop monitoring and permit unrestricted recreational lake use were based on compliance with the NPDES permit and the very small risk this issue presented. Based on the above discussion, the NRC staff believes that the risk to the public associated with the microbial pathogen N. fowleri in the reservoir will not increase significantly and no use restrictions or additional monitoring are necessary due to power uprate operation.

Transmission Facility Impacts

Environmental impacts, such as the installation of additional transmission line equipment, or increased exposure

to electromagnetic fields (EMF) and electrical shock, could result from an EPU. The licensee stated that there are no changes in operating transmission or power line right of way needed to support the EPU. An increase in main transformer capacity will be necessary to deliver the additional power to the grid but design safety margins are more than adequate to handle this increased electrical power. No new equipment or modifications will be necessary for the offsite power system to maintain grid stability.

The probability of shock from primary or secondary current systems does not increase from an EPU. Transmission lines and facilities are designed in accordance with the applicable shock prevention provisions of the National Electric Safety Code, and engineered safety margins are deemed adequate to protect against potential electric shock. The increased generator output at CPS will cause a proportional increase in the intensity of EMFs in the vicinity of the near plant transmission lines. There is no scientific consensus regarding the health effects, in any, of exposure to electromagnetic fields. No known effects from EMF on terrestrial biota have been demonstrated. Exposure to EMFs from offsite transmission system power level increases would not be expected to increase significantly, and no health or environmental impacts have been shown to result from EMF exposure. Thus no significant environmental impacts from changes in the transmission design and equipment are expected, and the conclusions in the FES remain valid.

Social and Economic Effects

The NRC staff received information provided by the licensee regarding socioeconomic impacts from the planned EPU, including potential impacts on the CPS workforce and the local economy. The licensee does not anticipate that the EPU will affect the size of the CPS permanent workforce, and does not expect any need to expand the labor force required for future outages. CPS contributions to the local, state and school tax bases are of significant value to the local economy. Some fraction of the plant modification costs to accommodate the EPU will accrue to the economy. Increased revenue from sale of additional power output will expand the local tax revenue, benefitting the community directly.

Benefits to the local community are dependent in part on the success of the EPU, and the extend to which the EPU will permit AmerGen to remain competitive in the energy market. To the extent that the EPU will extend the operating lifetime of CPS by enhancing its economic performance, the long term benefits to the local economy will be extended. The staff expects that the conclusions in the FES regarding social and economic impacts will apply to EPU operating conditions.

In summary, the proposed EPU at CPS is not expected to cause a significant change in non-radiological impacts on land use, water use, waste discharges, noise, terrestrial and aquatic biota, transmission facilities or social and economic factors, and would have no non-radiological environmental impacts in addition to those evaluated in the FES. Table 1 summarizes the non-radiological environmental effects of the EPU at CPS.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT CPS

Impacts	Impacts of the EPU at CPS
Land Use Impacts	No changes required to current land use.
Water Use Impacts	Minimal increase in consumptive water use expected.
Discharge Impacts	Any increases in fog formation or icing are expected to be insignificant and well within the acceptable levels determined by the FES. No significant increases in ambient noise levels are expected. No plans to increase cooling water flow. Discharge temperature will remain within NPDES limits. Lake water temperature changes both during normal operations and after unplanned shutdown will remain within accepted levels.
Terrestrial Biota Impacts	No wildlife habitat in the area will be affected because all construction will be done inside existing facilities. Known endangered species in the area will continue to be monitored.
Aquatic Biota Impacts	Temperature change in Lake Clinton is expected to remain within NPDES limits. Risk to the public from known microbial pathogens will not increase significantly.
Transmission Facilities Impacts	No changes in operating transmission voltages, onsite transmission equipment, or power line rights-of-way. Transformer capacity will increase but design safety margins considered adequate. EMF will increase proportionate to the EPU but no changes in exposure rate is expected
Social and Economic Impacts	No change in CPS permanent or part-time work force is expected. EPU may expand tax base and enhance longevity of plant operation.

Radiological Impacts From EPU at CPS

The NRC staff evaluated radiological environmental impacts on waste streams, dose, accident analysis, and fuel cycle and transportation factors. The following is a general discussion of these issues and an evaluation of their environmental impacts.

Radioactive Waste Stream Impacts

CPS uses waste treatment systems that must be designed to collect, process and dispose of radioactive gaseous, liquid and solid waste in a controlled and safe manner, and in accordance with the requirements of 10 CFR part 20 and Appendix I to part 50. The design bases for the CPS systems during normal operation limit discharges well within the limits specified in 10 CFR part 20, ''Standards for Protection Against Radiation,'' and satisfy the design objectives of Appendix I to 10 CFR part 50, ''Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion, ''As Low as is Reasonably Achievable'' for Radioactive Material in Light-Water Cooled Nuclear Power Reactor Effluents.'' Licensee analysis shows that these limits and objectives will continue to be met under EPU operating conditions.

Modifications planned to effect EPU operation do not include nor require any changes in the operation or design of facilities or equipment in the solid,

liquid or gaseous waste handling systems. The safety and reliability of these systems are designed with sufficient margin so as to be unaffected by operating conditions associated with EPU. Neither the environmental monitoring procedures for these waste streams, nor any radiological monitoring requirements of the CPS Technical Specifications and/or Offsite Dose Calculation Manual will be reduced or changed in any way by the EPU.

The EPU will not introduce any new or different radiological release pathways. Probability of operator error or equipment malfunction that might result in an uncontrolled radioactive release are estimated to remain at current levels under EPU conditions. The specific effects of EPU on each of the radioactive waste systems are discussed below.

Solid Waste

Solid radioactive wastes include solids recovered from the reactor process system, solids in contact with the reactor process system liquids or gasses, and solids used in reactor process system operation. The largest volume of solid radioactive waste at CPS is low-level radioactive waste (LLRW). Sources of LLRW at CPS include resins, filter sludge, dry active waste, metals and oils.

The annual environmental impact of low- and high-level solid wastes related to uranium fuel cycle activities was generically evaluated by the NRC staff for a 1000 MWe reference reactor. The estimated activity content of these wastes is given in Table S–3 in 10 CFR 51.51 and would continue to be bounding for CPS at EPU operating conditions.

CPS maintains records of the volume of solid waste generated and has a documented volume reduction program with the objective to continually identify and implement volume reduction techniques. The low-level solid waste volume generated at CPS in calendar year 2000 was reported to be 111.7 cubic meters. For calendar year 2001, CPS is projecting 115 cubic meters of low-level solid waste. With volume reduction programs in effect, CPS is estimating far less than a 20 percent increase in solid waste volume due to the planned EPU.

The largest volume source of radioactive solid waste is spent resins from process wastes. Other major contributors at CPS are equipment wastes from operational and maintenance procedures, and chemical and reactor system wastes. The EPU is not projected by the licensee to significantly change the amount or type of equipment and chemical wastes generated.

CPS projects an increase in the process wastes generated from operation of the reactor water cleanup (RWCU) filter/demineralizers, and the condensate demineralizers that could be approximately proportional to the power uprate. More frequent system backwashes will occur due to an increase in the flow rate through the RWCU and condensate demineralizer systems.

The licensee estimates the increased frequency of backwashes to be less than 20 percent of current value. The purity of the coolant and filter performance will not change. The licensee projects only a small increase in solid waste volumes from these processes.

Another important source of solid waste is spent fuel. CPS reported that 188 fresh fuel bundles were loaded in the recent refueling outage, to accommodate operation under EPU conditions. The number of irradiated fuel assemblies moved to storage during future refueling outages is not expected to increase as a result of EPU because of planned and approved extended burnup and increased U–235 enrichment of the fuel used. The amount of these wastes, therefore, is not expected to increase. The spent fuel is currently stored in spent fuel facilities onsite and is not shipped offsite.

The volume and activity of waste predicted by the licensee to be generated from spent control blades and in-core ion chambers may increase slightly as a result of higher neutron flux conditions associated with EPU conditions. The NRC staff does not expect this increase to be significant and believes that it can be accommodated within existing onsite storage facilities. Therefore, the NRC staff concludes that there will not be a significant increase in the amounts, or change in the types, of solid wastes produced by the plant as a result of EPU.

Liquid Radwaste

The liquid radwaste system at CPS is designed to process and recycle the liquid waste collected so that annual radiation doses to individuals are maintained will below the guidelines in 10 CFR part 20 and 10 CFR part 50, Appendix I. CPS has operated since 1992 as a zero radioactive liquid release plant, choosing to recycle all liquid wastes. CPS does not intend to change this policy as a result of EPU. Filter backwashing will increase input to the liquid radwaste system due to the 20 percent EPU, but this small increase will be recycled rather than discharged, and thus will have no effect on the environment.

CPS does not expect the EPU to result in any significant increase in the volume of liquid wastes from other sources into the liquid radwaste system. The reactor will continue to operate within present fluid pressure control bands under EPU conditions so that leakage should not increase. No changes in reactor recirculation pump flow rates are needed to accommodate the EPU. Equipment drains, floor drains or chemical waste systems will not be changed as a result of the EPU because the operating conditions of these facilities are independent of power levels.

Gaseous Radwastes

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environment, including small quantities of activated gases and noble gases, so that routine offsite releases are below the limits of 10 CFR part 20 and Appendix I to part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190).

The major sources of gaseous radioactive releases at CPS are the common station heating, ventilation and air conditioning (HVAC) stack and the standby gas treatment system (SGTS) vent. Normal gaseous releases are through the common station HVAC stack. The radioactive gaseous effluents include small quantities of noble gases, halogens, particulates and tritium. Based on conservative assumptions of non-negligible fuel leakage due to defects, it is probable that gaseous radioactive release rate from the common station HVAC stack would increase in proportion to the 20 percent EPU. Current release quantities are very small and the projected radioactive gaseous effluents under EPU condition would remain within Appendix I limits.

The licensee is required to continually monitor radioactive releases in this pathway to assure that doses to members of the public are maintained within federal limits. The stack effluent alarm setpoint for the stack monitoring system is set conservatively at a level required to maintain the 10 CFR part 20 limits as specified by CPS Technical Specifications. The setpoint is 3.8 E–04 μ Ci/sec. Continuous releases at this level would result in offsite doses well below 10 CFR part 20 limits.

The FES for CPS predicted 6600 curie (ci)/yr noble gas and a 0.46 Ci/yr Iodine -131 release rates. The actual release quantities measured and reported by the licensee for the year 2000 were 5.44E -03 Ci of noble gases and 1.73 E–04 Ci

Iodine -131. Assuming a proportional increase of 20 percent in these rates due to the EPU, the new actual release rates would still be well below those previously evaluated by the FES.

Particulate and tritium release rates evaluated for environmental impact in the FES were 1.75 Ci/yr and 57 Ci/yr, respectively. The actual release quantities measured and reported by CPS for the year 2000 were 3.32 E -03 Ci and 41.64 Ci respectively. The FES quantities are calculated to contribute insignificantly to public dose. Assuming a 20 percent proportional increase due to the EPU, the resulting particulate and tritium release rates will continue to be within the quantities evaluated in the FES as contributing little environmental impact.

The staff concludes that, based on information provided by the licensee and on evaluations performed in the FES, the gaseous effluent levels at EPU operating conditions will remain negligible, and in compliance with release limits of 10 CFR part 20 and the guidelines of Appendix I of 10 CFR part 50.

In summary, the NRC staff concludes that the increases projected in solid and gaseous radioactive wastes that are released offsite will comply with federal guidelines and will be well within the FES evaluations.

Radiation Levels and Dose Impacts

The NRC staff evaluated licensee projected in-plant and offsite radiation doses as a part of the review of environmental impacts of the proposed EPU at CPS.

In-Plant Radiation Impacts

On-site radiation levels and associated occupational doses are controlled by the licensee's program to maintain doses as low as reasonably achievable (ALARA) as required in 10 CFR part 20. The CPS ALARA program manages occupational dose by minimizing the time workers spend in radiation areas, maximizing distance between workers and sources, and using shielding to reduce radiation levels in work areas whenever practical. The licensee has determined that current shielding designs are adequate to compensate for any increases in dose levels as a result of the EPU.

Data provided by CPS shows that occupational dose to workers decreased significantly over the past 10 years. Based on a rolling three year average, the 2001 dose is projected to be 32 percent less than the 1990 dose. Although the EPU will potentially increase radiation levels in some parts of the work area, these increases will be compensated by continued ALARA program improvements and a continuing downward trend in occupational doses is projected by CPS.

CPS shielding design was conservative with respect to projected radiation source levels. In the original shielding analysis, concentrations of fission and corrosion products in reactor coolant water were assumed to be 2.5 μ Ci/g and 0.062 μ Ci/g, respectively. The actual measured combined concentration is approximately 0.016 μ Ci/g. Assuming a proportional increase of 20 percent in operating radioactivity levels, the shielding design will remain bounding with a significant margin at EPU conditions. On the basis of this information, the NRC staff concludes that the expected in-plant radiation doses at CPS following the proposed EPU will be well below regulatory criteria and will not have a significant impact.

Offsite Dose Impacts

As previously discussed under Gaseous Radiological Wastes, CPS expects that the small increase in normal operational gaseous activity levels under EPU conditions will not appreciably impact the large margin between 10 CFR part 20 limits and actual measured and reported releases. Doses from liquid effluents are currently zero and the EPU will not result in any changes in liquid radiological waste releases.

The CPS Technical Specifications implement the release guidelines of 10 CFR part 50, Appendix I, which are well within 10 CFR part 20 limits. The licensee provided the following table of doses calculated under current conditions compared to projected values under the planned EPU and to Appendix I dose limits. It is apparent that the offsite doses do not change greatly and remain well within the conservative Technical Specification dose limits.

TABLE 2.—RADIOLOGICAL EFFLUENT DOSES

	Nominal values (year 2000)	EPU values (estimated)	10 CFR 50 Appendix I limit
Noble Gas Gamma Air Dose (mrad)	1.59 E–07	1.91 E–07	10
Noble Gas Beta Air Dose (mrad)	2.04 E–07	2.45 E–07	20
Particulate, Iodine and Tritium (Thyroid) (mrem)	2.93 E–03	3.52 E–03	15

The planned EPU at CPS should not result in any significant increases in offsite doses from gaseous effluents, nor does the planned EPU envision the creation of any new sources of offsite dose. Radioactive liquid effluents are not routinely discharged from CPS. The annual dose contribution from skyshine is based on design basis activities. These doses are considered bounding for EPU and are a small fraction of the 40 CFR part 190 limit of 25 mrem. The NRC staff concludes that offsite doses will remain well within regulatory limits under operating conditions associated with the EPU.

Accident Analysis Impacts

The NRC staff reviewed the assumptions, impacts and methods used by CPS to assess the radiological impacts of potential accidents when operating under EPU conditions. In Section 5 of the CPS FES, three classes of postulated accidents were evaluated to determine the associated environmental impact. The licensee provided the following information regarding the impact of EPU on the assumptions and conclusions for the three environmental accident classes evaluated in the FES.

—*Class 1:* Incidents of Moderate Frequency.

This class is also referred to as anticipated operational occurrences. The FES concluded that any incident of this type would cause releases commensurate with the limits on routine effluents. Because of facility improvements and maintenance, the actual activity concentrations of reactor coolant are considerably less than predicted by the FES. Assuming a 20 percent increase as a result of EPU activity, concentration levels would still be far below FES predictions.

—*Class 2:* Infrequent Accidents

There are events that might occur once during the lifetime of the plant. The licensee asserts reasonably that the planned EPU does not increase the probability of occurrence or severity of these type events.

The licensee further evaluated the impact of EPU operating conditions on several typical postulated accidents in these two classes. These were off-gas system failure, radwaste storage tank release, small-break loss-of-coolant accident (LOCA), and fuel handling accident. All of these postulated events under EPU conditions were shown to result in doses that were insignificant and well within the bounding conditions of the FES, or to be so unlikely under present or EPU conditions that they do not contribute significantly to environmental impacts.

—*Class 3:* Limiting Faults

This class of accidents includes large-break LOCA, main steam-line break, and control rod drop accident (CRDA). The licensee modeled and analyzed these design basis accidents under EPU conditions for comparison to regulatory limits. Radiological consequences of these worst case scenarios are limited by 10 CFR part 100 for offsite doses. These accidents were conservatively analyzed by the licensee assuming an initial power level of 3039 MWt for the LOCA and 2952 MWt for CRDA. Postulated power levels in the analysis were 105 percent and 102 percent respectively of the FES bounding analytical power level of 2894 MWt. The licensee provided the results of these calculations in the following tables. Following a large break LOCA, the SGTS at CPS establishes and maintains a negative pressure in the secondary containment area. Any primary containment leak will be contained within the secondary containment and will be released to the outside only after passing through SGTS, which filters and treats the effluent. All releases from the SGTS are via the SGTS vent.

TABLE 3.—LOSS OF COOLANT ACCIDENT

Location	Current power level dose (rem)	EPU dose (rem)	Regulatory limit (rem)
EAB Whole Body	11	13.5	25
EAB Thyroid	225	267	300
LPZ Whole Body	3.5	4.5	25
LPZ Thyroid	86	102	300

TABLE 4.—ROD DROP ACCIDENT

Location	Current power level dose (rem)	EPU dose (rem)	Regulatory limit (rem)
EAB Whole Body	1.8E–02	2.34E–02	6.25
EAB Thyroid	1.6E–01	1.92E–01	75
LPZ Whole Body	5.6E–03	7.28E–03	6.25
LPZ Thyroid	1.8E–01	2.16E–01	75

The results of these analyses indicate that the EPU will not cause off-site accident projected doses to exceed regulatory limits. The NRC staff agrees that the assumptions used in the licensee's analysis are conservative with respect to EPU operating conditions, shielding and dose. Thus, the staff concludes that the radiological consequences of a design-basis accident under EPU conditions are within the acceptance criteria of 10 CFR part 100 and do not involve any significant impact to the human environment.

Fuel Cycle and Transportation Impacts

The environmental impact of the uranium fuel cycle has been generically evaluated by the NRC staff for a 1000 MWe reference reactor and is discussed in Table S–3 of 10 CFR 51.51. Under EPU conditions CPS will be rated at approximately 1100 MWe. Information provided by the licensee includes the following. The data presented in tables 5–12 (10 CFR 51.51 Table S–3) and 5.5 (10 CFR 51.52 Table S–4) of the FES are based on an average burnup assumption 33,000 MWd/MtU and a U–235 enrichment assumption of 4 wt.%. Under EPU conditions, fuel consumption is expected to increase such that the batch average burnup of the fuel assemblies will be in excess of 33,000 MWd/MtU but less than 62,000 MWd/MtU. To support extended burnup, the U–235 enrichment levels will also increase, but will still be less than 4 wt.%. The NRC has previously evaluated the impact of increased burnup to 62,000 MWd/MtU with U–235 fuel enrichment to 5 wt.% on the conclusions of Table S–3. Although some radionuclide inventory levels and activity levels are projected to increase, the NRC noted that little or no increase in the amount of radionuclides released to the environment during normal operation was expected. The NRC staff determined that the incremental environmental effects of increased enrichment and burnup on transportation of fuel, spent fuel and waste would not be significant. In addition the NRC staff analysis noted environmental benefits of extended burnup such as reduced occupational dose, reduced public dose, reduced fuel requirements per unit electricity, and reduced shipments. The NRC concluded that the environmental impacts described by Table S–3 would be bounding for an increased burnup rate above that planned for the CPS EPU.

Because the fuel enrichment for the CPS EPU will not exceed 5 weight percent uranium-235 and the rod average discharge exposure will be under the 62,000 MWd/MtU burnup rate previously analyzed by the NRC, the environmental impacts of the planned EPU at CPS will continue to be bounded by their conclusions and would not be significant.

Summary

Based on NRC staff review of licensee submittals and the FES, it is concluded that the proposed CPS EPU would not significantly increase the probability or consequences of accidents, would not introduce new radiological release pathways, would not result in a significant increase in occupational or

public radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. The following table summarizes the radiological environmental impacts of the EPU at CPS.

TABLE 5.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACT OF THE EPU AT CPS

Impact	Staff conclusion regarding impact
Radiological Waste Stream Impacts	The increases projected in solid, liquid, or gaseus radioactive wastes are either recycled (liquid), fully contained on site (solid), or are released (gaseous) at levels that comply with Federal guidelines and that are well within the FES evaluation.
Dose Impacts	Both on-site occupational doses and off-site doses will remain well within regulatory guidance and will continue to be bounded by evaluations performed in the FES.
Accident Analysis Impacts	No significant increase in probability or consequences of accidents is expected.
Fuel Cycle and Transportation Impacts	No significant increase is expected. Impacts remain within the guidelines of Table S–3 and Table S–4 of 10 CFR part 51.

Alternatives

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., ''the no-action'' alternative). Denial of the application would result in no change in current environmental impacts; however, in the CPS vicinity other generating facilities using nuclear or other alternative energy sources, such as coal or gas, would be built in order to supply generating capacity and power needs. Construction and operation of a coal plant would create impacts to air quality, land use and waste management. Construction and operation of a gas plant would also impact air quality and land use. Implementation of the EPU would have less of an impact on the environment than the construction and operation of a new generating facility and does not involve new environmental impacts that are significantly different from those presented in the FES. Therefore, the staff concludes that increasing CPS capacity is an acceptable option for increasing power supply. Furthermore, unlike fossil fuel plants, CPS does not routinely emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that may contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any resources different than those previously considered in the CPS FES, dated May 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on January 28, 2002, prior to issuance of this environmental assessment, the staff consulted with the Illinois State official, Frank Nizidlek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the application for amendment dated June 18, 2001, as supplemented by letters dated September 7 and 28, October 17, 23, 26, and 31, November 8 (2 letters), 20, 21, 29, and 30, and December 5, 6, 7, 13 (2 letters), 20, 21, and 26, 2001, and January 8, 15, 16, and 24, 2002, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Senior Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3505 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–339]

Virginia Electric and Power Company; North Anna Power Station, Unit 2, Environmental Assessment and Findings of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License (FOL) No. NPF–7, issued to Virginia Electric and Power Company (the licensee), for operation of the North Anna Power Station, Unit 2, located in Louisa County, Virginia. As required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the FOL to remove expired license conditions, make editorial changes, relocate license conditions, and remove license conditions associated with completed modifications.

The proposed action is in accordance with the licensee's application dated January 9, 2001.

The Need for the Proposed Action

The proposed action is needed because some requirements in the North Anna, Unit 2, FOL have become obsolete. In addition, the need for editorial changes has been identified.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed license amendment is administrative in nature and has no effect on plant equipment or plant operation.

The proposed action will not significantly increase the probability or

consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the North Anna Power Station, Unit 2, dated April 1973.

Agencies and Persons Consulted

On January 15, 2002, the staff consulted with the Virginia State official, Mr. Les Foldesi of the Virginia Department of Health, Bureau of Radiological Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 9, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

Stephen R. Monarque,

Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3504 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

Correction to Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

On January 22, 2002 (67 FR 2917), the **Federal Register** published the Biweekly Notice of Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations. On page 2923, top of column 3, the notice entitled ''Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick (JAF) Nuclear Power Plant, Oswego County, New York,'' the Date of amendment request should be January 9, 2002, instead of November 2, 2001.

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3506 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Plan for Secure Postage Meter Technology

AGENCY: Postal Service.

ACTION: Clarification of final plan.

SUMMARY: The Postal Service published the final plan for phases III and IV of the Postal Service's Plan for Secure Postage Meter Technology in the **Federal Register** on November 15, 2001 (Vol. 66, No. 221, pages 57492–57494). This notice clarifies the definition of phase III and IV meters in the previous notice and details the requirements for each meter manufacturer to notify all customers of the retirement plan for any affected meters.

DATES: This clarification pertains to the final plan that was effective November 15, 2001.

FOR FURTHER INFORMATION CONTACT: Wayne Wilkerson by fax at (703) 292–4073.

SUPPLEMENTARY INFORMATION: In 1995, the Postal Service, in cooperation with all authorized postage meter manufacturers, began a phaseout of all mechanical postage meters because of identified cases of indiscernible tampering and misuse. Postal Service revenues were proven to be at serious risk. The completion of this effort, which resulted in the withdrawal of 776,000 mechanical meters from service, completed phase I of the Plan for Secure Postage Meter Technology. Phase II of the plan, the retirement of electronic meters that are manually set by Postal Service employees, is now being implemented. The plan for phases III and IV, describing the retirement of meters with nondigitally printed indicia, was published for comment in the **Federal Register**, August 21, 2000 (Vol. 65, No. 163, pages 50723–50724). Comments on the proposed plan were due by October 5, 2000. Responses to the comments and the final plan were published in the **Federal Register** on November 15, 2001. This notice clarifies the definition of the meters affected and the requirements for each manufacturer to notify customers of the plan.

Clarification of the Final Postal Service Plan for the Retirement of Letterpress Postage Meters

(Changes are shown in italicized text.)

Phases III and IV of the Postal Service proposed Plan for Secure Postage Meter Technology affect *non-digitally printing* meters that are remotely reset under the Computerized Meter Resetting System (CMRS). *The affected meters are those meters that print indicia using older letterpress technology rather than digital printing, even if they have a digital display.* If such a meter has *an additional* feature that automatically disables the meter if it is not reset within a specified time period or when certain preprogrammed criteria are met, it is called an enhanced meter. Phase III of the proposed plan *required* that the users of nonenhanced CMRS letterpress meters *be* notified of the schedule for the retirement of their meters by December 31, 2001. The placement of nonenhanced CMRS letterpress meters

must cease by December 31, 2002, and these meters must be off the market *and withdrawn from service* by December 31, 2006. *Prior to the signing of a contract for the new placement of any nonenhanced CMRS non-digitally printing meter, the manufacturer placing the meter must notify the customer that the meter must be withdrawn from service by December 31, 2006.* Phase IV of the proposed plan requires that the customers of enhanced CMRS letterpress meters *must be* notified of the schedule for the retirement of their meters by June 30, 2003. The placement of enhanced CMRS letterpress meters must cease by June 30, 2004, and these meters must be off the market *and withdrawn from service* by December 31, 2008. *Prior to the signing of a contract for the new placement of any enhanced CMRS non-digitally printing meter, the manufacturer placing the meter must notify the customer that the meter must be withdrawn from service by December 31, 2008.*

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–3411 Filed 2–12–02; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Privacy Act of 1974, Systems of Records

AGENCY: Postal Service.

ACTION: Advance notice of amendment to an existing system of records with the deletion of two general routine uses, and the addition of two new routine uses.

SUMMARY: The Postal Service proposes to amend Postal Service Privacy Act System of Records, 140.020, Postage—Postage Evidencing System Records. The proposed amendments reflect the collection and use of data to authorize and process the purchase of postage by credit cards for certain postage evidencing systems. This notice amends the following sections to reflect the acceptance of credit cards: Categories of records in the system; routine uses of records maintained in the system, including categories of users and the purposes of such uses; safeguards; notification procedure and record source categories.

DATES: This proposal will become effective without further notice on March 15, 2002, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Mail or deliver written comments to the Records Office, U.S. Postal Service, Room 5846, 475 L'Enfant Plaza, SW, Washington, DC 20260–5846. You can view or make copies of all written comments between 8 a.m. and 4 p.m., Monday through Friday, at the same address.

FOR FURTHER INFORMATION CONTACT: Susie Travers, Records Office, 202–268–3362.

SUPPLEMENTARY INFORMATION: The Postal Service revised the Privacy Act system of records in USPS 140.020, Postage—Postage Evidencing System Records, in a notice published in the **Federal Register** on June 26, 2000, (65 FR 39446–39447). The revision further limited the categories of records covered. It was determined that only destinating five-digit ZIP Code information was needed to accomplish the system purpose.

The Postal Service is publishing this notice to expand the categories of records covered by the system to collect data for the acceptance of credit cards to include the credit card number, credit card expiration date, and credit card transaction number. The Postal Service is deleting general routine use (a), which is being replaced by new routine use 4, and routine use (m), because it is not necessary to share this information with the labor organizations. Routine use 3 is added to reflect how information may be disclosed for the purpose of authorizing and processing the purchase of postage by credit card. Routine use 4 permits disclosure for law enforcement purposes only pursuant to a Federal search warrant.

In addition to the protections imposed by the Privacy Act, the Postal Reorganization Act imposes restrictions on the disclosure of information of the type kept within system USPS 140.020. The Privacy Act prohibits the Postal Service from disclosing lists of postal customers or other persons.

For the above reasons, the Postal Service proposes to amend the following system:

USPS 140.020

SYSTEM NAME:

Postage—Postage Evidencing System Records, 140.020.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

[CHANGE TO READ]

Customer name and address, change of address information, corporate business customer information (CBCIS) number, business profile information, estimated annual postage and annual percentage of mail by type, type of usage (customer, postal, or government), post office where mail is entered, license number, date of issuance, ascending and descending register values, device identification number, device model number, certificate serial number, amount and date of postage purchases, credit card number, credit card expiration date, credit card transaction number, address verification service (AVS) response from credit card processor, credit card issuer authorization code, credit card billing address, amount of unused postage refunded, contact telephone number, date, destinating five-digit ZIP Code and rate category of each indicium created, and transaction documents.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

[CHANGE TO READ]

General routine use statements b, c, d, e, f, g, h, and j listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system. Other routine uses are as follows:

* * * * *

[ADD]

3. Records or information from this system may be disclosed to the Postal Service's designated credit card processor for the purpose of authorizing and processing the purchase of postage by credit card.

4. Information from this system may be disclosed for law enforcement purposes to a government agency, either Federal, State, local, or foreign, only pursuant to a federal warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure. See *Administrative Support Manual* (ASM) 274.6 for procedures relating to search warrants.

* * * * *

SAFEGUARDS:

[CHANGE TO READ]

Paper records and computer storage media are maintained in closed file cabinets in secured facilities; automated records are protected by computer password. Information obtained from users over the Internet is transmitted electronically to the Postal Service by authorized postage evidencing system providers via a virtual, private network.

* * * * *

NOTIFICATION PROCEDURE:

[CHANGE TO READ]

Individuals wanting to know whether information about them is maintained in this system of records must address inquiries in writing to: Manager, Postage

Technology Management, United States Postal Service, 1735 North Lynn Street, Room 5011, Arlington, VA 22209–6054. When making this request, an individual must supply the license number and his or her name as it appears on the postage evidencing system license.

* * * * *

RECORD SOURCE CATEGORIES:

[CHANGE TO READ]

License applications, licenses, postal officials administering postage evidencing systems, postage evidencing system activity reports, refund requests for unused postage, credit card transactions, postage evidencing system resetting reports, log file entries, and authorized service providers of postage evidencing systems.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–3412 Filed 2–12–02; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 101; SEC File No. 270–408; OMB Control No. 3235–0464
Rule 102; SEC File No. 270–409; OMB Control No. 3235–0467
Rule 103; SEC File No. 270–410; OMB Control No. 3235–0466
Rule 104; SEC File No. 270–411; OMB Control No. 3235–0465
Rule 17a–2; SEC File No. 270–189, OMB Control No. 3235–0201

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 101 (Activities by Distribution Participants) and Rule 102 (Activities by Issuers and Selling Security Holders During a Distribution)

Rules 101 and 102 prohibit distribution participants, issuers, and selling security holders from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by these rules may seek to use several applicable exceptions such as a calculation of the average daily trading volume of the securities in distribution, the maintenance of policies regarding information barriers between their affiliates, and the maintenance of a written policy regarding general compliance with Regulation M for de minimus transactions. The Commission estimates that 1,358 respondents collect information under Rule 101 and that approximately 31,079 hours in the aggregate are required annually for these collections. In addition, the Commission estimates that 669 respondents collect information under Rule 102 and that approximately 1,569 hours in the aggregate are required annually for these collections.

Rule 103 (Nasdaq Passive Market Making)

Rule 103 permits passive market making in Nasdaq securities during a distribution. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making. The Commission estimates that 171 respondents collect information under Rule 103 and that approximately 171 hours in the aggregate are required annually for these collections.

Rule 104 (Stabilizing and Other Activities in Connection With an Offering)

Rule 104 permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (i.e., the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids and disclose such information to the SRO. The Commission estimates that 519 respondents collect information under Rule 104 and that approximately 51.9 hours in the aggregate are required annually for these collections.

Rule 17a–2 (Recordkeeping Requirements Relating to Stabilizing Activities)

Rule 17a–2 requires underwriters to maintain information regarding stabilizing activities, syndicate covering transactions, and penalty bids. The Commission estimates that 519 respondents collect information under Rule 17a–2 and that approximately 2,595 hours in the aggregate are required annually for these collections.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: February 6, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3490 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45418; File No. SR–Amex–2001–96]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC Relating to Amex Rule 933

February 7, 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 November 2, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 933 to provide that: (1) An Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 15 seconds between entry of each such order in an option issue; and (2) members and member organizations are responsible for establishing procedures to prevent orders in an option issue for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 15 seconds.

Below is the text of the proposed rule change. Proposed new language is *italicized;* proposed deleted language is [bracketed].

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Amex Rule 933, Automatic Execution of Options Orders

(a) No change.

(b) The Exchange shall determine the size parameters of orders eligible for entry into its Automatic Execution System (Auto-Ex). *An Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 15 seconds between entry of each such order in a call class and/or a put class for the same option issue. Members and member organizations are responsible for establishing procedures to prevent orders in a call class and/or a put class for the same option issue for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 15 seconds.* [No member or member organization which transmits non-broker/dealer customer orders to the Exchange for entry into the Auto-Ex system shall unbundle (split up) such orders to take advantage of such eligibility parameters.]

Commentary

.01 (a)–(g) No change

.02 No change.

[.03 If a member or member organization grants a non-member electronic access to the Exchange's order routing or execution systems through the member's or member organization's order routing systems, and if the non-member uses that access to violate Exchange rules or other applicable regulations, including, but not limited to, the Exchange's ''unbundling'' prohibition, the member or member organization is in violation of Exchange rules if it has either knowingly facilitated the violation or has failed to establish procedures reasonably designed to prevent access to the member or member organization's order routing systems from being used to effect such violation.]

* * * * *

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 Exchange represents that it established the Auto-Ex system to provide small customer orders with an immediate single price execution. In 1996, the Exchange adopted Rule 933 to prohibit the ''unbundling'' (*i.e.,* the splitting or dividing-up) of customer options orders to make them fit within the size parameters of the Exchange's Auto-Ex system.[3]

The Exchange is proposing to amend Rule 933 (''Automatic Execution of Options Orders'') to provide that an Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less that 15 seconds between the entry of each such order in a call class and/or put class for the same option issue. The Exchange believes that if persons were allowed to effectively increase the size of Auto-Ex eligible orders by entering more than one such order at intervals of less than 15 seconds, Amex specialists and Registered Options Traders would be unable to make markets with the same liquidity as if there were effective limits on the size and frequency of Auto-Ex eligible orders. Thus, the Exchange believes that the proposed rule change will ensure that Auto-Ex fulfills it intended purpose.

The proposed amendment to Rule 933 also provides that members and member organizations are responsible for establishing procedures to prevent orders in an option issue for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 15 seconds. The Exchange represents that this will clarify member compliance responsibilities and conform the Exchange's rules to those currently in place at other options exchanges.[4]

Finally, the Exchange proposes to delete Commentary .03 to Rule 933. Commentary .03 provides that ''[i]f a member or member organization grants a non-member electronic access to the Exchange's order routing or execution systems through the member or member organization's order routing systems, and if the non-member uses that access to violate Exchange rules or other applicable regulations, including, but not limited to, the Exchange's ''unbundling'' prohibition, the member or member organization is in violation of the Exchange's rules if it has either knowingly facilitated the violation or has failed to establish procedures reasonably designed to prevent access to the member or member organization's order routing systems from being used to effect such violation.''[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no 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

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex requests that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2)[8] of the Act. The Exchange believes that because the proposed rule change is similar to rules of other exchanges that the Commission has

[3] *See* Securities Exchange Act Release No. 37429 (July 12, 1996), 61 FR 37782 (July 19, 1996) (approving SR–Amex–96–26).

[4] *See, e.g.,* Chicago Board Options Exchange (''CBOE'') Rule 6.8(e)(iii).

[5] Commentary .03 was originally filed with the Commission as Commentary .01 (SR–Amex–00–47). Subsequently, the numbering changed as a result of two proposed rule changes filed by the Amex. *See* Securities Exchange Act Release No. 43516 (November 3, 2000), 65 FR 69079 (November 15, 2000); Securities Exchange Act Release No. 44013 (February 28, 2001), 66 FR 13816 (March 7, 2001). Also, the Commission is publishing in a separate release this Commentary to Rule 933, which was proposed in SR–Amex–00–47, but was not previously published for comment by the Commission. *See* Securities Exchange Act Release No. 45417 (February 7, 2002) (SR–Amex–00–47).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78(b)(2).

previously approved,[9] the proposed rule change does not present any regulatory issues that the Commission has not previously considered. Furthermore, the Exchange believes that early implementation of the proposed rule change would benefit the public interest and the interests of investors by clarifying member compliance responsibilities and conforming the Exchange's rules to those of other markets.

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 Amex. All submissions should refer to File No. SR–Amex–2001–96 and should be submitted by March 6, 2002.

V. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of section 6(b).[10] Specifically, the Commission finds that approval of the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

In its proposal, Amex proposes to amend section (b) of Amex Rule 933 (entitled ''Automatic Execution of Options Orders'') to limit entry of Auto-Ex eligible orders, in a call class and/or put class for the same option issue, for accounts in which the same person is directly or indirectly interested, to intervals of no less than 15 seconds. In addition, Amex proposes that members and member organizations be responsible for establishing procedures to prevent orders in a call class and/or put class for the same option issue from being entered at intervals of less than 15 seconds for any account in which the same person is directly or indirectly interested. Finally, Amex proposes to delete Commentary .03 to Rule 933.

The Commission finds that paragraph (b) makes explicit the responsibilities and requirements of Amex members and member organizations with respect to the entry of multiple orders by the same person within intervals of less than 15 seconds. The Commission recognizes that the Exchange's proposal will place an explicit prohibition against members or member organizations entering multiple orders in a call class and/or put class for the same option issue within any period of less than 15 seconds for an account in which the same person is directly or indirectly interested. The Commission finds that this prohibition is similar to, although not exactly identical to, provisions that it has already approved for other options exchanges.[11] The Commission also believes that the Exchange's establishment of a prohibition on members and member organizations entering multiple orders for an account in which the same person is directly or indirectly interested within a period of less than 15 seconds, in lieu of a presumption regarding the unbundling of such orders, will add certainty and consistency to the enforcement of the Rule and provide members and member organizations with clarity as to what conduct violates the Rule.[12] In addition, the Commission believes that it is appropriate for the Exchange to delete Commentary .03 to Rule 933. The Commission therefore finds that the proposed rule change is consistent with the provisions of the Act and rules thereunder.[13]

Furthermore, the Commission believes that accelerated approval of this proposal is appropriate to ensure that the Exchange's market makers are not placed at a competitive disadvantage to those market makers who are trading at an exchange where a substantially similar requirement is currently in place. For these reasons, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[14] to approve the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–Amex–2001–96) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[9] In this connection, the Amex cites Amex Rule 128A (Automatic Execution for Exchange-Traded Funds), CBOE Rule 6.8(e) (RAES Operations—Order Entry Firms), and New York Stock Exchange (''NYSE'') Rule 1005 (Automatic Execution—NYSE Direct+™).

[10] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] *See* Securities Exchange Act Release Nos. 43971 (February 15, 2001), 66 FR 11344 (February 23, 2001) (order partially approving File No. SR–PCX–00–05); 44017 (February 28, 2001), 66 FR 13820 (March 7, 2001) (order approving File No. SR–ISE–00–20); and 44104 (March 26, 2001), 66 FR 18127 (April 5, 2001) (order approving File No. SR–CBOE–00–47). The Commission approved proposals by the Pacific Exchange (''PCX''), the International Securities Exchange (''ISE''), and the Chicago Board Options Exchange (''CBOE'') that prohibit members from entering multiple orders for the same beneficial account within a 15-second period.

[12] The Commission notes that the Amex proposal allows the Exchange solely to prohibit conduct expressly set forth in Amex Rule 933(b). If in the future, the Exchange seeks to prohibit members from entering multiple orders for the same person outside of the time interval set by the rule, it must file such a revision as a proposed rule change with the Commission.

[13] In this regard, the Commission notes that the Exchange may not take punitive action against the customer of a particular Amex member in the event that the member violates Amex Rule 933(b).

[14] 15 U.S.C. 78s(b)(2).

[15] *Id.*

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45412; File No. SR–Amex–2001–68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC To Adopt Sanctioning Guidelines for the Exchange's Order Handling Rules

February 7, 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 September 4, 2001, the American Stock

Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adoopt sanctioning guidelines for violation of its options order handling rules. The text of the proposed rule change is available at the Amex's Office of the Secretary, 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 the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

The Exchange proposes to adopt sanction guidelines for violations of its options rules related to firm quotes (Exchange Rule 958A), limit order display (Exchange Rule 958A),[3] priority, parity, and precedence (Exchange Rules 111, 126, 155, 950, and 958),[4] and trade reporting (Exchange Rule 992).[5] The Exchange also proposes to adopt sanction guidelines for its rule regarding anti-competitive behavior and harassment (Exchange Rule 16).

The Exchange has developed the proposed sanctions guidelines for use by the various bodies adjudicating disciplinary matters in determining appropriate sanctions. These bodies include Disciplinary Panels, the Amex Adjudicatory Council and the Amex Board of Governors (''Adjudicators'').[6] The guidelines also may be used by parties to a disciplinary action in entering into a stipulation of facts and consent to penalty.

The proposed sanction guidelines contain an introductory section that explains the overall purpose of the guidelines and sets forth general principles that apply to all sanctions determinations. The introductory section also includes principal considerations for determining sanctions that may be considered as aggravating or mitigating factors. The proposed sanction guidelines contain Individual Guidelines that provide specific monetary and non-monetary sanctions generally applicable to the violations at issue and list additional principal considerations for the specific violations.

The Exchange believes that the proposed sanction guidelines would provide members of Disciplinary Panels, the Amex Adjudicatory Council, and the Board with guidance in determining appropriate remedial sanctions that may be applied flexibly. Because the guidelines do not prescribe fixed sanctions for particular misconduct, they encourage Adjudicators to exercise discretion while maintaining consistency and uniformity in the imposition of disciplinary sanctions.[7] For these reasons, the Exchange believes that the proposed sanction guidelines would enhance its disciplinary processes.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[8] of the Act, in general, and furthers the objectives of Section 6(b),[9] in particular, in that it provides that members and persons associated with members will be appropriately disciplined for violations of the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange states that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. by order approve such proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[3] The Exchange has an option limit order display rule filing pending with the Commission. *See* SR–Amex–00–27.

[4] According to the Exchange, it does not have an explicit definition of its members' obligation of ''best execution'' owed to its customer. The Exchange states that its rules regarding firm quotes, limit order display, priority, parity and precedence, however, collectively define the obligations of members with respect to orders and, therefore, embody the concept of best execution.

[5] The Exchange filed this proposed rule change pursuant to the provisions of Section IV.B.i of the Commission's September 11, 2000 Order Instituting Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange to adopt rules establishing, or modifying existing, sanctioning guidelines such that they are reasonably designed to effectively enforce compliance with options order handling rules. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282 (the ''Order'').

[6] The composition and function of Disciplinary Panels, the Amex Adjudicatory Council, and the Amex Board in disciplinary matters is set forth in the following rules of the Exchange: Article II, Section 6 of the Exchange Constitution (''Amex Adjudicatory Council''), Article V of the Exchange Constitution (''Discipline of Members''), Exchange Rule 345 (''Determinations Involving Employees and Prospective Employees''), and the Rules of Procedure Applicable to Exchange Disciplinary Proceedings. Disciplinary Panels, the Adjudicatory Council and the Amex Board (when it reviews disciplinary decisions) all function independently of the Exchange's regulatory staff. Adjudicators determine whether the aggregation of violations for purposes of determining sanctions is appropriate in any situation.

[7] The Exchange submitted to the Commission a letter, for which it requested confidential treatment, proposing how its regulatory staff would aggregate violations of the order handling rules, where the violations are identified through the Exchange's automated surveillance system. *See* letter from Richard T. Chase, Executive Vice President, Amex, to John McCarthy, Associate Director, Office of Compliance, Inspections and Examinations, Commission, dated December 24, 2001.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(6).

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 filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–68 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3494 Filed 2–12–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45419; File No. SR–CBOE–2001–63]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Lead Market-Makers and Supplemental Market-Makers

February 7, 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 December 17, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Exchange filed an amendment to the proposed rule change on February 7, 2002.[3] 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 CBOE proposes to amend its CBOE Rule 8.15 to make clear that Lead Market-Makers and Supplemental Market-Makers may determine a formula for generating automatically updated market quotations during the trading day. The text of the proposed rule change is set forth below. Additions are in italics; deletions are in brackets.

* * * * *

Rule 8.15. Lead Market-Makers and Supplemental Market-Makers

The appropriate Market Performance Committee (the ''Committee'') may appoint one or more market-makers in good standing with an appointment in *an option class* [the S&P 100 options or in options on the DJIA] *for which a DPM has not been appointed* as Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') to participate in the modified opening rotation described in Interpretation .02 to Rule 24.13, including participating in opening rotations using the Exchange's Rapid Opening System., *and/or to determine a formula for generating automatically updated market quotations during the trading day as described in paragraph (d) below.*

(a) LMMs and SMMs shall be appointed on the first day following an expiration for a period of one month (''expiration month'') and shall be assigned to a zone with one or more LMMs or SMMs. The Committee shall select the series to be included in a zone.

1. Factors to be considered by the Committee in selecting LMMs and SMMs include: Adequacy of capital, experience in trading index options, presence in the [S&P] trading crowd, adherence to Exchange rules and ability to meet the obligations specified below. An individual may be appointed as an LMM in only one zone for an expiration month but may also be appointed as an SMM in other zones. An individual may be appointed to be an SMM in more than one zone. When individual members are associated with one or more other members, only one member may receive an LMM appointment.

2.–4. No change.

(b) The obligations of an LMM are as follows:

1.–3. No change.

4. to perform the above obligations for a period of one expiration month commencing on the first day following an expiration. Failure to perform such obligations for such time may result in suspension of up to three months from trading in all series of the [S&P 100] option *class* [or in options on the DJIA as appropriate].

(c) No change.

(d) Each LMM or SMM appointed in accordance with this Rule to determine a formula for generating automatically updated market quotations shall for the period in which its acts as LMM or SMM use the Exchange's AutoQuote system or a proprietary automated quotation updating system to update market quotations during the trading day. In addition, the LMM or SMM shall disclose the following components of the formula to the other members trading at the trading station at which the formula is used: option pricing calculation model, volatility, interest rate, dividend, and what is used to represent the price of the underlying. Notwithstanding the foregoing, the appropriate Market Performance Committee shall have the discretion to exempt LMMs and SMMs using proprietary automated quotation updating systems from having to disclose proprietary information concerning the formulas used by those systems.[4]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend CBOE Rule 8.15 to make explicit in the rule that the appropriate Market Performance Committee (''MPC'') may appoint Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') to determine a formula for generating automatically updated market quotations and to use the Exchange's Autoquote system or to provide a proprietary automated quotation updating system to monitor and automatically update market quotations

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). Amendment No. 1 requests the Commission to designate the proposed rule change as having been filed pursuant to Section 19(b)(2) of the Act.

[4] The Exchange has agreed to submit an amendment adding a cross-reference to Interpretation and Policy .07 to CBOE Rule 8.7 to clarify that all of the requirements of Interpretation and Policy .07 apply to proposed CBOE Rule 8.15(d). Telephone call between Patrick Sexton, Assistant General Counsel, CBOE, and Deborah Flynn, Assistant Director, Division, Commission (February 6, 2002).

during the trading day in an options class for which a Designated Primary Market-Maker (''DPM'') has not been appointed. CBOE Rule 8.15 currently provides that the appropriate MPC may appoint LMMs and SMMs for a specified period of time to participate in opening rotations in S&P 100 options (''OEX'') and options on the Dow Jones Industrial Average (''DJX'') pursuant to the terms of Interpretation .02 to CBOE Rule 24.13,[5] including by employing the Exchange's Rapid Opening System (''ROS'').

Historically, one of the factors considered by the appropriate MPC in selecting LMMs and SMMs to participate in the OEX openings is the willingness of a market-maker or market-maker group to provide automatically updated quotations during the trading day in the options series traded by the OEX crowd.[6] In the early part of 2000, the Index Market Performance Committee (''IMPC'') introduced a proprietary automated quotation updating system (''Vendor Quote'') into the OEX trading crowd to replace the Exchange's Autoquote system.[7] In conjunction with the introduction of the Vendor Quote system in the OEX, the IMPC instituted a program in OEX whereby the IMPC will approve a certain number of market-makers or market-maker groups to act as LMMs and SMMs and also to provide an intra-day proprietary quote feed to the Vendor Quote system. The Exchange proposes to amend CBOE Rule 8.15 to codify the practice of the appropriate MPC appointing LMMs and SMMs to provide automatically updated quotations during the trading day.

The CBOE proposed to amend Paragraph (a) of CBOE Rule 8.15 to state that LMMs and SMMs may be appointed by the appropriate MPC to determine a formula for generating automatically updated market quotations during the trading day in their appointed classes, in addition to participating in the opening rotations. Proposed new paragraph (d) provides that LMMs and SMMs appointed pursuant to the CBOE Rule 8.15 to determine a formula for generating automatically updated market quotations must for the period in which its acts as LMM or SMM use the Exchange's AutoQuote system or a proprietary automated quotation updating system to update market quotations during the trading day. Proposed paragraph (d) requires LMMs to disclose to the trading crowd the variables of the formula for generating automatically updated market quotations unless exempted by the appropriate Market Performance Committee. This new language tracks the language of Exchange Rule 8.85(a)(x) regarding a DPM's obligation for generating and providing automatically updated market quotations, as well as disclosing to the trading crowd the variables of the formula.[8]

The Exchange also proposes to make an additional housekeeping change to CBOE Rule 8.15. Specifically, the Exchange proposes to eliminate the references to S&P 100 options and options on the DJIA from the rule so that the appropriate Market Performance Committee may appoint LMMs and SMMs in other options classes without having to file a rule change simply to identify the class. The Exchange proposes to revise paragraph (a) to permit the appropriate MPC to appoint as an LMM or SMM a market-maker in good standing with an appointment in an option class for which a DPM has not been appointed.[9]

2. Statutory Basis

By codifying the practice of the appropriate MPC appointing LMMs and SMMs to determine a formula for generating automatically updated market quotations during the trading day in their appointed options classes, thereby adding accountability for market quotations, the CBOE believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act[10] in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change, as amended, will impose a burden on competition that is not necessary or appropriate in furtherance of 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

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 CBOE 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, 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 filings will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No.

[5] The rules governing opening rotations in OEX were approved by the Commission on March 31, 1988. *See* Securities Exchange Act Release No. 25545 (March 31, 1988), 53 FR 11720 (April 8, 1988). The LMM system was put in place to allow for speedier openings in the OEX crowd and to add accountability to the openings in OEX by making particular market-makers responsible for opening quotes.

[6] Paragraph (a)(1) of CBOE Rule 8.15 describes the factors to be considered by the appropriate MPC in making its selections for LMMs and SMMs. These factors include: Adequacy of capital, experience in trading index options, presence in the S&P trading crowd, adherence to Exchange rules, and ability to meet the obligations specified in the rule. One of the obligations of an LMM specified in the Rule is to quote a two-sided market during the opening in all option series in the LMM's assigned zone.

[7] The Vendor Quote system accepts a quote stream from a firm's proprietary quote system and then sends this quote information to the Exchange's Trading Support System to be disseminated as market quotes.

[8] Since CBOE's establishment of the Modified Trading System pilot program in 1987 that allowed CBOE to assign DPMs to certain options classes, CBOE rules have provided that the DPM should determine and disclose to the trading crowd the elements of the formula for automatically updating quotations. *See* Securities Exchange Act Release No. 24934 (September 22, 1987), 52 FR 36122 (September 25, 1987).

[9] Currently, all equity options classes and the NDX, MNX, QQQ and RUT options classes are DPM trading crowds.

[10] 15 U.S.C. 78f(b)(5).

SR–CBOE–2001–63 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3496 Filed 2–12–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45410; File No. SR–CHX–2001–26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Automatic and Manual Execution Procedures

February 6, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on November 14, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article XX, Rule 37 of the CHX Rules, which governs, among other things, automatic execution of market and marketable limit orders. Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are [bracketed].

* * * * *

Chicago Stock Exchange Rules, Article XX

Guaranteed Execution System and Midwest Automated Execution System

RULE 37. (a) Guaranteed Executions. The Exchange's Guaranteed Execution System (the BEST System) shall be available, during the Primary Trading Session and the Post Primary Trading Session, to Exchange member firms and, where applicable, to members of a participating exchange who send orders to the Floor through a linkage pursuant to Rule 39 of this Article, in all issues in the specialist system which are traded in the Dual Trading System and NASDAQ/NM Securities. System orders shall be executed pursuant to the following requirements:

1–7. No change.

(b) Automated Executions. The Exchange's Midwest Automated Execution System (the MAX System) may be used to provide an automated delivery and execution facility for orders that are eligible for execution under the Exchange's BEST Rule (Article XX, Rule 37(a)) and certain other orders. In the event that an order that is subject to the BEST Rule is sent through MAX, it shall be executed in accordance with the parameters of the BEST Rule and the following. In the event that an order that is not subject to the BEST Rule is sent through MAX, it shall be executed in accordance with the parameters of the following:

(1) Size. The MAX System has two size parameters which must be designated by the specialist on a stock-by-stock basis. These parameters are the auto-execution threshold and the auto-acceptance threshold. For both Dual Trading System issues and NASDAQ/NM Securities, the auto-execution threshold must be set at *100* [300] shares or greater and the auto-acceptance threshold must be set at 1000 shares or greater. In no event may the auto-acceptance threshold be less than the auto-execution threshold. If the order sending firm sends an agency market order in a Dual Trading System issue through MAX, such order will be executed in accordance with paragraph (b)(6) of this Rule. If the order sending firm sends an agency market order in a Nasdaq/NM Security through MAX, such order shall be executed in accordance with paragraph (b)(7) of this Rule.

* * * * *

Interpretations and Policies:

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04. Ability to Switch MAX to Manual Execution. Effective April 4, 1994. Specialists have the ability to switch their MAX terminals off automatic execution at their respective posts. This new functionality is being implemented to allow specialists to timely switch to a manual execution mode when a certain analyst/reporter's report is broadcast on cable T.V., if market conditions in a particular stock warrant it. Specialists should switch to manual mode only when absolutely necessary and are required to return to the automatic execution functionality immediately when the primary market quotes accurately reflect market conditions. A specialist cannot remain in manual mode, under this paragraph, for more than *five* [10] minutes without securing the permission of two (2) floor officials.

In all other instances, when a specialist believes it is necessary to be in a manual execution mode, he or she must *secure the permission of his/her firm's floor supervisor (who, under normal circumstances should be located on the trading floor) before switching to manual, and the firm supervisor must immediately (but in no event more than three minutes after switching to manual mode)* [always] *notify and secure* [seek] the permission of *a* [two (2)] floor official[s] *to remain in manual mode* [before switching to manual]. This new functionality cannot be used merely because of a volatile market, but shall only be permitted when the primary market quotes are inaccurate due to market conditions. For example, this new functionality might be used if it became apparent that the NYSE invoked its unusual market conditions rule (pursuant to SEC Rule 11Ac1–1). *The f*[F]loor official[s] must be satisfied that the conditions which permit putting an issue on manual mode are present before granting a specialist's request to switch to the manual mode and *such permission shall only be in effect for five minutes. A firm's floor supervisor* shall monitor the conditions which formed the basis for the[ir] decision to ensure that specialists[′] return to the auto-execution feature when such conditions are no longer present. *Both the firm's floor supervisor and the* [S]specialist[s also] have the responsibility, and are required, to immediately reinstate MAX's automatic execution functionality when the primary market quotes accurately reflect market conditions. *If the specialist and the firm's floor supervisor believe it is necessary to continue in manual mode for longer than five minutes, then the firm supervisor must again secure the permission of the floor official who granted the initial permission, and if such floor official is not available, then from another floor official. Reasons for going to manual mode, the time spent in manual mode, the name of the firm supervisor who permitted the specialist to switch to manual mode and the name of the floor official who granted permission to go to manual mode must be documented and filed with the market regulation department before the next business day's opening.*

When operating in the manual mode. Specialists still have the responsibility to fill customer orders according to CHX Rules—including the BEST Rule. All

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

pricing executions will be reviewed for accuracy. This capability should only be utilized on an infrequent basis and only in unusual circumstances.

* * * * *

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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Article XX, Rule 37 of the CHX Rules, which governs, among other things, automatic execution of market and marketable limit orders. The proposed rule change is intended to clarify a specialist's obligations relating to the automatic execution of orders and to provide CHX specialists and floor officials with additional guidance regarding the ability of a CHX specialist to switch to manual execution mode. The two rule changes are summarized below.

a. Reduction of Minimum Auto Execution Threshold

The proposed change to Article XX, Rule 37(b), which governs automatic execution of eligible orders, would reduce the minimum auto execution threshold from 300 shares to 100 shares. This change is intended to reconcile a specialist's automatic execution obligation with the post-decimalization trading environment. The Exchange represents that, given the scattering of liquidity over multiple price points and resulting reduction in Best Bid or Offer (''BBO'') size,[3] many specialists desire to reduce their automatic execution exposure for certain issues to levels that are commensurate with reduced BBO size. In order to preserve consistency and avoid customer confusion, the proposed rule change would apply to both Dual Trading System and Nasdaq/NM issues. Specialists would remain free to increase their auto execution thresholds to larger sizes if they believe that business/marketing considerations so demand; in fact, the Exchange represents that a number of CHX specialists have indicated that they would reduce their auto execution threshold to 100 shares only in very limited instances.

b. Procedures for Floor Official Approval of Manual Execution Mode

The Exchange also proposes to amend Article XX, Rule 37, Interpretation and Policy .04, which governs the procedures by which specialists are to obtain permission to switch from automatic execution mode to manual execution mode.

The proposed amendment to the interpretation/policy would give greater responsibility to the specialist firm seeking to shift to manual execution mode. Specifically, the specialist firm's floor supervisor would be required to seek floor official approval and would be responsible for the documentation that must be filed with the Market Regulation Department following a shift to manual execution mode. Additionally, the amended language makes clear that floor official permission to operate in manual execution mode expires after a limited time period; after five minutes, the specialist firm and its floor supervisor must again seek permission to remain in manual execution mode. Finally, the proposed rule change would reduce from ten minutes to five minutes the maximum period in which the specialist may remain in manual mode when a certain analyst/reporter's report is broadcast on cable television, pursuant to the terms and conditions of Interpretation .04.

The Exchange anticipates that this proposed rule change will promote greater accountability and preclude reliance on manual execution mode in a manner that is potentially violative of CHX rules. The Exchange also believes that the proposed rule change will assist the Market Regulation Department in determining whether violations of the Exchange's rules regarding manual execution mode have occurred.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act. In particular, the Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or 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 Exchange consents, the Commission will:

(A) by order approve the 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 at the Commission's Public Reference

[3] The Exchange represents that average size at BBO price points has declined significantly following the transition to decimal pricing, with approximate size reductions of 67% in the case of Tape A issues (securities listed on the NYSE), 37% for Tape B issues (securities listed on the AMEX) and 44% for Tape O issues (securities listed on Nasdaq).

Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2001–26 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3447 Filed 2–12–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45411; File No. SR–NASD–2001–88]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Computer to Computer Interface Fees

February 6, 2001.

I. Introduction

On December 7, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), 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 increase the fees charged to non-members that continue to use the x.25 Computer to Computer Interface (''CTCI'') to access Nasdaq services. On January 10, 2002, Nasdaq submitted Amendment No. 1 to the proposal.[3]

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on January 18, 2002.[4] The comment period was for 15 days and expired on February 2, 2002. No comments were received on the proposal, as amended. In this order, the Commission is approving the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposal

Nasdaq's CTCI network is a point-to-point dedicated circuit connection from the premises of brokerages and service providers to Nasdaq's Trumbull, Connecticut processing facilities. Through CTCI, firms are able to enter trade reports to Nasdaq's Automated Confirmation Transaction Service and orders to Nasdaq's Small Order Execution and SuperSOES systems. CTCI also processes SelectNet transaction confirmation reports.

In response to numerous requests from market participants that Nasdaq upgrade the speed and reliability of its CTCI data transmission environment, Nasdaq began the process last year of ''sunsetting'' its CTCI x.25/bisynch network in favor of a new network that provides greater capacity and a more efficient transmission protocol. The CTCI x.25/bisynch network can only transmit data up to 19.2 kilobits per second (''kb''). The new Transmission Control Protocol/Internet Protocol (''TCP/IP'') CTCI network operates over the Enterprise Wide Network II and provides connectivity over more powerful 56kb and T1 data lines. In order to take advantage of the new CTCI network, users are required to upgrade their current x.25/19.2kb lines to either 56kb or T1 lines. Although the conversion process has been underway since January of 2001, as of late November, 295 x.25 CTCI circuits held by 60 firms remained active.

Nasdaq represents that as more and more users convert to TCP/IP, Nasdaq's per circuit cost of continuing to offer the x.25 CTCI connections increases. Since the x.25 CTCI network is provisioned to support over 600 circuits, Nasdaq believes that it is appropriate to pass through the expense of that network to those firms that have failed to transition. According to Nasdaq, the fee increase, together with continued transition support from Nasdaq staff, will allow Nasdaq to ''sunset'' the x.25 CTCI network on March 31, 2002 (or sooner, if all x.25 CTCI subscribers have transitioned prior to that date).[5]

NASD proposes to increase the fee assessed on NASD non-members that continue to use the x.25 CTCI to access Nasdaq services rather than transitioning to TCP/IP. Nasdaq plans to assess the new fee during the months of February and March 2002 and to terminate remaining x.25 CTCI circuits at the end of March, although both the date for implementing the new fee and the date for terminating x.25 CTCI circuits are subject to adjustment.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[6] In particular, the Commission believes that the proposal, as amended, is consistent with the requirements of section 15A(b)(5) of the Act[7] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls. The Commission notes that an identical proposed rule change for members became immediately effective upon filing on January 10, 2002.[8] Further, the Commission notes that Nasdaq has represented that as more and more users convert to TCP/IP, Nasdaq's per circuit cost of continuing to offer the x.25 CTCI connections increases. Nasdaq has stated that the proposed rule change, as amended, will permit it to pass through the expense of that network to those firms that have failed to transition.

Pursuant to section 19(b)(2) of the Act,[9] the Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that Nasdaq plans to assess the new fee during the months of February and March 2002 and to terminate remaining x.25 CTCI circuits at the end of March. The Commission also notes that members also will be assessed an identical fee in February and March 2002 and therefore, the proposed fee will be consistent with the fee charged to members. Further, Nasdaq has represented to the Commission that the new fee is necessary due to a decrease in the number of subscribers of x.25 CTCI circuits and is comparable to the fee assessed to subscribers of the TCP/IP CTCI circuits. Accordingly, the Commission finds that there is good cause, consistent with section 15A of

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated January 8, 2002 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 45266 (January 10, 2002), 67 FR 2714.

[5] Nasdaq has indicated that those members utilizing the remaining x.25 CTCI circuits will be unable to link to the CTCI system at the end of March. Nasdaq does not foresee any circumstances that would cause it to adjust the date of termination of the x.25 CTCI circuits at this time. January 3, 2002 telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and John Riedel, Staff Attorney, Division, Commission.

[6] In approving the proposed rule change, as amended, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78*o*–3.

[8] *See* Securities Exchange Act Release No. 45264 (January 10, 2002), 67 FR 2942 (January 22, 2002).

[9] 15 U.S.C. 78s(b)(2).

the Act,[10] to approve the proposal on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–2001–88), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3497 Filed 2–12–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45416; File No. SR–PCX–2001–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Amending Exchange Rule 6.46 To Adopt New Sanctioning Guidelines for Enforcing Compliance With the Exchange's Options Order Handling Rules

February 7, 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 December 26, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new sanctioning guidelines that will assist in effectively enforcing compliance with the Exchange's options order handling rules. The text of the proposed rule change is available at the PCX's Office of the Secretary and at the Commission.

[10] 15 U.S.C. 78*o*–3.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

The Exchange believes that the proposed rule change will assist it in effectively enforcing compliance with its options order handling rules.[3] The Exchange represents that it has undertaken to address and will continue to address the importance of compliance with order handling rules such as Best Execution, Limit Order Display, Priority, Firm Quote and Trade Reporting. The proposed rule change sets forth sanctioning guidelines for each separate area of the order handling rules. Each of these areas are discussed in detail below.

The Exchange states that currently, violations of the Exchange Firm Quote, Limit Order Display, and Priority Rules are treated as formal disciplinary actions and outside the scope of the Exchange's Minor Rule Plan (''MRP'').[4] Violations of Trade Reporting and Best Execution obligations, however, are generally handled pursuant to the Exchange's MRP. While the MRP provides general guidance with respect to fine levels to be imposed for each distinct violation, nothing in the MRP prohibits the Exchange from removing a single violation of these obligations from the MRP and enforcing it as a formal disciplinary matter. The Exchange may also file a formal disciplinary action if it deems that a member or member organization's conduct amounts to a pattern or practice with respect to violations of the rules covered by its MRP.

The Exchange believes that the proposed guidelines set forth in this filing would serve to assist the Exchange's Regulatory Staff and the Ethics and Business Conduct Committee (''EBCC'') in determining appropriate remedial sanctions for violations of all Exchange rules. The Exchange further believes that the proposed guidelines would work to promote consistency and uniformity in the imposition of penalties.[5] With respect to the order handling rules, the guidelines provide both a range of fines as well as non-monetary sanctions that could be assessed against offending members. Fine amounts would differ depending on the number of disciplinary actions that have been brought by the Exchange against the particular member or member organization. The general principles that apply to all rule violations as well as the particular sanctions relating to the order handling rules are discussed in detail below.

A. General Principles Applicable to All Sanction Determinations

According to the Exchange, the proposed sanctioning guidelines would be used by various Exchange bodies that adjudicate disciplinary actions, including the EBCC, the PCX Board of Governors, the PCX Surveillance and Enforcement Departments, for in-house adjudications (collectively, ''Adjudicatory Bodies''), in determining appropriate remedial sanctions. The Exchange believes that it is important to note that the proposed guidelines do not prescribe fixed sanctions for particular violations. Rather, they assist Adjudicatory Bodies in imposing sanctions consistently and fairly. The Exchange believes that the proposed guidelines serve to promote consistency and uniformity in the imposition of penalties by applying the following general principles in connection with the imposition of sanctions in all cases.

(1) Disciplinary sanctions are remedial in nature. The proposed guidelines set forth that the sanctions imposed should be designed to prevent and deter future misconduct.

(2) Progressively escalating sanctions on recidivists. Repeated acts of

[3] The Exchange filed this proposed rule change in accordance with the provisions of Section IV.B.i of the Commission's September 11, 2000 Order Instituting Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange to adopt rules establishing, or modifying existing, sanctioning guidelines such that they are reasonably designed to effectively enforce compliance with options order handling rules. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282 (the ''Order'').

[4] *See* PCX Rule 10.13.

[5] The Exchange submitted to the Commission a letter, for which it requested confidential treatment, proposing how its regulatory staff would aggregate violations of the order handling rules, where the violations are identified through the Exchange's automated surveillance system. *See* letter from Hassan A. Abedi, Manager, Enforcement, PCX, to Nancy J. Sanow, Assistant Director, Commission, dated December 21, 2001.

misconduct call for increasingly serious sanctions.

(3) Sanctions should be tailored to address the misconduct at issue.

(4) Aggregation or ''batching'' of violations may be appropriate in certain instances for purposes of determining sanctions. The proposed guidelines would allow for aggregation of several acts of misconduct as one ''violation'' for purposes of determining sanctions if the misconduct meets certain objective parameters.

(5) Restitution should be ordered if necessary to remediate misconduct.

(6) The amount of ill-gotten gain may be considered when determining sanctions.

(7) Requiring requalification in any or all registered capacities or additional training may also be appropriate.

(8) The inability to pay in connection with the imposition of monetary sanctions may also be considered when determining sanctions.

The proposed guidelines also list several factors that should be considered in conjunction with the imposition of sanctions for specific violations.

B. Sanctions for Violation of Order Handling Rules

1. Firm Quotes—Specialist Options Transactions

The Commission recently amended Rule 11Ac1–1 of the Act,[6] the ''Quote Rule,'' so that it would apply to the options markets.[7] In response, the Exchange amended its rules in order to adopt various implementing provisions.[8] According to the Exchange, it complies with Rule 11Ac1–1 under the Act [9] by periodically publishing the quotation size for which each Responsible Broker or Dealer [10] on the Exchange is obligated to execute an order to buy or sell an option series that is a reported security at its published bid or offer. The Exchange currently requires that the minimum quotation size for customer orders will be 20 contracts for each option series and for broker-dealer orders will be one contract for each option series.[11]

The Exchange now proposes to establish specific sanctioning guidelines relating to disciplinary actions initiated as a result of violations of the PCX Firm Quote Rule 6.86. Along with the general principles enunciated above for determining sanctions, the Exchange proposes to adopt the additional factor of whether the wrongdoer remediated the failure to execute the transaction. The Exchange proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.86:

1st Disciplinary Action[12]—$500.00 to $5,000.00;

2nd Disciplinary Action—$1,000.00 to $10,000.00; and

Subsequent Disciplinary Actions—$3,000.00 to $50,000.00.

According to the Exchange, the proposed guidelines would also allow for non-monetary sanctions such as suspension, expulsion, or other sanctions in egregious cases. The Exchange believes that the proposed fine levels would help to deter violations of its Firm Quote Rule.

2. Limit Order Display—Specialist Options Transactions

The Exchange currently regulates for display of options bids and offers in its Public Limit Order Book (the ''book'') under PCX Rule 6.55.[13] According to the Exchange, PCX Rule 6.55 requires the Order Book Official (''OBO'') to continuously display, in a visible manner, the highest bid and lowest offer along with an indication of the number of options contracts bid for at the highest bid and offered at the lowest offer. The Exchange has filed a proposed rule change with the Commission to amend this rule.[14] As amended, the Exchange states that the rule would require an OBO to immediately and continuously display an options limit order. For the purpose of this rule, ''immediately'' means as soon as practicable after receipt, which under normal market conditions means no later than 30 seconds after receipt. In its filing to the Commission, the Exchange indicated that the vast majority of these orders are now entered electronically into the OBO's custody when a member firm sends it to the Pacific Options Exchange Trading Systems (''POETS'') via the Exchange's Member Firm Interface. The Exchange states that these electronic orders are immediately displayed on the overhead screens on the trading floor and disseminated to the public via OPRA. The Exchange also indicated in its filing that although the rule change would initially apply to Exchange staff only, the Exchange anticipated that in the future, all Exchange members may begin to operate limit order books on the options floor and the modified rule would apply to them. The Exchange states that currently, some Exchange members operate some limit order books; and therefore the amended rule does apply to them. The Exchange ensures that it holds the members responsible for ensuring that the obligations under this rule are met. The Exchange is currently awaiting Commission approval of the proposed amendment to this rule.

In addition, the Exchange proposes to adopt specific sanctioning guidelines relating to disciplinary actions brought for violations of PCX Rule 6.55. Along with the general principles enunciated above, for determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) Whether a customer limit order was executed during the period of non-compliance; (2) whether other transactions were executed at prices equal to or better than the customer limit order; (3) whether the misconduct had a significant adverse impact on market transparency and availability of price information; and (4) the amount of time beyond 30 seconds that elapsed before the limit order was displayed. The Exchange also proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.55:

1st Disciplinary Action[15]—$1,000.00 to $5,000.00;

2nd Disciplinary Action—$2,000.00 to $10,000.00; and

[6] 17 CFR 240.11Ac1–1.

[7] *See* Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000).

[8] *See* Securities Exchange Act Release No. 44145 (June 1, 2001), 66 FR 30959 (June 8, 2001) (SR-PCX–2001–18).

[9] 17 CFR 240.11Ac1–1.

[10] The Exchange defines ''Responsible Broker or Dealer'' as ''with respect to any bid or offer for any listed option made available by the Exchange to quotation vendors, the Lead Market Maker and any registered Market Makers constituting the trading crowd in such option series will collectively be the Responsible Broker or Dealer to the extent of the aggregate quotation size specified.'' *See* PCX Rule 6.86(a)(2).

[11] *See* PCX Rules 6.86(b) & (c).

[12] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors. For purposes of the proposed rule change, this two-year look-back provision would apply on a rolling basis. *See* telephone conversation between Hassan A. Abedi, Manager, Enforcement, PCX, and Sonia Patton, Staff Attorney, Commission, on February 6, 2002.

[13] The Exchange filed with the Commission a proposed rule change to amend PCX Rule 6.46 in order to assure that Floor Brokers promptly display limit orders that improve the market. *See* File No. SR–PCX–2001–40 (October 18, 2001).

[14] *See* Securities Exchange Act Release No. 43550 (November 13, 2000), 65 FR 69979 (November 21, 2000) (SR–PCX–00–15).

[15] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

Subsequent Disciplinary Actions—$5,000.00 to $50,000.00.

According to the Exchange, the proposed guidelines would also allow for non-monetary sanctions such as suspension, expulsion, or other sanctions in egregious cases. The Exchange believes that the proposed fine levels would help to deter violations of its Limit Order Display Rule.

3. Priority Rules—Obligations of Market Makers and Priority of Bids and Offers

According to the Exchange, PCX Rules 6.37 and 6.75 currently set forth the Obligations of Market Makers and the Priority of Bids, respectively. The Exchange states that it submitted a proposed rule change to amend these rules with the Commission pursuant to the requirements of the Order.[16] According to the Exchange, the purpose of this proposed amendment is to adopt new rules pertaining to the allocation of option orders on the trading floor, priority of bids and offers on the trading floor, and the spreads or options prices established by Market Makers. In that same submission, the Exchange states that it also seeks Commission approval of an Exchange Regulatory Bulletin that is intended to summarize and clarify the Exchange rules relating to priority of bids and offers on the options trading floor and the allocation of orders in response to bids and offers that have been accepted by other floor members.[17]

The Exchange now proposes to adopt specific sanctioning guidelines relating to disciplinary actions brought for violations of PCX Rules 6.37 and 6.75. Along with the general principles enunciated above to be considered when determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) Whether the misconduct involved violations of rules intended to provide protection to customer orders; (2) whether the misconduct resulted in the failure to execute a customer order; and (3) if so, whether the wrongdoer remediated the misconduct. The Exchange also proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rules 6.37 and 6.75:

1st Disciplinary Action [18]—$1,000.00 to $5,000.00;

2nd Disciplinary Action—$2,000.00 to $20,000.00; and

Subsequent Disciplinary Actions—$5,000.00 to $50,000.00.

According to the Exchange, the proposed guidelines would also allow for non-monetary sanctions such as suspension, bar, or other sanctions in egregious cases. The Exchange believes that the proposed fine levels will help to deter violations of its Priority Rules.

4. Best Execution—Floor Broker's Use of Due Diligence in Handling Orders

The Exchange currently sanctions members and member organizations for violations of its best execution rules under the Exchange's MRP. As previously discussed, although these violations are governed by the MRP, the Exchange states that it has authority to remove a specific violation from the MRP and treat it as a formal disciplinary action.

The Exchange states that it enforces the obligations of best execution, with respect to handling of orders, under PCX Rule 6.46, which requires a floor broker handling an order to use due diligence to execute the order at the best price or prices available. According to the Exchange, a floor broker's use of due diligence in executing an order includes ascertaining whether a better price than that being displayed at that time is being quoted by another floor broker or market maker. The floor broker must also make all persons in the trading crowd aware of his request for a quotation. Finally, the Exchange states that it requires all floor brokers to immediately and continuously represent market and marketable orders at the trading post and execute the order in a prompt manner.

As stated by the Exchange, violations of PCX Rule 6.46 are currently enforced under the Exchange's MRP.[19] The Exchange, in an effort to encourage compliance with and deter future violations of its MRP rules, filed with and received approval from the Commission to increase the fines that it imposes under its MRP.[20] The current fines being imposed by the Exchange for violations [21] of Rule 6.46 are listed below.

Minor Rule Plan

1st Violation—$1,000.00
2nd Violation—$2,500.00
3rd Violation—$3,500.00

In order to provide guidance to its Adjudicatory Bodies, the Exchange proposes to adopt specific sanctioning guidelines relating to formal disciplinary actions, outside of the MRP, brought for violations of PCX Rule 6.46. Along with the general principles enunciated above for determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) Whether the misconduct involved violations of rules intended to provide protection to customer orders; (2) whether a customer was disadvantaged because of the floor broker's failure to exercise due diligence; (3) whether the misconduct resulted in the failure to execute a customer order; (4) if so, whether the wrongdoer remediated the misconduct; and (5) whether the wrongdoer acted with intent to disadvantage a customer. In addition, the Exchange proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.46:

1st Disciplinary Action [22]—$1,000.00 to $5,000.00;

2nd Disciplinary Action—$3,000.00 to $10,000.00; and

Subsequent Disciplinary Actions—$10,000.00 to $25,000.00.

The Exchange believes that the increased focus of its regulatory staff in this area, combined with the increased fines in its MRP, as well as the proposed guidelines, which will also allow for non-monetary sanctions such as suspension, bar, or other sanctions in egregious cases will assist in reducing the number and deterring future violations of member and member organization best execution obligations.

5. Trade Reporting—PCX Rule 6.69 Reporting Duties

The Exchange currently sanctions members and member organizations for violations of its trade reporting rules under the PCX MRP. As previously discussed, although these violations are governed by the MRP, the Exchange has authority to remove a specific violation from the MRP and treat it as a formal disciplinary action.

As stated above, violations of PCX Rule 6.69 are currently enforced under the Exchange's MRP.[23] PCX Rule 6.69 sets forth the trade reporting duties of its members and member organizations.

[16] File No. SR-PCX–2001–50.

[17] *Id.*

[18] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

[19] *See* PCX Rule 10.13(k)(i)(1).

[20] *See* Securities Exchange Release Act No. 44010 (February 27, 2001), 66 FR 13618 (March 6, 2001) (SR–PCX–00–37).

[21] According to the Exchange, fines for multiple violations are calculated on a running two-year basis pursuant to its MRP.

[22] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

[23] *See* PCX Rule 10.13(k)(i)(38).

The Exchange recently amended PCX Rule 6.69 in order to clarify and reinforce the reporting obligations of its members and member organizations.[24] As amended, the PCX Rule 6.69(a) requires that all option transactions be immediately reported to the Exchange for dissemination to the Options Price Reporting Authority (''OPRA'').[25] PCX Rule 6.69(a) applies to all members and member organizations that are required to report trades either directly to OPRA or to another party who is responsible for reporting trades to OPRA. According to the Exchange, transactions not reported to OPRA within 90 seconds after execution are designated as ''late.'' The Exchange further states that under its MRP, members and member organizations who violate this rule are currently sanctioned in the following manner:

Minor Rule Plan

1st Violation—$100.00;
2nd Violation—$250.00; and
3rd Violation—$500.00.

The Exchange intends to amend its MRP in order to increase the sanctions for trade reporting violations. The increased sanctions will be similar to those submitted by the Exchange in the previous amendment to the MRP.[26] The Exchange believes that the increased fines will assist in deterring future violations of its trade reporting rule.

On November 19, 2001, the Commission approved a rule change by the Exchange that requires all Exchange member organizations to synchronize their business clocks.[27] In sum, this rule requires Exchange members to ensure that the business clocks they use at the Exchange are accurate to within three seconds of the National Institute of Standards and Technology Atomic Clock in Boulder, Colorado, or the United States Naval Observatory Master Clock in Washington, DC The Exchange states that this rule allows the Exchange members to generate more accurate automated reports and should assist members in reducing the number of reporting violations that might occur if their business clocks were not synchronized.

The Exchange states that in order to provide guidance to its Adjudicatory Bodies, it proposes to adopt specific sanctioning guidelines relating to formal disciplinary actions, outside of the MRP, brought for violations of PCX Rule 6.96. Along with the general principles enunciated above, for determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) The extent of the abuse (*i.e.*, whether a pattern of abuse exists, and the number of transactions involved); (2) presence of intent, recklessness, or negligence; (3) the nature of trade-reporting violation; (4) whether the violative conduct affected discovery of information regarding market price; (5) the amount of time beyond 90 seconds that elapsed before trade was reported; and (6) whether the wrongdoer remediated the misconduct. In addition, the Exchange proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.69:

1st Disciplinary Action [28]—$1,000.00 to $5,000.00;
2nd Disciplinary Action—$3,000.00 to $10,000.00; and
Subsequent Disciplinary Actions—$10,000.00 to $50,000.00.

The Exchange believes that these undertakings would help to prevent fraudulent and manipulative acts and practices as well as to promote just and equitable principles of trade. The Exchange also believes that these tools would enable the Exchange to provide timely trade information to investors more efficiently. Finally, the enhanced transparency associated with timely trade reporting should facilitate price discovery for investors and assist the Exchange's surveillance of its members' trading in listed options.

(2) Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b) of the Act,[29] in general, and furthers the objectives of Section 6(b)(5),[30] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principals of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–2001–23 and should be submitted by March 6, 2002.

[24] *See* Securities Exchange Release Act No. 43975 (February 15, 2001), 66 FR 11624 (February 26, 2001) (SR–PCX–00–27).

[25] According to the Exchange, OPRA disseminates the options exchanges' best bid and offering price, but does not disseminate the sizes of those markets. However, the size of the best bid and offer in the book is displayed on the overhead screens on the floor. *See* PCX Rule 6.55.

[26] *See* Securities Exchange Release Act No. 44010 (February 27, 2001), 66 FR 13618 (March 6, 2001) (SR–PCX–00–37).

[27] *See* Securities Exchange Release Act No. 45080 (November 19, 2001), 66 FR 59281 (November 27, 2001) (SR–PCX–2001–24).

[28] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3493 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45415; File No. SR–Phlx–2001–60]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Adopting Sanctioning Guidelines for the Exchange's Order Handling Rules

February 7, 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 May 31, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 18, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[3] 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 adopt sanctioning guidelines (''Guide'') to assist the various individuals involved in the Exchange's enforcement process, including the Exchange's Business Conduct Committee (''BCC''), by recommending ranges of monetary sanctions to be applied to violations of certain Exchange rules and Option Floor Procedure Advices (''OFPAs''). The Guide covers certain offenses related to the trading of options on the Exchange trading floor, with particular emphasis on options order handling rules.[4] The text of the proposed rule change is available at the Phlx's Office of the Secretary 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 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

According to the Exchange, the Guide is proposed as an internal document to be used by the BCC, hearing panels, and the Board of Governors in determining appropriate sanctions to be imposed in formal disciplinary proceedings. The Exchange states that its enforcement staff may also refer to the Guide in negotiating settlements. The Exchange believes that the criteria outlined in the Guide are designed to promote consistency in sanctions, and to effectively enforce compliance with the Exchange's option order handling rules.[5]

The Exchange has drafted the Guide with an introduction and matrices. The introduction explains the purpose and intent of the Guide and presents an overview of the Exchange's enforcement program, including a description of factors to be considered when sanctioning misconduct in disciplinary proceedings. The matrices cover the Exchange's options order handling rules. Each matrix outlines recommended monetary sanction ranges and specific factors for consideration when a particular options order handling rule has been violated. The matrices are also arranged by subject matter and trading floor participant (floor broker, registered options trader, specialist).[6]

The Exchange states that the Guide would cover only matters brought before its BCC, which has jurisdiction over disciplinary actions pursuant to Exchange By-law Article X, Sec. 10–11 and Exchange Rule 960.1. According to the Exchange, the Guide would not apply to violations charged under its minor rule violation enforcement and reporting plan, which consists of Exchange Rule 970 and the corresponding OFPA.[7]

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect the investors and the public interest, because it should provide an appropriate form of deterrence for violation of Exchange rules, particularly the options order handling rules.

In addition, the Exchange believes that the proposed rule change is

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Linda S. Christie, Counsel, Phlx, to Deborah Lassman Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 17, 2001 (''Amendment No. 1''). In Amendment No. 1, the Exchange amended Phlx Rule 960.10(a) to incorporate the Exchange's Enforcement Sanction Guide by reference into the Exchange's rules. The proposed new language requires the Exchange's BCC to refer to the Enforcement Sanction Guide for factors to be considered and appropriate sanctions when imposing disciplinary sanctions for violations of the Exchange's option order handling rules.

[4] The Exchange filed this proposed rule change in accordance with the provisions of Section IV.B.i of the Commission's September 11, 2000 Order Instituting Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange to adopt rules establishing, or modifying existing, sanctioning guidelines such that they are reasonably designed to effectively enforce compliance with options order handling rules. See Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282 (the ''Order''). In addition to filing this Guide, the Exchange has submitted another proposed rule change (SR–Phlx–2001–114) to adopt guidelines to be used in determining when it is appropriate to aggregate violations of the Exchange's options order handling rules.

[5] The Exchange submitted to the Commission a letter, for which it requested confidential treatment, proposing how its regulatory staff would aggregate violations of the order handling rules, where the violations are identified through the Exchange's automated surveillance system. *See* letter from Anne Exline Starr, First Vice President Regulatory Group, Phlx, to John McCarthy, Associate Director, Office of Compliance, Inspections and Examinations, Commission, and Deborah Lassman Flynn, Assistant Director, Division, Commission, dated January 30, 2002.

[6] Although the Guide is being filed as a proposed rule change pursuant to the Order, the Exchange does not intend to file amendments to the Guide with the Commission as proposed rule changes hereafter, because the Guide is a document for internal use only and proposes guidelines that are not binding.

[7] According to the Exchange, the OFPAs contain fine schedules to be applied when minor violations are detected. The Exchange states that the fine schedules associated with the OFPAs are administered pursuant to Exchange Rule 970, which codifies the Exchange's minor rule violation enforcement and reporting plan. Exchange Rule 19d–1(c)(1) requires the prompt reporting with the Commission of any final disciplinary action. However, the Exchange believes that minor rule violations not exceeding $2,500 are not deemed final and therefore not subject to the same reporting requirements.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

consistent with Section 6(b)(6)[10] of the Act, which requires that the rules of an exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder. In this regard, the Exchange states that it has developed an enforcement program by which members, member organizations and associated persons are appropriately disciplined for violations of the Exchange rules and the federal securities laws. According to the Exchange, the proposed Guide will serve as an additional tool to effect the equitable administration of disciplinary proceedings. Therefore, the Exchange believes that the proposal should facilitate prompt, appropriate and effective discipline for violations of Exchange rules, particularly the options order handling rules.

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

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 Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, 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 Exchange. All submissions should refer to File No. SR–Phlx–2001–60 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3492 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78f(b)(6).

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–10]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Sandy Buchanan-Sumter (202) 267–7271, Denise Emrick (202) 267–5174, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on February 8, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–8744.
Petitioner: Evergreen International Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit Evergreen Air Venture Museum to operate its Boeing B–17G for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/ 2002, Exemption No. 6632C*

Docket No.: FAA–2001–11089.
Petitioner: The Collings Foundation.
Section of 14 CFR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit the Collings Foundation to operate its Boeing B–17, which is certificated in the limited category, and its Consolidated B–24, which is certificated in the experimental category, for the purpose of carrying passengers on local flights for compensation or hire. *Grant, 01/25/2002, Exemption No. 6540E*

Docket No.: FAA–2001–10384.
Petitioner: Weary Warriors Squadron.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit Weary Warriors Squadron to operate its North American B–25 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 6786C*

Docket No.: FAA–2001–10876.
Petitioner: Experimental Aircraft Association, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit EAA to operate its Boeing B–17 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/ 2002, Exemption No. 6541D*

Docket No.: FAA–2000–8468.
Petitioner: Yankee Air Force, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Yankee Air Force to operate its Boeing B–17 for the purpose of carrying passengers for

compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 6631C*

Docket No.: FAA–2000–8462.
Petitioner: National Warplane Museum.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g) and 119.21(a)
Description of Relief Sought/Disposition: To permit National Warplane Museum to operate its Boeing B–17 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 7474A*

Docket No.: FAA–2002–11286.
Petitioner: Vintage Flying Museum.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/Disposition: To permit Vintage Flying Museum to operate its Boeing B–17G for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 7411A*

Docket No.: FAA–2001–11190.
Petitioner: Mr. Roger Thompson.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendixes I and J to part 121.
Description of Relief Sought/Disposition: To permit Mr. Roger Thompson to conduct local sightseeing flights at Capital Airport in Springfield, Illinois, for the Charlie Wells Memorial Aviation Scholarship on April 27, and 28, 2002, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 01/18/2002, Exemption No. 7702*

Docket No.: FAA–2002–11300.
Petitioner: Lt. Colonel Leslie E. Smith.
Section of 14 CFR Affected: 14 CFR 121.383(c).
Description of Relief Sought/Disposition: To permit Lt. Colonel Smith to act as a pilot in operations conducted under part 121 after turning age 60. *Denial, 01/25/2002, Exemption No. 7700*

Docket No.: FAA–2002–11297.
Petitioner: Roessel Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Roessel Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 01/18/2002, Exemption No. 7701*

Docket No.: FAA–2002–11432.
Petitioner: Aviation Ventures, Inc., dba Vision Air.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/Disposition: To permit Vision Air to operate up to 10 Dornier 228 airplanes under part 135 without those airplanes being equipped with the required digital flight data recorder. *Grant, 01/30/2002, Exemption No. 7009B*

Docket No.: FAA–2002–10357.
Petitioner: Executive Aviation Logistics.
Section of 14 CFR Affected: 14 CFR 135.152.
Description of Relief Sought/Disposition: To permit EAL to operate its 1975 Gulfstream G–1159 (G–1159; previously referred to as the Gulfstream American Gulfstream II) airplane (serial No. 173) under part 135 without the airplane being equipped with an approved digital flight data recorder. *Grant, 01/25/2002, Exemption No. 7643A*

Docket No.: FAA–2002–11056.
Petitioner: Era Aviation.
Section of 14 CFR Affected: 14 CFR 121.356(b).
Description of Relief Sought/Disposition: To permit Era to operate two Douglas DC–3 airplanes under part 121 passenger-carrying operations without those airplanes being equipped with a Traffic Alert and Collision Avoidance System. *Grant, 01/25/2002, Exemption No. 6765A*

Docket No.: FAA–2002–11284.
Petitioner: Tulsa Air & Space Center Airshows, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.2(a).
Description of Relief Sought/Disposition: To permit Tulsa Air & Space to operate its North American B–25 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 7126A*

Docket No.: FAA–2002–11285.
Petitioner: Commemorative Air Force, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a).
Description of Relief Sought/Disposition: To permit Commemorative Air Force to operate its fleet of former U.S. military airplanes (those listed in Condition No. 24) for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 6802B*

[FR Doc. 02–3531 Filed 2–12–02; 8:45 am]
BILLING CODE 4910–31–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held March 5, 2002, starting at 9 am.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street NW., Suite 850, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

- March 5:
  - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)
- Publication Consideration/Approval:
  - Final Draft, Change 2, DO–186A, Minimum Operational Performance Standards for Airborne Radio Communications Equipment Operating within the Radio Frequency Range 117.975–137.000 MHz; RTCA Paper No. 025–02/PMC–197, prepared by SC–172
  - Final Draft, User Requirements for Terrain and Obstacle Data; RTCA Paper No. 023–02/PMC–195, prepared by SC–193/WG–44
  - Final Draft, Minimum Aviation System Performance Standards (MASPS) for the High Frequency Data Link Operating in the Aeronautical Mobile (Route) Service (AM(R)(S); RTCA Paper No. 024–02/PMC–196, prepared by SC–188
  - Final Draft, Guidelines for Communication, Navigation, Surveillance, and Air Traffic Management (CNS/ATM) Systems Software Integrity Assurance; RTCA Paper No. 026–02/PMC–198, prepared by SC–190/WG–52
  - Final Draft, Next Generation Air/Ground Communications (NEXCOM) Principles of Operations VDL Mode 3; prepared by SC–198
- Discussion:
  - Special Committee 186, ADS–B; Update to Terms of Reference.
  - Special Committee Chairman's Reports.
- Action Item Review:
  - Action Item 06–01, Modular Avionics Special Committee; Status and Recommendations
  - Action Item 08–01, DO–181C Revision; Status
  - Action Item, 10–01, Portable Electronic Device Request; Status and Recommendations.
- Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability.

With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 5, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–3551 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34079]

San Jacinto Rail Limited—Construction Exemption—and The Burlington Northern and Santa Fe Railway Company—Operation Exemption—Build-Out to the Bayport Loop Near Houston, Harris County, TX

AGENCY: Surface Transportation Board, DOT.

ACTION: Thirty day extension on comment period of the scope of the Environmental Impact Statement.

SUMMARY: Comments on the scope of the Environmental Impact Statement (EIS) to be prepared by the Surface Transportation Board's Section of Environmental Analysis (SEA) in this proceeding were due on February 1, 2002. In response to written requests for an extension of the comment period, SEA is advising all interested persons that the comment period will be extended for a period of 30 days. Comments are now due on March 14, 2002.

SEA believes the extension is appropriate to provide the public sufficient opportunity to raise issues pertinent to scoping. Specifically, comments stated that an extension of the comment period is needed for potentially affected community members to explore alternatives to the proposed route. SEA recognizes that the examination of alternatives is a central consideration of the EIS, and the identification of alternatives is an important part of the scoping process. Thus, a 30-day extension of the comment period furthers the goals of the EIS process without introducing needless delay into the agency's environmental review.

SEA strongly encourages that comments be submitted in writing. However, for parties in circumstances where submission of written comments may be impractical, parties may also submit oral comments to the toll-free number for this project at 1–888–229–7857. Persons submitting oral comments are invited to make their comments in Spanish, as well as English.

DATES: The time for filing comments on the scope of the EIS has been extended to March 14, 2002.

FILING ENVIRONMENTAL COMMENTS: Interested persons and agencies are invited to participate in the EIS scoping process. A signed original and 10 copies of comments should be submitted to: Office of the Secretary, Case Control Unit, STB Finance Docket No. 34079, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001.

To ensure proper handling of your comments, you must mark your submission: Attention: Dana White, Section of Environmental Analysis, Environmental Filing.

FOR FURTHER INFORMATION CONTACT: Ms. Dana White, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001, or SEA's toll-free number for this project at 1–888–229–7857 (TDD for the hearing impaired 1–800–877–8339). The website for the Surface Transportation Board is *www.stb.dot.gov.*

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 02–3508 Filed 2–12–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Certification/Exemption of Label/Bottle Approval Under the Federal Alcohol Administration Act.

DATES: Written comments should be received on or before April 15, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Bill Moore, Alcohol Labeling and Formulation Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8450.

SUPPLEMENTARY INFORMATION:

Title: Application for Certification/Exemption of Label/Bottle Approval Under the Federal Alcohol Administration Act.

OMB Number: 1512–0092.

Form Number: ATF 5100.31.

Abstract: ATF administers the Federal Alcohol Administration Act and its implementing regulations. The law and regulations provide, in part, standards and guidelines for the labeling of alcohol beverages. Under the law and regulations, U.S. bottlers and importers cannot bottle or import alcohol beverages without a certificate of label approval. To obtain approval, U.S. bottlers and importers must complete ATF F 5100.31.

Current Actions: ATF F 5100.31 has been revised in part to accommodate future electronic filing of applications for Certificates of Label Approval. The front of the form has been changed to include item 1. REP. ID. NO., item 8. E-MAIL ADDRESS, item 13. WINE APPELLATION IF ON LABEL, and item 17d. (formerly item 16.) RESUBMISSION AFTER REJECTION. One of the more significant changes to the front of the form is the elimination of the vendor code. The back of the form was completely changed. Following plain language guidelines, the instructions for completing the form and conditions of approval were reformatted. The conditions under which approved labels may be modified were changed to allow the deletion of any nonmandatory label information without submission of a new application for certificate of label approval. There is an increase in burden hours due to an increase in respondents. The recordkeeping requirements for this information collection is 3 years.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 9,300.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 41,200.

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.

Dated: February 7, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–3498 Filed 2–12–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Firearms Transaction Record, Part 1, Over-the-Counter.

DATES: Written comments should be received on or before April 15, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Lawrence G. White, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8475.

SUPPLEMENTARY INFORMATION:

Title: Firearms Transaction Record, Part 1, Over-the-Counter.

OMB Number: 1512–0129.

Form Number: ATF F 4473 (5300.9) Part 1.

Abstract: ATF F 4473 (5300.9) Part 1 is used to determine the eligibility (under the Gun Control Act) of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is also used in law enforcement investigations/inspections to trace firearms.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 10,225,000.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 3,408,333.

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.

Dated: February 7, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–3499 Filed 2–12–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Specific and Continuing Transportation Bond, Distilled Spirits and/or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse, Class Six.

DATES: Written comments should be received on or before April 15, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Joyce Drake, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8206.

SUPPLEMENTARY INFORMATION: Title: Specific and Continuing Transportation Bond, Distilled Spirits and/or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse, Class Six OMB Number: 1512–0144.

Form Number: ATF F 2736 (5100.12), ATF F 2737 (5110.67).

Abstract: ATF F 2736 (5100.12) and ATF F 2737 (5110.67) are specific bonds which protect the tax liability on distilled spirits and wine while in transit from one type of bonded facility to another. The bonds identify the shipment, the parties, the date, and the amount of bond coverage. The record

retention requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 1.

Estimated Total Annual Burden Hours: 1.

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.

Dated: February 7, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–3500 Filed 2–12–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209121–89]

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–209121–89 (TD 8802), Certain Asset Transfers to a Tax Exempt Entity (Section 1.337(d)–4).

DATES: Written comments should be received on or before April 15, 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 this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (AllanHopkins@irs.gov) Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Certain Asset Transfers to a Tax-Exempt Entity.

OMB Number: 1545–1633.

Regulation Project Number: REG–209121–89.

Abstract: The written representation requested from a tax-exempt entity in regulations section 1.337(d)–4(b)(1)(A) concerns its plans to use assets received from a taxable corporation in a taxable unrelated trade or business. The taxable corporation is not taxable on gain if the assets are used in a taxable unrelated trade or business.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, business or other for-profit organizations.

Estimated Number of Respondents: 25.

Estimated Time Per Respondent: 5 hrs.

Estimated Total Annual Burden Hours: 125.

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 6, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3525 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 4070, 4070A, 4070PR, and 4070A–PR

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

DATES: Written comments should be received on or before April 15, 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 forms and instructions 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: Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

OMB Number: 1545–0065.

Form Number: Forms 4070, 4070A, 4070PR, and 4070A–PR.

Abstract: Employees who receive at least $20 per month in tips must report the tips to their employers monthly for purposes of withholding of employment taxes. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must keep a daily record of tips they receive. Forms 4070A and 4070A–PR (Puerto Rico only) are used for this purpose.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 615,000.

Estimated Time Per Respondent: 63 hours, 50 minutes (Forms 4070 and 4070A); 64 hours, 5 minutes (Forms 4070PR and 4070A–PR).

Estimated Total Annual Burden Hours: 39,265,200.

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 7, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3526 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–14–81]

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 notice of proposed rulemaking, EE–14–81, Deductions and Reductions In Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations (§§ 1.404A–5, 1.404A–6 and 1.404A–7).

DATES: Written comments should be received on or before April 15, 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 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: Deductions and Reductions In Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations.

OMB Number: 1545–1393.

Regulation Project Number: EE–14–81.

Abstract: The regulation provides guidance regarding the limitations on deductions and adjustments to earnings and profits (or accumulated profits) for certain foreign deferred compensation plans. The information required by the regulation will be used by the IRS to administer section 404A of the Internal Revenue Code and to accurately determine the correct deductions and reductions in earnings and profits attributable to deferred compensation plans maintained by foreign subsidiaries and foreign branches of domestic corporations.

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: 1,250.

Estimated Time Per Respondent: 508 hours.

Estimated Total Annual Burden Hours: 634,450.

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 7, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3527 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–34–95]

Agency Information Collection Activities: Proposed Collection; Comment Request

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 EE–34–95 (TD 8795), Notice of Significant Reduction in the Rate of Future Benefit Accrual (§ 1.411(d)–6).

DATES: Written comments should be received on or before April 15, 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 this regulation 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 AvenueNW, Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice of Significant Reduction in the Rate of Future Benefit Accrual.

OMB Number: 1545–1477.

Notice Number: EE–34–95.

Abstract: This regulation provides guidance on the requirements of section 204(h) of the Employee Retirement Income Security Act of 1974, as amended. The regulation requires that a plan administrator provide a written notice to participants and certain other parties if certain pension plans are amended to provide for a significant reduction in the rate of future benefit accrual. The purpose of the notice is to assure the rights of plan participants are protected.

Current Actions: There are no changes being made 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: 3,000.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 1,500.

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 4, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3528 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–5–92]

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, IA–5–92, (TD 8537), Carryover of Passive Activity Losses and Credits and At-Risk Losses to Bankruptcy Estates of Individuals (§§ 1.1398–1 and 1.1398–2).

DATES: Written comments should be received on or before April 15, 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 this regulation 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 Ave., NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Carryover of Passive Activity Losses and Credits and At Risk Losses to Bankruptcy Estates for Individuals.

OMB Number: 1545–1375.

Regulation Project Number: IA–54–92.

Abstract: These regulations provide rules for the carryover of a debtor's passive activity loss and credit under section 469 and any ''at risk'' losses under section 465 to the bankruptcy estate. The regulations apply to cases under chapter 7 or chapter 11 of title 11 of the United States Code.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 600,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 600,000.

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 4, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3529 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation (VACOR); Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Veterans' Advisory Committee on Rehabilitation (VACOR), authorized by Public Law 96–466, Subsection 1521, will be held on February 19 through 21, 2002. The meeting will be held at VA Central Office, 810 Vermont Avenue NW, Washington, DC 20006.

The meeting schedule is as follows:

Date	Room#	Time
February 19	630	9 am to 4 pm.
February 20	530	9 am to 4 pm.
February 21	530	9 am to 12 pm.

The purpose of the meeting is to review the quality of the services that the VA provides to disabled veterans who participate in VA sponsored programs of rehabilitation. In addition, VACOR will focus on a review of past activities and the development of future initiatives.

On February 19, the meeting will begin with opening remarks and an overview by Mr. Richard K. Pimentel, VACOR Committee Chairman, During the morning session, the Committee will receive a briefing on current initiatives, accomplishments, and challenges in the Vocational Rehabilitation and Employment Service and a report on research activities of the VA National Rehabilitation Special Events Management Group. The afternoon session will be devoted to reporting on the progress VA has made in compliance with Executive Order 13163 and a presentation will be given on the proposed Veterans Health Administration pilot ''An Individualized Approach to Spinal Cord Injury.''

On the morning of February 20, the Committee will hear a presentation on Corporate WINRS, Vocational Rehabilitation's recently deployed national case management system. The afternoon session will include a briefing on the strategies VA is taking to address employment opportunities for disabled veterans in current times of shifts in the economy and fluctuating labor markets. In addition, the Committee will hear an overview of recent innovations in the Rehabilitation Research and Development Service.

On February 21, the meeting will include a review of past unfinished business, recommendations for program changes, and a discussion of future meeting sites and future agenda topics.

The meeting is open to the public. Members of the general public may join in discussions, subject to the instructions of the Chair. If additional information is needed, please contact Sharon L. Ford, Program Analyst, Department of Veterans Affairs, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, phone (202) 273–7430.

By direction of the Secretary.

Dated: February 7, 2002.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02–3457 Filed 2–12–02; 8:45 am]

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Notices

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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

Commodity Credit Corporation

Farm Service Agency

Financial Assistance To Promote Water Conservation in the Yakima Basin

AGENCY: Commodity Credit Corporation, (CCC), Farm Service Agency, USDA.

ACTION: Notice of Intent to make monies available to promote water Conservation in the Yakima Basin.

SUMMARY: Section 2107 of the Supplemental Appropriations Act, 2001, Pub. L. 107–20, provided for financial assistance to eligible producers to promote water conservation in the Yakima Basin. This notice sets out the method by which the payment will be distributed on behalf of eligible producers to eligible owners and operators whose expected deliveries of irrigation water were prorated within the Yakima Basin during the past crop year and who agree to promote water conservation methods in future agricultural activities.

FOR FURTHER INFORMATION CONTACT: Ilka Gray, Agricultural Program Specialist, USDA/FSA/CEPD/STOP 0513, 1400 Independence Ave., SW., Washington, DC 20250–0513, (202) 690–0794, or e-mail at: *ilka_gray@wdc.usda.gov*

SUPPLEMENTARY INFORMATION: Section 2107 of the Supplemental Appropriations Act, 2001 (Pub. L. 107–20) provided $2 million to make available financial assistance to eligible producers to promote water conservation in the Yakima Basin (Basin). The Yakima River flows for more than 200 miles through south central Washington and, with its tributaries, drains about 6,150 square miles, or 4 million acres. Much of the water is diverted for irrigation in the Yakima Valley. From 50 to 100 percent of the water delivered to the lower basin from the Naches River and upper Yakima River is diverted for irrigation and hydropower generation during the irrigation season. Most of the Basin receives less than 10 inches of precipitation a year.

In the Basin counties of Benton, Kittitas, and Yakima, there are 12,883 farms and 38,461 agricultural producers. The economy of the Basin is tied to agricultural production with a annual crop value of $628,503,519. Cereal crops, irrigated pasture, and hay production are predominant in Kittitas County, while Yakima and Benton Counties produce fruits, such as grapes, vegetables, and other specialty crops such as hops and mint. The Yakama Reservation lies in the Wapato Irrigation District and occupies about 40 percent of Yakima County and about 15 percent of the Basin.

Due to drought conditions in the Basin, water was prorated in crop year 2001. In the Yakima Basin, water use is tied to water rights. The two primary types of water rights are ''prorateable'' and ''nonproratable'' water. Nonproratable water allows the producer a right to utilize water in all conditions, including drought, thus almost guaranteeing water delivery. Prorateable water allows water delivery to be reduced in situations where there are impediments to normal water delivery such as scarcity of water due to drought conditions.

To assist producers adversely affected by the drought and water prorations, Congress included in section 2107 of Pub. L. 107–20 $2 million to remain available until expended, from amounts available to the U.S. Department of Agriculture's Commodity Credit Corporation under 15 U.S.C. 713a–4, directing ''* * * the Secretary of Agriculture to make available financial assistance to eligible producers to promote water conservation in the Yakima Basin, Washington * * *.'' In addition, the statute specified that to the extent that regulations might be found to be needed, the issuance of regulations promulgated pursuant to this new authority would be made without regard to: (1) The notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Codes (commonly know as the ''Paperwork Reduction Act''). It was also specified that in carrying out this section the Secretary should use the authority provided under section 808 of title 5, United States Code, which exempts certain rules from having to undergo certain Congressional oversight procedures prior to the time that the rules are made effective. The statute limited the eligible area to the Basin but did not stipulate any particular breakout to be paid. The funding will supplement existing assistance already available in the region by promoting water conservation.

Eligibility

There are over 31 irrigation districts operating in the Basin according to data collected. There are 418,958 acres listed for the irrigation districts which are mainly classified as agriculture. According to the information obtained from the U.S. Department of Interior's Bureau of Reclamation (USDOI), approximately one-half of the irrigation districts suffered no or very minimal consequences from the water prorations in crop year 2001. Of those districts affected by the water prorations, only three, Roza, Kittitas, and Wapato, had significant impact that occurred from water prorations. Roza and Kittitas Irrigation Districts, with 100 percent prorateable water, received only 37 percent of normal water, during the crop year 2001, and the Wapato Irrigation District, with 53 percent of prorateable water, received 67 percent of normal water. There are 256,972 acres of agricultural land in Roza, Kittitas, and Wapato irrigation districts with 7,065 agricultural producers.

Based on the relative degree of water available which is an indicator of the suffering attributed to the drought, the program will be limited to the three irrigation districts which received the least amount of normal water and were the most severely impacted. These irrigation districts are Rosa, Kittitas, and Wapato. If payments were issued on all agricultural land in the Basin, payments are estimated to be less than $4.00 an acre. It is unclear how much, if any, water conservation could be achieved with the relatively low payment per acre rate. However, payments to affected producers in the three most severely

impacted districts will be higher making more water conversation achievable.

CCC will use data on Basin farming operations, along with data from water irrigation districts and USDOI to identify the universe of eligible producers. Anyone that has an interest in the eligible land may contact the Farm Service Agency (FSA) office to determine if they are eligibile for assistance.

Funds will be divided according to contract acres and according to payment shares indicated. Such shares must be agreed to by the owner and operator of the eligible land. Only undisputed requests for assistance will be paid. Producers will be provided with information on what kinds of conservation measures might be undertaken and other options that may be available to them. Such actions may include: (1) Moving to less water-intensive crops; (2) improving irrigation scheduling; and (3) developing on-farm irrigation improvements such as land leveling, canal maintenance, and sprinkler calibration. CCC can provide producers with assistance in determining the best water conservation practice(s) for their operation. All participating producers will agree to promote water conservation methods in future agricultural activities as a condition of payment. CCC will keep this agreement of file with the producer's other USDA records.

Further information about the program will be made available at the local FSA offices of the USDA. Program participation will be such subject to such additional terms and conditions as may be set out in the program application.

Signed at Washington, DC, on January 28, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–3501 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwestern Region, Arizona, Coconino, Yavapai, Navajo, Apache, Gila, Graham, Greenlee Maricopa, and Mohave Counties for the Apache-Sitgreaves, Coconino, Kaibab, Prescott, and Tonto National Forest; Amendment to National Forest Land and Resource Management Plans Regarding Cross-Country Travel by Wheeled Motorized Vehicles Commonly Known as Off Highway Vehicles (OHVs)

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent (RNOI) to prepare an environmental impact statement.

SUMMARY: On March 27, 2001 the Apache-Sitgreaves, Coconino, Kaibab, Prescott, and Tonto National Forests issued a Notice of Intent (NOI) in the **Federal Register** (pages 17136 to 17137) to prepare an environmental impact statement addressing cross-country travel by motorized wheeled vehicles and how to standardize road and trail signing conventions for OHVs. Extensive public meetings have been held in Arizona to facilitate the scoping process. Hundreds of written and electronic comments were submitted prior to the May 15, 2001 deadline. The national forests did not identify a proposed action alternative in that NOI. Information obtained at these public meetings has helped refine the issues associated with this project. Through public comment and inter-agency coordination the Forest Service has developed a proposed action alternative. Standardization of signing conventions has been dropped from the project because this is an administrative matter that will be resolved through coordination with governmental units. Public input concerning the signing policy will be sought by Arizona forest supervisors.

DATES: Comments in response to this Revised Notice of Intent concerning the scope of the analysis should be received in writing on or before March 15, 2002.

ADDRESSES: Send written comments to USDA Forest Service, Apache-Sitgreaves National Forest, PO Box 640, Springerville, Arizona 85938, ATTN: Land Management Planning.

RESPONSIBLE OFFICIALS: Forest Supervisors of the Apache-Sitgreaves, Coconino, Kaibab, Prescott and Tonto National forests will decide if it is necessary to more restrictively manage cross-country travel by OHVs. These Forest Supervisors are: John C. Bedell, Apache-Sitgreaves National Forest, Forest Supervisor's Office, PO Box 640, Springerville, AZ 85938, James W. Golden, Coconino National Forest, Forest Supervisor's Office, 2323 E Greenlaw Lane, Flagstaff, AZ 86004, Mike King, Prescott National Forest, Forest Supervisor's Office, 344 S. Cortez, Prescott Arizona, 86303, Karl Siderits, Tonto National Forest, Forest Supervisor's Office, 2324 E. McDowell Road, Phoenix, Arizona 85006, Mike Williams, Kaibab National Forest, Forest Supervisor's Office, 800 S. 6th Street, Williams, Arizona 86046.

FOR FURTHER INFORMATION CONTACT: Jim Anderson Land Management Planner, Apache-Sitgreaves National Forest (928) 333–6370.

SUPPLEMENTARY INFORMATION: The five national forests involved in this project currently have different management direction for cross-country use of OHVs. This diversity of approaches has led to confusion by the public as to where they may use OHVs. The growing numbers of OHVs used on national forests has impacted land and resources. Popularity of this use has created conflicts with other forest uses and prompted many individuals and groups to express concerns over this matter.

CURRENT OHV MANAGEMENT DIRECTION

National forest	Cross country travel policy	Special area cross country travel policy
Apache/Sitgreaves	Open except specific closed areas	Closed.
Coconino	Open except Sedona Special Travel Area	Closed.
Kaibab	Open except specific areas	Closed.
Prescott	Closed	OHV areas open.
Tonto	Desert Closed, Forested Ranger Districts open	OHV area open except in-desert areas.

Many types of OHVs are common in Arizona's National Forests. Pickup trucks, motorcycles, and all-terrain vehicles have all become more prevalent and now are beyond the scope considered for their use in forest plans. According to industry experts more than half of all vehicles sold in Arizona are sport utility vehicles (SUVs) or light trucks. Additionally, all-terrain vehicles have increased in sales between 1995 and 1998 an average of 29% per year. Improper use of such vehicles on national forests has been a concern of government agencies, organized

environmental and OHV groups and individuals. This concern has accelerated in a pattern similar to the expanded population of OHVs.

Cross-country travel is defined as travel off of or away from open roads or trails. Where cross country travel is permitted under land management plans, these roads and trails are often products of repeated cross country use and not trespass per se. Where cross-country travel is prohibited, trails and roads created by repeated use are not legal additions to a designated transportation system. Agency personnel and the public note new user created trails on many national forests and roads almost every week. National forests in Arizona are experiencing noticeable impacts from improper OHV use.

Communities adjacent to national forests and popular recreation destinations have become focal points for development of a large amount of unapproved roads and trails created by OHV users. These user created trails lack engineering and environmental elements of design. The EIS will contain substantial information on what constitutes an open road or trail.

Even greater concerns occur in environmentally sensitive areas. Specially designated wildlife protection areas are becoming crisscrossed with OHV tracks. Wilderness areas have frequently been impacted by OHV tracks, often immediately adjacent to closure signs. Riparian areas also attract a large number of people and provide key habitat elements to wildlife. OHV tracks and use areas have strongly impacted many of these ecological communities.

The EIS will deal with alternative strategies for cross-country OHV travel. While it was once envisioned that this process would standardize the convention for signing open roads and trails, that has been dropped from the project because that is an administrative matter that is not subject to the documentation in an EIS or other environmental document. Forest supervisors will seek public input on their administrative decision for road signs. This EIS and that administrative process will over lap in time frames and may use common meetings to facilitate public input to both projects.

Off highway vehicles allow many people to enjoy the national forests and contribute significantly to the economy of communities when used properly. OHVs have become very popular because of high quality recreational experiences they provide and the amount of national forest land they can access on them.

Preliminary issues include:

- Law enforcement efficiency.
- Ability to access resources by persons of diverse cultures and abilities.

An interdisciplinary team has been appointed by the Responsibilities Officials. They have examined documents of other agencies and Forest Service Regions to develop preliminary alternatives for analysis in an environmental impact statement. Comments on these preliminary alternatives during the initial scoping helped the team analyze reasonableness of the alternatives and the appropriateness of the range of alternatives. Our approach is to ensure a complete analysis of reasonable and feasible strategies to provide opportunities for OHV recreationists.

The preliminary alternatives include: ''No Action'' which would keep the existing forest plan direction on all five forests. The alternatives outlined in the table below have been developed to reflect the outcomes of multi-agency coordination and input from people and organizations during scoping contacts. The five Forest Supervisors have selected a proposed action alternative to facilitate public participation in the process.

PRELIMINARY ALTERNATIVE FEATURES—CROSS COUNTRY TRAVEL EIS FOR FIVE ARIZONA NATIONAL FORESTS

Title	Cross country travel strategy	Exceptions to cross country travel allowed
Alternative 1. No Action Alternatives.	Per Current Forest Plans, See table above.	Variable according to forest and ranger district.
Alternative 2. Restrictive Mgt	Closed on all forests	Search and rescue Emergency Military.
Alternative 3	Closed. Except areas dedicated to OHV in Forest Plans or other projects.	Administrative access. Permittees and lessees granted access necessary for terms of permit. Campsite access within 150 ft of road. Fuelwood permits would not allow off road access by motorized vehicles. Disabled access by local permit. Game retrieval by vehicle not allowed off road.
Alternative 4 (Proposed Action)	Closed. Except dedicated to OHV in forest plans or other projects.	Administrative access. Permittees and lessees granted access necessary for terms of permit. Campsite access within 300 ft of road. Fuel wood by local permit. Disabled access by local permit. Retrieval of big game other than turkey and javelina.
Alternative 5. Closed areas	Areas open where traffic and use would be sustainable.	Administrative access, Search and rescue, Law enforcement, Emergency military action.

Significant information has been obtained from ''Arizona Trails 2000, State Motorized and Non-motorized Trails Plan'' in determining preliminary issues and possible alternatives. Cooperation with Arizona State agencies who have OHV management roles has been and remains excellent.

It is anticipated that environmental analysis and preparation of the draft and final environmental impact statements will take about eight months. The Draft Environmental Impact Statement can be expected in the spring of 2002 and the Final EIS in the late summer. A 45-day comment period will be provided for the public to make comments on the Draft Environmental Impact Statement.

The intention of the EIS is to programmatically preserve options for local transportation planning including OHV consideration while reducing existing and potential impacts to resources. Subsequent to adoption of an alternative from this EIS, Forest officers will issue Forest Orders implementing the selected alternative. Site specific planning at the ranger district or national forest level will examine the need for additional facilities to provide for motorized recreation. This process is described in 36 CFR part 212.

The Forest Service believes at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council of Environmental Quality Regulations for implementing the procedural provisions of the National

Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Corp* v. *NRDC* 435 US 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel* 9th Circuit, 1986) and *Wisconsin Heritages, Inc* v. *Harris,* 490F. Supp.1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when they can meaningfully consider them in the final environmental impact statement.

Dated: January 31, 2002.

John C. Bedell,

Forest Supervisor.

[FR Doc. 02–3394 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake County Resource Advisory Committee (RAC) will hold its second meeting.

DATES: The meeting will be held on February 28, 2002, from 3 P.M. to 6 P.M.

ADDRESSES: The meeting will be held at the Lake County Board of Supervisor's Chambers at 255 North Forbes Street, Lakeport.

FOR FURTHER INFORMATION CONTACT: Debbie McIntosh, Committee Coordinator, USDA, Mendocino National Forest, Upper Lake Ranger District, 10025 Elk Mountain Road, Upper Lake, CA 95485, (707) 275–2361; EMAIL *dmcintosh@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review and approval of the minutes of the January meeting: (2) Title II and Title III dollars—County input; (3) Evaluation Criteria; (4) Project Proposals/Ideas; 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: February 4, 2002.

Blaine P. Baker,

Designated Federal Officer.

[FR Doc. 02–3487 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Federal Parts International, Inc.; Order

In the Matter of: Federal Parts International, Inc., 5455 Peachtree Industrial Blvd., Norcross, Georgia 30092, Respondent.

The Bureau of Export Administration, United States Department of Commerce (BXA), having initiated an administrative proceeding against Federal Parts International, Inc. (hereinafter referred to as Federal Parts) pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. secs. 2401–2420 (1994 & Supp. V. 1999) (The ''Act'') [1] and the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (20012) (the ''Regulations''),[2] based on allegations that, on two separate occasions, between on or about January 30, 1996 and on or about February 14, 1996, Federal Parts exported U.S.-origin auto parts from the United States to Iran in violation of § 787.6 of the former regulations; that, in connection with the January 30, 1996 shipment, Federal Parts violated the provisions of § 787.5(a) of the former regulations by making a false or misleading statement of material fact directly or indirectly to a United States government agency in connection with the preparation, submission, issuance or use or an export control document; that, on two separate occasions, on or about March 27, 1996 and on or about April 2, 1996, Federal Parts attempted to export from the United States to Iran U.S.-origin auto parts in violation of §§ 787.3(a) and 787.4(a) of the former regulations; and that on or about April 2, 1996, Federal Parts violated the provisions of § 785.5(a) of the former regulations by making false or misleading statements of material fact either directly to BXA or indirectly through any other person for the purpose of or in connection with the preparation, submission, issuance, use or maintenance or an export control document;

BXA and Federal Parts having entered into a Settlement Agreement pursuant to § 766.18(b) of the regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me:

It is therefore ordered:

First, that a civil penalty of $50,000 is assessed against Federal Parts. Federal Parts shall pay $10,000 of the civil penalty to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment of the remaining $40,000 shall be made in four equal, monthly installments of $10,000 beginning on the first day of the second month after the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (1983 and Supp. V 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Federal Parts will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, Federal Parts International, Inc., 5455 Peachtree Industrial Blvd., Norcross, Georgia 30092, (''the denied person'') and, when acting in behalf of it, all of its successors or assigns, officers, representatives, agents and employees, may not, for a period of 10 years from the date of this Order, participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as item) exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the regulations, including, but not limited to:

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. IV 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 FR 44025 (August 22, 2001)), has continued the regulations in effect under IEEPA.

[2] The alleged violations occurred in 1996. The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (15 CFR parts 768–799 (1996)). Those regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former regulations. Since that time, the Regulations have been reorganized and restructured; the restructured regulations establish the procedures that apply to this matter.

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the regulations.

Fourth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the Untied States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any other subject to the EAR that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Fifth, that after notice and opportunity for comment as provided in § 766.23 of the regulations, any person, firm, corporation, or business organization related to Federal Parts by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

Sixth, that this Order does not prohibit any export, reexport, or other transaction subject to the regulations where the only items involved that are subject to the regulations are the foreign-produced direct product of U.S.-origin technology.

Seventh, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202–4022, notifying that office that this case is withdrawn from adjudication, as provided by § 766.18(b) of the regulations.

Eighth, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 5th day of February, 2002.

Michael J. Garcia.

Assistant Secretary for Export Enforcement.

[FR Doc. 02–3453 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 7–2002]

Foreign-Trade Zone 153—San Diego, CA Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of San Diego, California, grantee of Foreign-Trade Zone 153, requesting authority to expand FTZ 153, San Diego, California, within the San Diego Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 30, 2002.

FTZ 153 was approved on October 14, 1988 (Board Order 394, 53 FR 41616, 10/24/88) and expanded on December 16, 1991 (Board Order 548, 56 FR 67057, 12/27/91). The zone project currently consists of seven sites within the City's Otay Mesa industrial area: *Site 1* (316 acres)—at Brown Field, Otay Mesa and Heritage Roads; *Site 2* (73 acres)—San Diego Business Park, Airway Road and State Route 125; *Site 3* (60 acres)—Gateway Park, Harvest and Customs House Plaza Roads; *Site 4* (71 acres)—Britannia Commerce Center, Siempre Viva Road and Britannia Boulevard; *Site 5* (312 acres)—De La Fuente Business Park, Airway and Media Roads; *Site 5A* (119 acres)—Siempre Viva Business Park, adjacent to Site 5 (De La Fuente Business Park), along La Media and Siempre Viva Roads; *Site 6* (160 acres)—Brown Field Business Park, Otay Mesa Road and Britannia Boulevard; *Site 6A* (65 acres)—Brown Field Technology Park, adjacent to Site 6 (Brown Field Business Park), across Otay Mesa Road from Brown Field; and, *Site 7* (389 acres)—Otay International Center, Harvest and Airway Roads.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site (Proposed Site 8) in the Otay Mesa area of San Diego. *Proposed Site 8* (86 acres)—Ocean View Hills Corporate Center, Otay Mesa Road and Innovative Drive, San Diego. The site is owned by four private companies. Metro International is the proposed operator of the site. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099—14th Street, NW, Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue NW, Washington, DC 20230.

The closing period for their receipt is April 15, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period April 29, 2002.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the City of San Diego, 600 B Street, 4th Floor-Suite 400, San Diego, California 92101.

Dated: February 1, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–3535 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 9–2002]

Proposed Foreign-Trade Zone—Roswell, New Mexico, Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Roswell, New Mexico, to establish a general-purpose foreign-trade zone in Roswell, New Mexico. The applicant has submitted an application to the U.S. Customs Service to have the Roswell Industrial Air Center designated as a Customs user fee airport. The FTZ application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 5, 2002. The applicant is authorized to make the proposal under Section 3–18–29, New Mexico Statutes Annotated, 1978.

The proposed zone (524 acres) would be located at the 4,600-acre Roswell Industrial Air Center (RIAC), six miles south of the City of Roswell, at the intersection of S. Main Street and Hobson Road. RIAC is a former military base (Walker Air Force Base) that has been converted to a commercial airport/industrial park complex. The facility is owned by the City, which will administer the zone project.

The application indicates a need for zone services in the southeastern New Mexico region. Several firms have indicated an interest in using zone procedures for such items as fiberglass products, tree ornaments, fasteners and aircraft parts. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on March 14, 2002, at 9 a.m., at the Roswell City Council Chambers (Top Floor), 425 North Richardson, Roswell, New Mexico 88201.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099—14th Street NW, Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Avenue NW, Washington, DC 20230.

The closing period for their receipt is April 15, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 29, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the City of Roswell Mayor's Office (Main Floor), 425 North Richardson, Roswell, New Mexico 88201.

Dated: February 5, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–3542 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 8–2002]

Foreign-Trade Zone 181—Akron/Canton, OH; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Northeast Ohio Trade & Economic Consortium (NEOTEC), grantee of FTZ 181, requesting authority to expand its zone in the Akron/Canton, Ohio area, within and adjacent to the Cleveland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 30, 2002.

FTZ 181 was approved by the Board on December 23, 1991 (Board Order 546, 57 FR 41; 1/2/92). On March 13, 1998, the grant of authority was reissued to NEOTEC (Board Order 965, 63 FR 13837; 3/23/98). The zone was expanded in 1997 (Board Order 902, 62 FR 36044; 7/3/97), in 1998 (Board Order 968, 63 FR 16962; 4/7/98) and in 1999 (Board Order 1053, 64 FR 51291; 9/22/99). FTZ 181 currently consists of six sites (4,736 acres) in the Akron/Canton, Ohio, area:

Site 1 (152 acres)—within the 2,121-acre Akron-Canton Regional Airport (includes a temporary site (3 acres, expires 1/31/04) located at 8400 Port Jackson Avenue, Jackson Township;

Site 2 (1,236 acres)—within the Youngstown-Warren Regional Airport area, Trumbull County (includes four temporary sites (141 acres total, expire 1/31/04) located as follows: 40 acres within the airport industrial park; 50 acres within the Youngstown Commerce Park; 21 acres located at 3175–3375 Gilchrist Road, Mogadore, Ohio; and 30 acres within the Cuyahoga Falls Industrial Park, Cuyahoga Falls, Ohio;

Site 3 (124 acres, 2 parcels)—Columbiana County Port Authority port terminal facility (19 acres) on the Ohio River, 1250 St. George Street, East Liverpool, and the port authority's Leetonia Industrial Park (105 acres) State Route 344, Leetonia, Ohio;

Site 4 (840 acres)—Stark County Intermodal Facility, approximately one mile south of the City of Massillon, adjacent to State Route 21 in the southwestern corner of Stark County;

Site 5 (2,354 acres)—within the Mansfield Lahm Airport complex, located on State Route 13 at South Airport Road, Mansfield, some 50 miles west of Akron, including the airport facility's four industrial parks, airport fueling facilities, the 91-acre Gorman-Rupp facility as well as a temporary site (20 acres, expires 1/31/04) located at 1600 Terex Road, Hudson, Ohio; and,

Site 6 (30 acres)—Terminal Warehouse, Inc. facility, located at 1779 Marvo Drive, Summit County.

The applicant is now requesting authority to update, expand and reorganize the zone as described below. The proposal includes requests to reorganize the site plan and site designations, to extend zone status to parcels with temporary authority, to restore zone status to parcels located within the existing or proposed zone sites that had been deleted from the zone boundary in earlier changes, to expand existing sites, and to add two new industrial park sites.

Site 1 will be reorganized and expanded to include on a permanent basis the temporary sites at 8400 Port Jackson Avenue (3 acres), at 3175–3375 Gilchrist Road (21 acres), at the Cuyahoga Falls Industrial Park (30 acres), at the site at 1600 Terex Road (20 acres), and at the Terminal Warehouse facility at 1779 Marvo Drive, Summit County (30 acres). The applicant also requests to add two new industrial parks—the Ascot Industrial Park (190 acres) in the City of Akron, the Prosper Industrial Park (103 acres) in the City of Stow—and to reinstate the 9-acre parcel previously deleted from the City of Green at the Akron/Canton Airport. Overall, the reorganized Site 1 would cover 555 acres.

Site 2 will be reorganized and expanded to include on a permanent basis the temporary site (40 acres) located within the western portion of the 88-acre airport industrial park and the temporary site (50 acres) located within the western portion of the Youngstown Commerce Park. The application also requests the addition of a new industrial park (66 acres) located in Fowler Township, adjacent to the Kings Graves and Youngstown Kingsville Road and

to reinstate the 120 acres located within the Youngstown Warren Regional Airport that were previously deleted in Trumbull County. The reorganized Site 2 would cover 1,371 acres.

Site 3: will be expanded to include the Columbiana County Port Authority Intermodal Industrial Park port facility (66 acres) in Wellsville, increasing the size of Site 3 from 124 to 190 acres.

Site 4: will be expanded to include three industrial park sites and 3 warehouse facilities as follows: an industrial park (91 acres) located on the southeast side of the City of Massillon, south of U.S. 30 and east of U.S. 62; a warehouse facility (12 acres) located at 8045 Navarre Road, S.W., Massillon; the Ford Industrial Park (40 acres), adjacent to the City of Canton, south of U.S. 30; a warehouse facility (18 acres) located at 2207 Kimball Road, S.E., Canton; the Sawburg Commerce Industrial Park (158 acres), Alliance; and the Detroit Diesel Corporation warehouse (38 acres) located at 515 11th Street, S.E., Canton, Ohio, increasing the size of Site 4 from 840 to 1,197 acres.

Site 5: will be modified to reinstate a parcel (13 acres) located at the Mansfield Airport Industrial Park in the city of Mansfield. The reorganized Site 5 would cover 2,347 acres.

New Site 6: will cover a parcel (43 acres) within the 143-acre Colorado Industrial Park, Lorain County.

New Site 7: will involve the Kinder-Morgan/Pinney Dock and Transport Company, Inc., facility (309 acres) located at 1149 East 5th Street, Ashtabula, Ohio.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 15, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 29, 2002).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 6747 Engle Road, Middleburg Heights, OH 44130.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W 1099 14th St. NW, Washington, DC 20005.

Dated: February 1, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–3534 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Vicki Schepker or Edward Easton, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1756, (202) 482–3003, respectively.

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 the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Scope of Order

For purposes of this order, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO^2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO^2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Amended Final Determination

In accordance with section 735(a) of the Act, on December 21, 2001, the Department published its affirmative final determination of the antidumping duty investigation of low enriched uranium from France (*Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France*, 66 FR 65877). On December 26, 2001, we received ministerial error allegations, timely filed pursuant to §351.224(c)(2) of the Department's regulations, from the petitioners [1] regarding the Department's final margin calculations. On December 31, 2001, we received rebuttal comments from the respondent, Compagnie Generale des Matieres Nucleaires (Cogema) and Eurodif, S.A. (Eurodif).

[1] The petitioners in this investigation are USEC, Inc., and its wholly-owned subsidiary, United States Enrichment Corporation (collectively USEC); and the Paper Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

The petitioners allege that the Department should recalculate Eurodif's general and administrative (G&A) expense, by using Eurodif's, rather than Cogema's, cost of goods sold as the denominator in the calculation. The respondent argues that the petitioners' allegation is a substantive issue that cannot be treated under the ministerial error provision.

In accordance with section 735(e) of the Act, we agree that a ministerial error in the calculation of the G&A expense ratio was made in our final margin calculation. For a detailed analysis of this allegation, and the Department's determination, see the January 10, 2001, Memorandum to Bernard T. Carreau from Constance Handley, regarding the *Amended Final Determination in the Antidumping Duty Investigation of Low Enriched Uranium from France: Ministerial Error Allegations* on file in room B–099 of the Main Commerce building. This determination is based on a reexamination of the G&A expense calculation.

We are amending the final determination of the antidumping duty investigation of low enriched uranium from France to correct the ministerial error. The revised final weighted-average dumping margins are shown below.

Antidumping Duty Order

On February 4, 2002, in accordance with section 735(d) of the Act, the International Trade Commission (ITC) notified the Department that a U.S. industry is materially injured within the meaning of section 735(b)(1)(A) of the Act by reason of imports of low enriched uranium from France.

Therefore, antidumping duties will be assessed on all unliquidated entries of low enriched uranium from France entered, or withdrawn from warehouse, for consumption on or after July 13, 2001, the date on which the Department published its preliminary affirmative antidumping duty determination in the **Federal Register** (66 FR 36743), and before January 9, 2002, the date the Department instructed the U.S. Customs Service to discontinue the suspension of liquidation in accordance with section 733(d) of the Act, and on all entries and withdrawals of subject merchandise made on or after the date of publication of this antidumping duty order in the **Federal Register**. Section 733(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months, unless exporters representing a significant proportion of exports of the subject merchandise request that the period be extended to not more than 6 months. As noted in the preliminary determination (66 FR 36743), the respondent made such a request on July 2, 2001. Therefore, entries of low enriched uranium made on or after January 9, 2002, and prior to the date of publication of this order in the **Federal Register**, are not liable for the assessment of antidumping duties due to the Department's discontinuation, effective January 9, 2002, of the suspension of liquidation.

In accordance with section 736 of the Act, the Department will direct U.S. Customs officers to reinstitute the suspension of liquidation for low enriched uranium from France effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of low enriched uranium from France.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The All Others rate applies to all producers and exporters of low enriched uranium from France not specifically listed below. The cash deposit rates are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Cogema/Eurodif	19.95
All Others	19.95

The all others rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

This notice constitutes the antidumping duty order with respect to low enriched uranium from France, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: February 6, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–3538 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–810]

Notice of Extension of Time Limit of Preliminary Results of Antidumping Duty Administrative Review: Oil Country Tubular Goods, Other Than Drill Pipe, From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit of Preliminary Results of Administrative Review.

EFFECTIVE DATE: (Insert date of publication in Federal Register)

FOR FURTHER INFORMATION CONTACT: Fred Baker at (202) 482–2924 or Robert James at (202) 482–0649; Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230.

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 Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR Part 351 (April 2001).

Background

In accordance with 19 CFR 351.213(b)(2), on August 31, 2001, the Department received a timely and properly filed request from United States Steel LLC, petitioner in the original investigation, for a review of the imports by producer Acindar Industria Argentina de Aceros, S.A. Also on August 31, 2001, the Department received a request from North Star Steel Ohio, a domestic producer of oil country tubular goods, for a review of the imports by producer Siderca S.A.I.C. On October 1, 2001, the Department published a notice of initiation of this

administrative review covering the period August 1, 2000 through July 31, 2001. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 66 FR 49924 (October 1, 2001).

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act, the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Tariff Act further provides, however, that the Department may extend that 245–day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

In the course of this proceeding interested parties have raised questions regarding submitted financial statement reconciliations, cost calculations, and the accuracy of the no-shipment claim by Siderca S.A.I.C. Due to the need to analyze these questions, it is not practicable to complete this review by the current deadline of May 3, 2002.

Therefore, in accordance with section 751(a)(3)(A) of the Tariff Act, the Department is extending the time limit for the preliminary results by 120 days, until no later than August 31, 2002. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is published in accordance with section 751(a)(1) and 777(i)(1) of the Tariff Act.

February 7, 2002

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–3539 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–831]

Stainless Steel Sheet and Strip From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of stainless steel sheet and strip from Taiwan.

SUMMARY: On August 8, 2001, the Department of Commerce (''the Department'') published in the Federal Register the preliminary results and partial rescission of its administrative review of the antidumping duty order on stainless steel sheet and strip from Taiwan (66 FR 41509). This review covers imports of subject merchandise from Yieh United Steel Corporation (''YUSCO''), Tung Mung Development Corporation (''Tung Mung''), Chia Far Industrial Factory Co., Ltd. (''Chia Far'') and Ta Chen Stainless Pipe, Ltd. (''Ta Chen'). The period of review (''POR'') is January 4, 1999 through June 30, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations for YUSCO and Tung Mung. Therefore, the final results differ from the preliminary results of review. The final weighted–average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of the Review.'' In addition, we are rescinding the review with respect to Ta Chen.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Steve Bailey (''YUSCO''), Mesbah Motamed (''Tung Mung''), Stephen Shin (''Chia Far''), Doreen Chen (''Ta Chen''),or Laurel LaCivita, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1102, (202) 482–1382, (202) 482–0413, (202) 482–0408 or (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

THE APPLICABLE STATUTE

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On August 8, 2001, the Department published Stainless Steel Sheet and Strip in Coils From Taiwan: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 41509 (August 8, 2001) (''Preliminary Results''). We invited parties to comment on these preliminary results. The review covers imports of subject merchandise from YUSCO, Tung Mung, Chia Far and Ta Chen. The POR is June 8, 1999, through June 30, 2000.

We received written comments on September 21, 2001, from Chia Far and from petitioners[1] concerning YUSCO, Tung Mung and Ta Chen and on September 26, 2001, concerning Chia Far. On September 28, 2001, we received rebuttal comments from YUSCO, Tung Mung, Chia Far and from petitioners concerning Chia Far.

As we stated in that notice, we preliminarily rescinded this review with respect to Ta Chen, pursuant to its claim of no shipments of the subject merchandise during the POR. On September 28, 2000, October 4, 12, and 31, 2000, Ta Chen reported that it had no entries of subject merchandise during the period of review. Ta Chen further stated that its U.S. affiliate, Ta Chen International's (''TCI'') had resales of SSSS from Taiwan during the POR, but these sales were from inventory that was entered into the United States prior to the suspension of liquidation. Ta Chen also certified that all resales of Taiwanese merchandise made from TCI's U.S. warehouse inventory during the POR were entered into the United States prior to the POR. The Department's Customs inquiry indicates that such merchandise did not enter the United States after the suspension of liquidation.

On September 21, 2001, petitioners submitted a case brief arguing that this review should not be rescinded with respect to Ta Chen. Since no information has been developed on the record demonstrating that Ta Chen made any shipments during the POR we are now rescinding this review with respect to Ta Chen. We are now completing the administrative review in accordance with section 751 of the Act.

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip 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 sheet and strip is a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold–rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

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[1] Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler–Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL–CIO/CLC.

The merchandise subject to this review is classified in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81[2], 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat–rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat–rolled product of stainless steel, not further worked than cold–rolled (cold–reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTS, ''Additional U.S. Note'' 1(d).

In response to comments by interested parties, the Department has determined that certain specialty stainless steel products are also excluded from the scope of this review. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or–minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron–chromium–cobalt alloy stainless strip is also excluded from the scope of this review. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[3]

Certain electrical resistance alloy steel is also excluded from the scope of this review. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and Materials (''ASTM'') specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[4]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this review. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (''UNS'') as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[5]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the

[2] Due to changes to the HTS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

[3] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[4] ''Gilphy 36'' is a trademark of Imphy, S.A.

[5] ''Durphynox 17'' is a trademark of Imphy, S.A.

scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[6] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[7]

Rescission of Review

In the Preliminary Results, we stated that Ta Chen reported, and the Department confirmed through independent U.S. Customs Service data, that it had no shipments of subject merchandise during the POR. Since Ta Chen did not report any shipments during the POR, we had no basis for determining a margin. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we preliminarily rescinded our review with respect to Ta Chen. Since we have received no information since the Preliminary Results that contradicts the decision made in the preliminary results of review, we are rescinding the review with respect to Ta Chen. Since Ta Chen did not participate in the original investigation, its cash deposit rate will remain at 12.61 percent, which is the all others rate established in the less than fair value (''LTFV'') investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memorandum'') from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated February 4, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/frnhome.htm. The paper copy and electronic version of the Decision Memorandum are identical in content.

Sales Below Cost

We disregarded sales below cost for both Tung Mung and YUSCO during the course of the review.

Changes Since the Preliminary Results of Review

Based on our analysis of comments received, we have made changes in the margin calculations for YUSCO, Tung Mung and Chia Far. The changes are listed below:

YUSCO

•We removed the tolled sales from the home market database before calculating the dumping margin.

•We revised the calculation of home market credit in arm's length program to reflect the calculation of credit in the model match program.

Tung Mung

•We revised our calculation of material costs to eliminate the amount of the estimated outstanding material purchase discount included in the cost of manufacturing.

•We revised the calculation of cost of goods sold (''COGS'') used in the denominator of the CPA adjustment, general and administrative expenses, and interest expense factors to eliminate the total factory–wide cost of packing during the POR.

Chia Far

•We revised the AFA rate applicable to Chia Far to eliminate the impact of middleman dumping from the margins calculated for YUSCO during the original investigation.

Final Results of Review

We determine that the following percentage margin exists for the period January 4, 1999 through June 30, 2000:

STAINLESS STEEL SHEET AND STRIP IN COILS FROM TAIWAN

Manufacturer/exporter/reseller	Margin (percent)
YUSCO	0.00
Tung Mung	0.00
Chia Far	21.10

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. For duty–assessment purposes, we will calculate importer–specific assessment rates by dividing the dumping margins calculated for each importer by the total entered value of sales for each importer during the period of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel sheet and strip from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for YUSCO, Tung Mung and Chia Far will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (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 period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate will be the ''all others'' rate, which is 12.61 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

[6] This list of uses is illustrative and provided for descriptive purposes only.

[7] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties or countervailing 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 the antidumping duties or countervailing duties occurred and the subsequent assessment of double antidumping duties or countervailing duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

February 4, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX 1— ISSUES IN DECISION MEMORANDUM

A. Issues with Respect to YUSCO

Comment 1: Knowledge of Destination of Sales
Comment 2: Customer Category and Channel of Distribution
Comment 3: Tolled Sales
Comment 4: Home Market Credit Expenses
Comment 5: Date of Payment
Comment 6: U.S. Credit Expenses
Comment 7: Inland Transportation
Comment 8: Home Market Rebates
Comment 9: Home Market Warranty Expenses
Comment 10: Packing Expenses
Comment 11: U.S. Brokerage and Handling Expenses
Comment 12: Different Width Basis for Reporting Sales and Cost
Comment 13: Interest Expense
Comment 14: Lack of Sales During the POR
Comment 16: Collapsing of YUSCO and its Affiliates in the Home Market
Comment 17: Basis for Revocation

B. Issues with Respect to Tung Mung

Comment 18: Use of Surrogate Control Numbers (''CONNUMs'')
Comment 19: Estimated Outstanding Material Purchase Discounts
Comment 20: Auditor's Adjustment, General and Administrative Expenses (''G&A''), and Interest Expense
Comment 21: G&A Expense
Comment 22: Basis for Revocation

C. Issues with Respect to Chia Far

Comment 23: Affiliation via a Principal/Agent Relationship
Comment 24: Use of adverse facts available (''AFA'')
Comment 25: Fairness of the Proceedings
Comment 26: Untimely Submission of Factual Information
Comment 27: Partial AFA
Comment 28: Reimbursement
Comment 29: Applicability of the AFA Rate
Comment 30: Release of Business Proprietary Information

D. Issues with Respect to Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen'')

Comment 31: The Rescission of Ta Chen

[FR Doc. 02–3540 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–829]

Stainless Steel Wire Rod From Korea; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On October 9, 2001, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on stainless steel wire rod (SSWR) from Korea (66 FR 51385). This review covers two manufacturers/exporters of the subject merchandise. The period of review (POR) is September 1, 1999, through August 31, 2000.

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have made changes in the margin calculations presented in the preliminary results of review. The final weighted–average dumping margins for the company under review is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Karine Gziryan, Office of AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–5346 and (202) 482–4081, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

Background

This review covers two manufacturers/exporters, Changwon Specialty Steel Co., Ltd. (Changwon) and Dongbang Specialty Steel Co., Ltd. (Dongbang) (collectively, respondents).

The POR is September 1, 1999, through August 31, 2000.

On October 9, 2001, the Department published in the Federal Register the preliminary results of administrative review of the antidumping duty order on stainless steel wire rod (SSWR) from Korea. See Stainless Steel Wire Rod from Korea; Preliminary Results of Antidumping Duty Administrative Review, 66 FR 51385 (October 9, 2001) (Preliminary Results).

We invited parties to comment on our preliminary results of review. On December 5, 2001, the respondents submitted a case brief. The petitioners (i.e., Carpenter Technology Corp., Empire Specialty Steel, and the United Steel Workers of America, AFL–CIO/CLC), submitted a rebuttal brief on December 12, 2001.

The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Order

For purposes of this review, SSWR comprises products that are hot–rolled or hot–rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in

coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot–rolling or hot–rolling annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross–section. The majority of SSWR sold in the United States is round in cross–sectional shape, annealed and pickled, and later cold–finished into stainless steel wire or small–diameter bar. The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire–drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter.

Two stainless steel grades are excluded from the scope of the review. SF20T and K–M35FL are excluded. The chemical makeup for the excluded grades is as follows:

SF20T

Carbon	0.05 max
Chromium	19.00/21.00
Manganese	2.00 max
Molybdenum	1.50/2.50
Phosphorous	0.05 max
Lead–added	(0.10/0.30)
Sulfur	0.15 max
Tellurium–added	(0.03 min)
Silicon	1.00 max

K–M35FL

Carbon	0.015 max
Nickel	0.30 max
Silicon	0.70/1.00
Chromium	12.50/14.00
Manganese	0.40 max
Lead	0.10/0.30
Phosphorous	0.04 max
Aluminum	0.20/0.35
Sulfur	0.03 max

The products subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

Duty Absorption

On November 14, 2000, the petitioners requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondents. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because the collapsed entity Pohang Iron and Steel Co., Ltd. (POSCO)/Changwon/Dongbang (see ''Collapsing'' section of this notice) sold to unaffiliated customers in the United States, in part, through an importer, Pohang Steel America Corporation, that is affiliated, and because this review was initiated two years after the publication of the order, we will make a duty absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act.

On February 16, 2001, the Department requested evidence from each respondent to demonstrate that U.S. purchasers will pay any ultimately assessed duties charged to them. The Department requested that this information be provided no later than March 2, 2001. No respondent provided such evidence. Furthermore, in the Preliminary Results, 66 FR at 51386, we notified interested parties that, if they wish to submit evidence that the unaffiliated purchasers in the United States will pay any ultimately assessed duty charged to affiliated importers, they must do so no later than 15 days after publication of the preliminary results. No interested party provided such evidence. Accordingly, based on the record, we cannot conclude that the unaffiliated purchaser in the United States will ultimately pay the assessed duty. Consequently, we have determined that duty absorption by the collapsed entity POSCO/Changwon/Dongbang has occurred in this administrative review.

Collapsing

During the less than fair value (LTFV) investigation, POSCO was the sole supplier to Dongbang of black coil (unfinished SSWR). See Notice of Final Determination of Sales at Less than Fair Value: Stainless Steel Wire Rod from Korea, 63 FR 40404, 40410 (July 29, 1998) (Final Determination). Based on this fact, and the fact that Dongbang was not able to obtain suitable black coil from alternative sources, the Department determined that POSCO and its wholly–owned subsidiary, Changwon, were affiliated with Dongbang through a close supplier relationship pursuant to section 771(33)(G) of the Act and section 351.102(b) of the Department's regulations. See id. The Department, in the investigation stage, also collapsed Changwon, POSCO, and Dongbang as a single entity for purposes of the dumping analysis in accordance with section 351.401(f) of the Department's regulations. See id.

Because neither POSCO, Changwon, nor Dongbang has provided any new evidence showing that this finding no longer holds true, and because we have not found any new evidence to change this finding, we have continued to find that POSCO and Changwon are affiliated with Dongbang through a close supplier relationship.[1] Further, we have continued to treat POSCO, Changwon, and Dongbang as a single entity and to calculate a single margin for them. (See, e.g., Frozen Concentrated Orange Juice from Brazil; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 66 FR 51008 (October 5, 2001)).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum), dated February 6, 2002, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in the public Decision Memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made adjustments to the preliminary results calculation methodologies in calculating the final dumping margin in this proceeding. A summary of these adjustments is discussed below:

1. We included an amortized portion of the deferred foreign exchange losses of

[1] During the POR, Changwon, and not POSCO, was Dongbang's sole supplier of black coil. However, since we continue to treat POSCO and Changwon as a single entity (as we did in the LTFV investigation), this does not change our determination that POSCO/Changwon are affiliated with Dongbang through a close supplier relationship.

POSCO and Dongbang Transport Logistics Co., Ltd. that these two companies wrote off in 1999 to retained earnings in the calculation of the respondents' financial expense. See Comments 2 and 3 of the Decision Memorandum.
2. We included POSCO's consolidated gain on valuation on certain short–term financial instrument in the calculation of the respondents' financial expense. See Comment 4A of the Decision Memorandum.
3. We included a gain on the disposition of fixed assets in POSCO's G&A calculation. See Comment 4B of the Decision Memorandum.
4. We included a casualty insurance refund in Changwon's G&A calculations. See Comment 4D of the Decision Memorandum.
5. We corrected currency conversion errors in the CEP pr of it calculation. See Comment 5 of the Decision Memorandum.
6. We corrected the calculation of foreign market unit price in U.S. dollars. See Comment 6 of the Decision Memorandum.
7. We included missing instructions to identify the identical grades for certain grades in model matching. See Comment 7 of the Decision Memorandum.
8. We applied the variable costs of manufacturing and total costs of manufacturing from the annual cost database. See Comment 8 of the Decision Memorandum.
9. In the preliminary results, we inadvertently applied the Korean won exchange rate to the variable ''DINVCARU,'' which was reported in U.S. dollars. For the final results, we used the variable ''DINVCARU'' in our calculations as it was reported in U.S. dollars. See Final Calculation Memorandum.

Final Results of Review

We determine that the following weighted–average percentage margin exists for the period September 1, 1999, through August 31, 2000:

Manufacturer/Exporter	Margin (percent)
POSCO/Changwon/ Dongbang	6.80

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of subject merchandise. For Changwon's sales, since Changwon reported the entered values and importer for its sales, we have calculated importer–specific ad valorem duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales to the entered value of sales used to calculate those duties. For Dongbang's reported sales, since Dongbang did not report the entered value for its sales, we have calculated importer–specific per unit duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales to the quantity of sales used to calculate those duties. Where the importer–specific assessment rate is above de minimis, we will instruct Customs to assess the importer–specific rate uniformly on all entries made during the POR.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of SSWR from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed firm will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (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 period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be rate of 5.77 percent, which is the ''all others'' rate established in the LTFV investigation (see Stainless Steel Wire Rod From Korea: Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision, 66 FR 41550 (August 8, 2001)).

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 also serves as a final 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 doubled antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections section 751(a)(1) and 777(i) (1) of the Act.

February 6, 2002

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

Appendix Issues in Decision Memo

1. Affiliation Between the Respondents and Their Customers Through a Principal/Agent Relationship

2. Deferred Foreign Exchange Losses

3. Deferred Foreign Exchange Losses of Dongbang Transport

4. Calculation of General and Administrative Expenses:

4A. Gains and Losses on Certain Monetary Instruments

4B. Items Relating to the Disposition of Fixed Assets

4C. Gain and Losses on Futures and Gain on Redemption of Corporate Bond

4D. Casualty Insurance Refund

4E. Down Payment for Other Products

5. Conversion of Values in the Constructed Export Price Profit Calculation

6. Calculation of Foreign Market Unit Price in U.S. Dollars

7. Model Match Calculations in the Margin Program

8. Variable Cost of Manufacturing and Total Cost of Manufacturing Adjustments

9. Correction of Errors Noted in Changwon's Cost of Production Verification Report

10. New Information in the Respondents' Case Brief

[FR Doc. 02–3541 Filed 2–12–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[(C–428–829); (C–421–809); (C–412–821)]

Notice of Amended Final Determinations and Notice of Countervailing Duty Orders: Low Enriched Uranium From Germany, the Netherlands and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final determinations and notice of countervailing duty orders: Low enriched uranium from Germany, the Netherlands and the United Kingdom.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Copyak (Germany) at 202–482–2209, Stephanie Moore (the Netherlands) at 202–482–3692, and Eric B. Greynolds (United Kingdom) at 202–482–6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR part 351 (2000).

Scope of Orders

For purposes of these orders, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these orders. Specifically, these orders do not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these orders. For purposes of these orders, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these orders.

Also excluded from these orders is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to these orders is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Amended Final Determinations

On December 26, 2001, petitioners (United States Enrichment Corporation, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation, collectively USEC, and the Paper Allied-Industrial Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689, collectively PACE) and respondents (Urenco Ltd., Urenco (Capenhurst) Ltd., Urenco Nederland BV, and Urenco Deutschland GmbH, collectively Urenco) alleged ministerial errors in the calculations of the *Final Affirmative Countervailing Duty Determinations: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 66 FR 65903 (December 21, 2001) (*Final Determinations*). On December 28, 2001, USEC and Urenco submitted comments regarding the allegations.

Urenco alleged that the Department miscalculated the *ad valorem* rate by using as the denominator a significantly understated value of material that entered U.S. Customs during the period of investigation (POI) and, therefore, overstated the benefit attributable to Urenco. USEC disagreed and argued that this was not a ministerial error but a well-founded decision.

We disagree with Urenco. We used the actual entered value for sales that entered U.S. Customs during the POI. Therefore, we properly calculated the *ad valorem* rate.

Urenco also alleged that with respect to the Regional Investment Program (IPR) benefit provided to Ultra Centrifuge Nederland N.V. (UNC) by the Government of the Netherlands (GON), the Department should have used, for purposes of the 0.5 percent test, the value of sales in 1985 for all of the Urenco Group companies, not just the value of UCN's sales in 1985. Petitioners disagreed and contended that the Department properly conducted the test.

We agree with Urenco and have conducted the 0.5 percent test using the combined sales of the Urenco Group's predecessors. As a result, the subsidy from the IPR is less than 0.5 percent of the combined sales and, in accordance with 19 CFR 351.524(b)(2), is allocable to the year of receipt (1985). As a result of this revision, the net subsidy for this program decreased from 0.03 percent *ad valorem* to 0.00 percent *ad valorem*.

USEC alleged that the entered value of the Urenco Group sales must be adjusted downward to exclude the value of any ancillary enrichment activities (*e.g.,* the value of cylinders for the transport of enriched uranium, etc.). USEC claimed that the Department determined to exclude the value of ancillary enrichment activities from the sales denominator and argued that the disclosure materials are not clear as to whether this exclusion was properly made. Urenco contended that USEC's allegation failed to satisfy the requirements set forth in 19 CFR 351.224(d), in that USEC failed to refer to record evidence indicating the value of ancillary enrichment activities that should allegedly be excluded from the Customs data.

We disagree with USEC's contention and note that we determined that the Customs data, as reported in Exhibit 14 of UCL's Verification Report, did not contain any ancillary enrichment sales values.

These issues are addressed in further detail in the January 18, 2002 memorandum to Bernard Carreau, Deputy Assistant Secretary, AD/CVD Enforcement II, Import Administration, from Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI. The public version of this memorandum is on file in Room B–099 in the Central

Records Unit (CRU) of the Main Commerce Building.

As a result of our corrections, the estimated net countervailable subsidy rates attributable to Urenco in each of the countries decreased from 2.26 percent *ad valorem* to 2.23 percent *ad valorem*. Due to the revisions of the net subsidy rates for each of the Urenco companies, the all others rates for each of the countries has also changed. The all others net countervailable subsidy decreased from 2.26 percent *ad valorem* to 2.23 percent *ad valorem.*

Countervailing Duty Orders

In accordance with section 705(d) of the Act, on December 21, 2001, the Department published its final determinations in the countervailing duty investigations of low enriched uranium from Germany, the Netherlands, and the United Kingdom (66 FR 65903). On February 4, 2002, the International Trade Commission (ITC) notified the Department of its final determinations, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States suffered material injury as a result of subsidized imports of low enriched uranium from Germany, the Netherlands, and the United Kingdom.

Therefore, countervailing duties will be assessed on all unliquidated entries of low enriched uranium from Germany, the Netherlands, and the United Kingdom entered, or withdrawn from warehouse, for consumption on or after May 14, 2001, the date on which the Department published its preliminary affirmative countervailing duty determinations in the **Federal Register** (66 FR 24329), and before September 11, 2001, the date the Department instructed the U.S. Customs Service to discontinue the suspensions of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals of subject merchandise made on or after the date of publication of these countervailing duty orders in the **Federal Register**. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of low enriched uranium made on or after September 11, 2001, and prior to the date of publication of these orders in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective September 11, 2001, of the suspensions of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstitute the suspension of liquidation for low enriched uranium from Germany, the Netherlands, and the United Kingdom effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The All Others rates apply to all producers and exporters of low enriched uranium from Germany, the Netherlands, and the United Kingdom not specifically listed below. The cash deposit rates are as follows:

Producer/exporter	Cash deposit rate
Germany:	
Urenco Group Limited	2.23 percent *ad valorem*.
All Others Rate	2.23 percent *ad valorem*.
The Netherlands:	
Urenco Group Limited	2.23 percent *ad valorem*.
All Others Rate	2.23 percent *ad valorem*.
The United Kingdom:	
Urenco Group Limited	2.23 percent *ad valorem*.
All Others Rate	2.23 percent *ad valorem*.

This notice constitutes the countervailing duty orders with respect to low enriched uranium from Germany, the Netherlands, and the United Kingdom, pursuant to section 706(a) of the Act. Interested parties may contact the CRU, for copies of an updated list of countervailing duty orders currently in effect.

These countervailing duty orders and amended final determinations are issued and published in accordance with sections 706(a) and 705 of the Act and 19 CFR 351.211 and 351.224.

Dated: February 6, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–3536 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–819]

Notice of Amended Final Determination and Notice of Countervailing Duty Order: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of amended final determination and notice of countervailing duty order: Low enriched uranium from France.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Michael Grossman at (202) 482–3146 or Richard Herring at (202) 482–4149, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations codified at 19 CFR part 351 (2000).

Scope of Order

For purposes of this order, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or

fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Amended Final Determination

On December 21, 2001, counsel representing respondents (Eurodif S.A., Compagnie Generale de Matieres Nucleaires (COGEMA) and the Government of France (GOF)) alleged ministerial errors in the calculations of the *Final Affirmative Countervailing Duty Determination: Low Enriched Uranium from France,* 66 FR 65901 (December 21, 2001) (*Final Determination*). On December 26, petitioners (United States Enrichment Corporation, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation, collectively USEC, and the Paper Allied-Industrial Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689, collectively PACE) alleged a ministerial error in the *Final Determination.* On December 31, 2001, respondents submitted comments regarding petitioners' allegations.

Respondents alleged that the Department miscalculated the *ad valorem* rate by erroneously multiplying its calculated price differential by the quantity of SWU EdF was entitled to receive, rather than the quantity delivered. Respondents argued that the Department should reduce its calculated benefit by the overstated portion of electricity payment that was never made by EdF.

Petitioners argued that the Department understated the amount of ''part usine'' (which together with ''part energie'' makes up the entire price pade by EdF to Eurodif) actually paid by EdF to Eurodif by erroneously dividing the total amount paid by EdF in 1999 for ''part usine'' by the amount of SWU actually delivered to EdF, as opposed to by the amount of SWU that EdF could have taken. Petitioners stated that to calculate the correct total amount per SWU paid by EdF, the Department could have added the total amount of ''part usine'' and ''part energie'' paid by EdF to Eurodif in 1999 and divided by the number of SWUs in the delivered LEU during 1999 or by calculating the amount per delivered SWU paid for the ''usine'' and ''energie'' and adding together those amounts. Respondents argued that petitioners' allegation is outside the scope of ministerial error corrections in that petitioners propose to have the Department alter an aspect of the calculation that is both substantive and intentional, not arithmetic or clerical and unintentional.

We agree with respondents that the Department erroneously multiplied the calculated price differential by the wrong SWU quantity; however, we disagree with the manner in which respondents proposed to amend the calculated benefit. The corrected benefit is the calculated price differential, unchanged from the *Final Determination,* multiplied by the quantity of SWUs delivered to EdF during the POI. We disagree with petitioners' ministerial error allegation, finding that the allegation is not one of ''an error in addition, subtraction, or arithmetic function * * * [or] other similar type of unintentional error'' as provided in 19 CFR 351.224(f).

These issues are addressed in further detail in the January 18, 2002 memorandum to Bernard Carreau, Deputy Assistant Secretary, AD/CVD Enforcement II, Import Administration, from Melissa G. Skinner, Director, Office of AD/CVD Enforcement VI. The public version of this memorandum is on file in Room B–099 in the Central Records Unit (CRU) of the Main Commerce Building.

As a result of our corrections, the estimated net countervailable subsidy rate attributable to Eurodif/COGEMA decreased from 13.21 percent *ad valorem* to 12.15 percent *ad valorem.* Due to the revision of the net subsidy rate for Eurodif/COGEMA, the all others rate has also changed. The all others net countervailable subsidy decreased from 13.21 percent *ad valorem* to 12.15 percent *ad valorem.*

Countervailing Duty Order

In accordance with section 705(d) of the Act, on December 21, 2001, the Department published its final determination in the countervailing duty investigation of low enriched uranium from France (66 FR 65901). On February 4, 2002, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 705(b)(1)(A)(i) of the Act, that an industry in the United States suffered material injury as a result of subsidized imports of low enriched uranium from France.

Therefore, countervailing duties will be assessed on all unliquidated entries of low enriched uranium from France entered, or withdrawn from warehouse, for consumption on or after May 14, 2001, the date on which the Department published its preliminary affirmative countervailing duty determination in the **Federal Register**, and before September 11, 2001, the date the Department instructed the U.S. Customs Service to discontinue the suspension of liquidation in accordance with section 703(d) of the Act, and on all entries and withdrawals of subject merchandise made on or after the date of publication of this countervailing duty order in the **Federal Register**. Section 703(d) states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of low enriched uranium made on or after September 11, 2001, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective September 11, 2001, of the suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct U.S. Customs officers to reinstitute the suspension of liquidation for low enriched uranium from France effective the date of publication of this notice in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise.

On or after the date of publication of this notice in the **Federal Register**, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. The All Others rate applies to all producers and exporters of low enriched uranium from France not specifically listed below. The cash deposit rates are as follows:

Producer/exporter: France	Cash deposit rate
Eurodif/COGEMA	12.15 percent *ad valorem*
All Others Rate	12.15 percent *ad valorem*

This notice constitutes the countervailing duty order with respect to low enriched uranium from France, pursuant to section 706(a) of the Act. Interested parties may contact the CRU, for copies of an updated list of countervailing duty order currently in effect.

This countervailing duty order and amended final determination are issued and published in accordance with sections 706(a) and 705 of the Act and 19 CFR 351.211 and 351.224.

Dated: February 6, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–3537 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[I.D. 020702F]

Submission for OMB Review; Comment Request

SUPPLEMENTARY INFORMATION: The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Gear Identification Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0359.

Type of Request: Regular submission.

Burden Hours: 2,192.

Number of Respondents: 1,000.

Average Hours Per *Response:* 7 minutes to mark a trap; 10 seconds to mark a coral rock; and 20 minutes to mark a gillnet float.

Needs and Uses: Participants in certain Federally-regulated fisheries in the Southeast Region of the U.S. must mark their fishing gear with the vessel's official identification number or permit number (depending upon the fishery) and color code. Harvesters of aquacultured live rock must mark or tag the material deposited. These requirements are needed to aid fishery enforcement activities and for purposes of gear identification of lost or damaged gear and related civil proceedings.

Affected Public: Business or other for-profit organizations, individuals or households.

Frequency: Third-party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: February 6, 2002.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 02–3489 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020702A]

Endangered Species; Permits

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

ACTION: Receipt of an application for an enhancement permit (1361).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement under the Endangered Species Act (ESA): NMFS has received an application for an enhancement permit from Mr. Robert Metzger, of Metzger Wildlife Surveys (1361).

DATES: Comments or requests for a public hearing on any of the new applications or modification requests must be received at the appropriate address or fax number no later than 5 p.m. eastern standard time on March 15, 2002.

ADDRESSES: Written comments on the new application should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application. Comments will not be accepted if submitted via e-mail or the Internet. The applications and related documents are available for review in the indicated office, by appointment:

Permits, Conservation and Education Division, F/PR1, 1315 East West Highway, Silver Spring, MD 20910 (phone:301–713–2289, fax: 301–713–0376).

FOR FURTHER INFORMATION CONTACT: Lillian Becker, Silver Spring, MD (phone: 301–713–2319, fax: 301–713–0376, e-mail: Lillian.Becker@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Scientific research and/or enhancement permits are issued under section 10 (a)(1)(A) of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see

ADDRESSES). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in This Notice

The following species are covered in this notice:

Sea turtles

Threatened and endangered green turtle (*Chelonia mydas*)
Endangered hawksbill turtle (*Eretmochelys imbricata*)
Endangered Kemp's ridley turtle (*Lepidochelys kempii*)
Endangered leatherback turtle (*Dermochelys coriacea*)
Threatened loggerhead turtle (*Caretta caretta*)

Application 1361

The applicant is applying for a 5–year permit to trawl for turtles, as needed, at dredge and other construction/destruction sites to remove the turtles to a safe location. The turtles will be captured, tagged, measured and released offshore away from the dredging activities. The applicant expects to capture and relocate 95 green, 11 hawksbill, 160 loggerhead, 14 Kemp's ridley and 4 leatherback turtles on the Atlantic coast and 105 green, 17 hawksbill, 160 loggerhead, 50 Kemp's ridley and 11 leatherback turtles on the Gulf coast.

Dated: February 7, 2002.

Jill Lewandowski,

Acting Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–3522 Filed 2–12–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Issuance of Nationwide Permits; Notice; Correction

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final notice; correction.

SUMMARY: This document contains corrections to the final notice of issuance of Nationwide Permits (NWPs) which was published in the **Federal Register** on Tuesday, January 15, 2002 (67 FR 2020–2095).

ADDRESSES: HQUSACE, ATTN: CECW–OR, 441 ''G'' Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, at (703) 428–7570, Mr. Kirk Stark, at (202) 761–4664 or Ms. Leesa Beal at (202) 761–4599 or access the U.S. Army Corps of Engineers Regulatory Home Page at: http://www.usace.army.mil/inet/functions/cw/cecwo/reg/.

SUPPLEMENTARY INFORMATION: In the **SUMMARY** section on page 2020, the third and fourth sentences are corrected to read: ''All NWPs except NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on February 11, 2002. Existing NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on March 18, 2002.'' In the last sentence of the **SUMMARY** section, the expiration date is corrected as ''March 18, 2007'', instead of ''March 19, 2007''.

On page 2020, in second sentence of the **DATES** section, the expiration date is corrected as ''March 18, 2007'', instead of ''March 19, 2007''. Therefore, the NWPs published in the January 15, 2002; **Federal Register** will expire on March 18, 2007, five years from their effective date of March 18, 2002.

On page 2020, in the fifth paragraph of the *Background* section, the third and fourth sentences are corrected to read: ''All NWPs except NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on February 11, 2002. Existing NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44 expire on March 18, 2002.'' The expiration date in the last sentence of this paragraph is corrected as ''March 18, 2007'', instead of ''March 19, 2007''.

On page 2020, the paragraph in the section entitled ''*Grandfather Provision for Expiring NWPs at 33 CFR 330.6*'' is corrected to read: ''Activities authorized by the current NWPs issued on December 13, 1996, (except NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44), that have commenced or are under contract to commence by February 11, 2002, will have until February 11, 2003, to complete the activity. Activities authorized by NWPs 3, 7, 12, 14, 27, 39, 40, 41, 42, 43, and 44, that were issued on March 9, 2000, that are commenced or under contract to commence by March 18, 2002, will have until March 18, 2003, to complete the activity.''

On page 2020, in the ''*Clean Water Act Section 401 Water Quality Certification (WQC) and Coastal Zone Management Act (CZMA) Consistency Agreement*'' section, the date in the fifth sentence is corrected as ''February 11, 2002'', instead of ''February 11, 2001''.

On page 2023, third column, last sentence, the number 29 is replaced with the number 19, because this sentence refers to General Condition 19.

On page 2024, first column, in the fourth sentence of the last paragraph the phrase ''less than'' is replaced by ''greater than'' because the 30 day completeness review period for NWP pre-construction notifications is greater than the 15 day completeness review period for standard permit applications.

On page 2031, second column, second full paragraph, the number 31 is replaced with the number 3 because this paragraph refers to NWP 3.

On page 2044, second column, fourth complete paragraph, the title is corrected to read ''Stream and Wetland Restoration Activities'' because that is the title of NWP 27.

On page 2054, second column, the year cited in the third sentence of the second paragraph is the year 2000, not 1996.

On page 2058, third column, in the second sentence of the second complete paragraph the word ''intermittent'' is inserted before the phrase ''stream bed'' because the waiver for filling or excavating greater than 300 linear feet of stream beds can apply only to intermittent stream beds.

On page 2072, third column, last sentence, the number 19 is inserted after the term ''General Condition'' since this sentence refers to General Condition 19.

On page 2076, second column, the street address for the Walla Walla District Engineer is corrected to read ''201 N. Third Avenue''.

On page 2080, second column, third paragraph from the top of the column (in the ''Notification'' section of NWP 12), the word ''or'' at the end of paragraph (e) is deleted and the period at the end of the fourth paragraph (paragraph (f)) is replaced with ''; or''.

On page 2080, second column, paragraph (a) of NWP 13 is corrected to read: ''No material is placed in excess of the minimum needed for erosion protection;'' The change was not intended and we are correcting this paragraph by reinstating the original text as it appeared in the version of NWP 13 published in the December 13, 1996, **Federal Register** (61 FR 65915).

On page 2080, third column, the word ''or'' is inserted at the end of paragraph (a)(1) of NWP 14, Linear Transportation Projects. Paragraph (a) of NWP 14 is corrected to read: ''a. This NWP is subject to the following acreage limits: (1) For linear transportation projects in non-tidal waters, provided the discharge does not cause the loss of greater than ½-acre of waters of the US; or (2) For linear transportation projects in tidal waters, provided the discharge does not cause the loss of greater than ⅓-acre of waters of the US.''

On page 2085, second column, the last sentence of NWP 36 is corrected to read as follows: ''Dredging to provide

access to the boat ramp may be authorized by another NWP, regional general permit, or individual permit pursuant to section 10 if located in navigable waters of the United States. * * *'' The change was not intended and we are correcting this paragraph by reinstating the original text as it appeared in the version of NWP 36 published in the December 13, 1996, **Federal Register** (61 FR 65919).

On page 2086, in the second full paragraph of the second column, ''paragraph (e)'' in the second sentence is replaced with ''paragraph (f)'' and ''paragraph (i)'' in the third sentence is replaced with ''paragraph (j)'' to accurately cite the previous paragraphs of NWP 39. The last two sentences of the paragraph before the subdivision paragraph were incorrectly divided into two sentences from the original single sentence and identified as being related to General Condition 15. This change was not intended and we are correcting this paragraph by reinstating the original last sentence as it exists in the March 9, 2000, text of NWP 39 (65 FR 12890).

On page 2086, middle column, the parenthetical statement at the end of the **Note** at the end of NWP 39 is corrected to read ''* * * (except for ephemeral waters, which do not require PCNs under paragraph (c)(2), above; however, activities that result in the loss of greater than 1/10 acre of ephemeral waters would require PCNs under paragraph (c)(1), above).'' The addition to the **Note** was intended to clarify that under paragraph (c)(2) only the loss of ephemeral open waters were not included in the requirement for a pre-construction notification (PCN). However, under paragraph (c)(1) all ephemeral waters of the United States are included in the measurement for the 1/10 acre PCN requirement. The correction is needed because the statement in the parentheses could be incorrectly interpreted to apply to paragraph (c)(1) and possibly to all PCNs, not just those affected by paragraph (c)(2).

For clarity, we are providing the text of NWP 39 in its entirety, with the corrections described above:

39. Residential, Commercial, and Institutional Developments. Discharges of dredged or fill material into non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters, for the construction or expansion of residential, commercial, and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, stormwater management facilities, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development). The construction of new ski areas or oil and gas wells is not authorized by this NWP.

Residential developments include multiple and single unit developments. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. The activities listed above are authorized, provided the activities meet all of the following criteria:

a. The discharge does not cause the loss of greater than 1/12-acre of non-tidal waters of the U.S., excluding non-tidal wetlands adjacent to tidal waters;

b. The discharge does not cause the loss of greater than 300 linear-feet of a stream bed, unless for intermittent stream beds this criterion is waived in writing pursuant to a determination by the District Engineer, as specified below, that the project complies with all terms and conditions of this NWP and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

c. The permittee must notify the District Engineer in accordance with General Condition 13, if any of the following criteria are met:

(1) The discharge causes the loss of greater than 1/10-acre of non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters; or

(2) The discharge causes the loss of any open waters, including perennial or intermittent streams, below the ordinary high water mark (see **Note**, below); or

(3) The discharge causes the loss of greater than 300 linear feet of intermittent stream bed. In such case, to be authorized the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

d. For discharges in special aquatic sites, including wetlands, the notification must include a delineation of affected special aquatic sites;

e. The discharge is part of a single and complete project;

f. The permittee must avoid and minimize discharges into waters of the US at the project site to the maximum extent practicable. The notification, when required, must include a written statement explaining how avoidance and minimization of losses of waters of the US were achieved on the project site. Compensatory mitigation will normally be required to offset the losses of waters of the US. (See General Condition 19.) The notification must also include a compensatory mitigation proposal for offsetting unavoidable losses of waters of the US. If an applicant asserts that the adverse effects of the project are minimal without mitigation, then the applicant may submit justification explaining why compensatory mitigation should not be required for the District Engineer's consideration;

g. When this NWP is used in conjunction with any other NWP, any combined total permanent loss of waters of the US exceeding 1/10-acre requires that the permittee notify the District Engineer in accordance with General Condition 13;

h. Any work authorized by this NWP must not cause more than minimal degradation of water quality or more than minimal changes to the flow characteristics of any stream (see General Conditions 9 and 21);

i. For discharges causing the loss of 1/10-acre or less of waters of the US, the permittee must submit a report, within 30 days of completion of the work, to the District Engineer that contains the following information: (1) The name, address, and telephone number of the permittee; (2) The location of the work; (3) A description of the work; (4) The type and acreage of the loss of waters of the US (*e.g.,* 1/2-acre of emergent wetlands); and (5) The type and acreage of any compensatory mitigation used to offset the loss of waters of the US (*e.g.,* 1/2-acre of emergent wetlands created on-site);

j. If there are any open waters or streams within the project area, the permittee will establish and maintain, to the maximum extent practicable, wetland or upland vegetated buffers next to those open waters or streams consistent with General Condition 19. Deed restrictions, conservation easements, protective covenants, or other means of land conservation and preservation are required to protect and maintain the vegetated buffers established on the project site.

Only residential, commercial, and institutional activities with structures on the foundation(s) or building pad(s), as well as the attendant features, are authorized by this NWP. The

compensatory mitigation proposal that is required in paragraph (f) of this NWP may be either conceptual or detailed. The wetland or upland vegetated buffer required in paragraph (j) of this NWP will be determined on a case-by-case basis by the District Engineer for addressing water quality concerns. The required wetland or upland vegetated buffer is part of the overall compensatory mitigation requirement for this NWP. If the project site was previously used for agricultural purposes and the farm owner/operator used NWP 40 to authorize activities in waters of the United States to increase production or construct farm buildings, NWP 39 cannot be used by the developer to authorize additional activities in waters of the United States on the project site in excess of the acreage limit for NWP 39 (*i.e.,* the combined acreage loss authorized under NWPs 39 and 40 cannot exceed ½ acre).

Subdivisions: For residential subdivisions, the aggregate total loss of waters of US authorized by NWP 39 can not exceed ½-acre. This includes any loss of waters associated with development of individual subdivision lots. (Sections 10 and 404)

Note: Areas where wetland vegetation is not present should be determined by the presence or absence of an ordinary high water mark or bed and bank. Areas that are waters of the US based on this criterion would require a PCN although water is infrequently present in the stream channel (except for ephemeral waters, which do not require PCNs under paragraph (c)(2), above; however, activities that result in the loss of greater than 1/10 acre of ephemeral waters would require PCNs under paragraph (c)(1), above).

On page 2088, in the sixth sentence of the first paragraph in the first column, the phrase ''an adequate water quality management plan'' is replaced with the phrase ''adequate water quality management measures'' to reflect the modified language in General Condition 9. This sentence is corrected to read ''The facility must have adequate water quality management measures in accordance with General Condition 9, such as a stormwater management facility, to ensure that the recreational facility results in no substantial adverse effects to water quality.''

On page 2089, first column, the second sentence of paragraph (c) of NWP 44 is corrected to read ''Normally, the water quality management measures required by General Condition 9 should address these impacts;''. In addition, the second sentence of paragraph (i) of NWP 44 is corrected to read ''Further the District Engineer may require water quality management measures to ensure the authorized work results in minimal adverse effects to water quality;'' These corrections are necessary to reflect the modified language in General Condition 9.

On page 2089, third column, the text of General Condition 6 is corrected to read: ''The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.'' The change to General Condition 6 that was published in the January 15, 2002, **Federal Register** was not intended and we are correcting this sentence by reinstating the original text as it existed in the March 9, 2000, NWPs.

On page 2090, first column, the word ''Section'' in the parenthetical at the end of General Condition 10 is replaced with ''33 CFR'' so that the parenthetical reads ''(see 33 CFR 330.4(d))''.

On page 2090, at the top of the second column, the second Internet URL is replaced with ''* * * *http://www.nmfs.noaa.gov/prot_res/overview/es.html* * * *'' because the Internet address for the National Marine Fisheries Service home page for endangered species has been changed.

On page 2090, third column, in paragraph (b)(4) of General Condition 13, NWP 40 should be added to the list of NWPs that require submission of delineations of special aquatic sites with pre-construction notifications. Therefore, paragraph (b)(4) of General Condition 13 is corrected to read ''For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (*e.g.,* submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));''

On page 2090, third column, in paragraph (b)(6) of General Condition 13, the word ''Projects'' replaces the word ''Crossings'', because the title of NWP 14 is ''Linear Transportation Projects''.

On page 2090, third column, in paragraph (b)(8) of General Condition 13, the word ''Activities'' is inserted after the word ''Restoration'' because the title of NWP 27 is ''Stream and Wetland Restoration Activities''.

On page 2091, first column, in paragraph (b)(10) of General Condition 13, the word ''Projects'' is replaced with the word ''Facilities'' because the title of NWP 31 is ''Maintenance of Existing Flood Control Facilities''.

On page 2094, third column, we are correcting the definition of ''Loss of Waters of the US'' by deleting the last sentence and inserting the following sentence after the fourth sentence of this definition: ''Impacts to ephemeral streams are not included in the linear foot measurement of loss of stream bed for the purpose of determining compliance with the linear foot limits of NWPs 39, 40, 42, and 43.''

Due to the number of corrections made to the definition of ''Loss of Waters of the US'', we are providing the text of this definition in its entirety, with the corrections described above:

Loss of Waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Impacts to ephemeral streams are not included in the linear foot measurement of loss of stream bed for the purpose of determining compliance with the linear foot limits of NWPs 39, 40, 42, and 43. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US.

In the January 15, 2002, **Federal Register**, it was stated that the definition was being revised (to clarify that ephemeral waters and streams are not included in the acreage or linear thresholds for NWPs) to comport with language in the preamble of the March 9, 2000 **Federal Register** notice. However, the language in the preamble of the March 9, 2000 **Federal Register** notice (65 FR 12881, third column) does not support this revision. Rather, the referenced preamble states, ''During our review of the comments received in response to the July 21, 1999, **Federal Register** notice, we found an error in the proposed definition of the term, ''loss of waters of the United States.'' In the fourth sentence of the draft definition, we stated that the loss of stream bed

includes the linear feet of perennial or intermittent stream bed that is filled or excavated. This statement is inaccurate because ephemeral stream bed that is filled or excavated can also be considered a loss of waters of the United States. However, the 300 linear foot limit for stream beds filled or excavated does not apply to ephemeral streams. We have modified this sentence to define the loss of stream bed as the linear feet of stream bed that is filled or excavated.'' Thus, the modification of this definition was intended to clarify that activities that involve filling or excavating ephemeral streams are not included in the linear foot limits for filling or excavating stream beds in NWPs 39, 40, 42, and 43. However, it was not intended to exempt ephemeral waters or streams from calculations of impacted acreages to determine PCN or maximum acreage requirements in accordance with NWPs 39, 40, 42, and 43.

In the August 9, 2001, **Federal Register** notice (66 FR 42099) we proposed to modify the definition of ''Loss of Waters of the US'' by adding the sentence ''* * * The loss of stream bed includes the linear feet of perennial stream or intermittent stream that is filled or excavated * * *''. The proposed change was in response to a commitment to clearly state in the text of the NWPs (which includes the definitions) that the 300 linear foot limit in NWPs 39, 40, 42, and 43 for filling and excavating stream beds would only apply to intermittent and perennial streams, not to ephemeral streams.

In the January 15, 2002, **Federal Register** notice (67 FR 2074–2075) we erroneously stated that both the acreage and linear limits of the NWPs do not apply to ephemeral waters. This was never intended to be adopted as policy for the NWPs or the Corps regulatory program. A previously stated, in the first column of page 2075 of the January 15, 2002, **Federal Register** notice, we refer to page 12881 of the March 9, 2000, **Federal Register** notice, which only discusses the 300 linear foot limit, not the acreage limits of the NWPs. Our intent is to continue to apply acreage limits of NWPs to activities that result in the permanent loss of ephemeral waters, but the linear foot limits of the NWPs (*i.e.,* NWPs 39, 40, 42, and 43) for filling or excavating stream beds would not apply to activities that involve filling or excavating ephemeral streams. The last sentence of the definition of ''Loss of Waters of the US'' as published in the January 15, 2002, **Federal Register** notice does not comport with remainder of this NWP package. Therefore, we are correcting this definition as described above.

We believe that correcting the text of NWP 39 and the definition of ''Loss of Waters of the US'' through the publication of this correction notice is appropriate. Nevertheless, in order to give all interested parties further opportunity to comment on this matter, we intend to publish a **Federal Register** notice to solicit public comments on those two corrections. If we determine that any other matter relating to the final NWPs requires correction or clarification, but that matter was not adequately dealt with in this correction notice, we will address that additional matter in the forthcoming **Federal Register** notice, as well. We expect to publish that **Federal Register** notice within a few weeks.

Dated: February 7, 2002.

Lawrence A. Lang,

Assistant Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 02–3555 Filed 2–12–02; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Uniformed Services University of the Health Sciences

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:00 a.m. to 4:00 p.m., February 5, 2002.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—November 14, 2001
(2) Faculty Matters
(3) Department Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary, Board of Regents, (301) 295–3116.

Dated: February 8, 2002.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–3683 Filed 2–11–02; 3:32 pm]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 15, 2002.

ADDRESSES: Written comments 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 10202, 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 Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 6, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Student Financial Assistance

Type of Review: Extension.

Title: Student Assistance General Provisions—Subpart I—Immigration Status Confirmation.

Frequency: On Occasion.

Affected Public: Individuals or households; Not-for-profit institutions

Reporting and Recordkeeping Hour Burden:

Responses: 7,310.

Burden Hours: 23,209.

Abstract: Collection of this information used for immigration status confirmation reduces the potential of fraud and abuse caused by ineligible aliens receiving Federally subsidized student finanicial assistance under Title IV of the Higher Education Act (HEA) of 1965, as amended. The respondent population is comprised of 7,310 postsecondary institutions who participate in administration of the Title IV, HEA programs.

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 Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart__ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–3452 Filed 2–12–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–332–003]

ANR Pipeline Company; Notice of Compliance Filing

February 7, 2002.

Take notice that on January 30, 2002, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets identified in Appendix A attached to the filing, with an effective date of April 1, 2002.

ANR states that these tariff sheets are being filed in compliance with Article 5 of the Stipulation and Agreement submitted in the above-referenced docket on July 10, 2001 (the Settlement), and the Commission's Order on Order No. 637 Settlement issued in the above referenced docket. *ANR Pipeline Company,* 97 FERC ¶ 61, 323 (2001).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3478 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3056–000 and ER01–3056–001]

Cedar Brakes III, L.L.C.; Notice of Issuance of Order

February 7, 2002.

Cedar Brakes III, L.L.C. (Cedar Brakes) submitted for filing a tariff under which Cedar Brakes will engage in the sale of energy and capacity at market-based rates. Cedar Brakes also requested waiver of various Commission regulations. In particular, Cedar Brakes requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Cedar Brakes.

On December 4, 2001, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-West, granted requests for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Cedar Brakes should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Cedar Brakes is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Cedar Brakes, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Cedar Brakes' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 19, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3467 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–79–000]

Desert Crossing Gas Storage and Transportation System LLC; Notice of Application

February 7, 2002.

Take notice that on February 1, 2002, Desert Crossing Gas Storage and Transportation (''Desert Crossing''), 83 Pine Street, Suite 101, West Peabody, MA 01960, filed a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to rule 207 (a)(5) of the Commission's rules of practice and procedure (18 CFR 385.207(a)(5)), and section 7(c)(1)(B) of the Natural Gas Act (15 U.S.C. 717(c)(1)(B)), seeking approval of an exemption from certificate requirements to perform temporary activities related to establishing an injection well exploratory drilling and testing site. 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).

Any questions regarding the application should be directed to Gregory M Lander, Acting Manager, Desert Crossing, 83 Pine Street, Suite 101, West Peabody, MA 01960; telephone (800) 883–8227.

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 19, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3465 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–037]

Dominion Transmission, Inc.; Notice of Negotiated Rates

February 7, 2002.

Take notice that on February 1, 2002, Dominion Transmission, Inc. (DTI) tendered for filing the following tariff sheet for disclosure of a recently negotiated transaction with Sithe Power Marketing, LP:

Third Revised Sheet No. 1400

DTI states that the tariff sheet relates to a specific negotiated rate transaction between DTI and Sithe Power Marketing, LP. The transaction provides Sithe Power Marketing, LP with firm transportation service and conforms to the forms of service agreement contained in DTI's tariff. The term of the agreement is February 2, 2002, through January 31, 2003.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3469 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3055–000 and ER01–3055–001]

Eagle Point Cogeneration Partnership; Notice of Issuance of Order

February 7, 2002.

Eagle Point Cogeneration Partnership (Eagle Point) submitted for filing a tariff under which Eagle Point will engage in the sale of energy and capacity at market-based rates. Eagle Point also requested waiver of various Commission regulations. In particular, Eagle Point requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Eagle Point.

On December 14, 2001, pursuant to delegated authority, the Director, Office of Markets, Tariffs and Rates-West, granted requests for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Eagle Point should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214).

Absent a request to be heard in opposition within this period, Eagle Point is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Eagle Point, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Eagle Point's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is February 19, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3466 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–195–006]

Equitrans, L.P.; Notice of Surcharge Report

February 7, 2002.

Take notice that on January 29, 2002, Equitrans, L.P. (Equitrans) tendered for filing its Extraction Surcharge Report pursuant to Article II of the Stipulation and Agreement (Settlement) filed herein on November 1, 2000.

Equitrans states that the purpose of the filing is to report the amount collected during the period in which Equitrans is authorized by the Settlement to collect a surcharge for underrecovery of gas processing costs.

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 14, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3475 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–935–000]

Florida Power & Light Company; Notice of Filing

February 5, 2002.

Take notice that on January 31, 2002, Florida Power & Light Company (FPL) filed with the Federal Energy Regulatory Commission an unexecuted Interconnection and Operation Agreement between FPL and Enron Broward Generating Company, LLC (Enron Broward) that sets forth the terms and conditions governing the interconnection between Enron Broward's generating project and FPL's transmission system. A copy of this filing has been served on Enron Broward and the Florida Public Service Commission.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: February 21, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–3463 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–390–004]

Granite State Gas Transmission, Inc.; Notice of Compliance Filing

February 7, 2002.

Take notice that on January 31, 2002, Granite State Gas Transmission, Inc. (Granite State) tendered its filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, with an effective date of April 1, 2002.

Granite State states that the filing is being made in compliance with the Commission's January 16, 2002 order in this proceeding.

Granite State states that copies of its filing have been mailed to all firm and interruptible customers, affected state commissions, and parties on the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3479 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–305–007]

Mississippi River Transmission Corporation; Notice of Negotiated Rate

February 7, 2002.

Take notice that on February 4, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet, to be effective January 1, 2002:

Substitute Original Sheet No. 10D

MRT states that the purpose of this filing is to withdraw the initial negotiated rate filing made in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3477 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–369–002]

Mississippi River Transmission Corporation; Notice of Compliance Filing

February 7, 2002.

Take notice that on February 1, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet to be effective April 1, 2002:

Substitute Eighth Revised Sheet No. 80

MRT states that the purpose of this filing is to implement the Internet-related GISB Standards in Version 1.4.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3481 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–050]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

February 7, 2002.

Take notice that on February 4, 2002, Natural Gas Pipeline Company of America (Natural) tendered for filing to

become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet No. 26P.03, to be effective February 4, 2002.

Natural states that the purpose of this filing is to implement an amendment to an existing negotiated rate transaction entered into by Natural and Dynegy Marketing and Trade under Natural's Rate Schedule FTS pursuant to Section 49 of the General Terms and Conditions of Natural's tariff.

Natural states that copies of the filing are being mailed to all parties set out on the official service list at Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3474 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–012]

Questar Pipeline Company; Notice of Tariff Filing

February 7, 2002.

Take notice that on January 31, 2002, Questar Pipeline Company (Questar) tendered for filing a tariff filing to implement a negotiated-rate contract as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, et al.

Questar request waiver of 18 CFR 154.207 so that Thirteenth Revised Sheet No. 7 to First Revised Volume No. 1 of its FERC Gas Tariff may become effective February 1, 2002.

Questar states that a copy of this filing has been served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3476 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–368–002]

Reliant Energy Gas Transmission Company; Notice of Compliance Filing

February 7, 2002.

Take notice that on February 1, 2002, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective April 1, 2002:

Substitute Second Revised Sheet No. 435

REGT states that the purpose of this filing is to implement the Internet-related GISB Standards in Version 1.4.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3480 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–154–000]

Texas Gas Transmission Corporation; Notice of Annual Cash-Out Report

February 7, 2002.

Take notice that on January 30, 2002, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a report that compares its cash-out revenues with cash-out costs for the annual billing period November 1, 2000 through October 31, 2001.

Texas Gas states that the filing is being made in accordance with the Commission's December 16, 1993, ''Order on Third Compliance Filing and Second Order on Rehearing'' in Docket Nos. RS92–24, et al. There is no rate impact to customers as a result of this filing.

Texas Gas states that copies of this filing have been served upon all of Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's

rules and regulations. All such motions or protests must be filed on or before February 14, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3483 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–041]

TransColorado Gas Transmission Company; Notice of Compliance Filing

February 7, 2002.

Take notice that on January 31, 2002, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff Original Volume No. 1, Forty-First Revised Sheet No. 21 and Fourteenth Revised Sheet No. 22A , to be effective February 1, 2002.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets propose to and a negotiated-rate contract.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3473 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–71–031]

Transcontinental Gas Pipe Line Corporation; Notice of ICTS Revenue Sharing Refund Report

February 7, 2002.

Take notice that on January 31, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a refund report showing that on January 18, 2002, Transco submitted ICTS revenue sharing refunds (total principal and interest amount of $24,737.99) to all affected shippers in Docket Nos. RP97–71 and RP97–312.

Transco states that section 7 of Transco's Rate Schedule ICTS provides that, during the effectiveness of the Docket No. RP97–71 rate period, which began on May 1, 1997, Transco shall refund annually 75% of the fixed cost component of all revenues collected associated with Rate Schedule ICTS interconnect transfer services charges to maximum rate firm transportation and maximum rate interruptible transportation Buyers (collectively, Eligible Shippers). Transco states that it has calculated that the refund amount for the annual period from May 1, 2000 through April 30, 2001 equals $24,737.99.

Pursuant to section 7 of Rate Schedule ICTS, Transco states that it has refunded that amount to Eligible Shippers based on each Eligible Shipper's actual fixed cost contribution as a percentage of the total fixed cost contribution of all such Eligible Shippers (exclusive of the fixed cost contribution pertaining to service purchased by Seller from third parties).

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 14, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3471 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–71–032]

Transcontinental Gas Pipe Line Corporation; Notice of PBS Revenue Sharing Refund Report

February 7, 2002.

Take notice that on January 31, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a refund report showing that on January 18, 2002, Transco submitted PBS revenue sharing refunds (total principal and interest amount of $220,441.76) to all affected shippers in Docket Nos. RP97–71 and RP97–312.

Transco states that section 3.4 of Transco's Rate Schedule PBS provides that, during the effectiveness of the Docket No. RP97–71 rate period, which began on May 1, 1997, Transco shall refund annually 75% of the fixed cost component of all revenues collected associated with Rate Schedule PBS parking/borrowing charges to maximum rate firm transportation, maximum rate interruptible transportation and maximum rate firm storage Buyers (collectively, Eligible Shippers).

Transco states that it has calculated that the refund amount for the annual

period from May 1, 2000 through April 30, 2001 equals $220,441.76. Pursuant to section 3.4 of Rate Schedule PBS, Transco states that it has refunded that amount to Eligible Shippers based on each Eligible Shipper's actual fixed cost contribution as a percentage of the total fixed cost contribution of all such Eligible Shippers (exclusive of the fixed cost contribution pertaining to service purchased by Seller from third parties).

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 14, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3472 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–375–002]

Vector Pipeline L.P.; Notice of Negotiated Rates

February 7, 2002.

Take notice that on February 1, 2002, Vector Pipeline L.P. (Vector) tendered for filing the following tariff sheet for the disclosure of a recently completed negotiated rate transaction with Crete Energy Ventures, LLC:

Original Sheet No. 175

Vector states that copies of its letter of transmittal and enclosures have been served upon Vector's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3482 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–48–000, et al.]

Otter Tail Power Company, et al. Electric Rate and Corporate Regulation Filings

February 6, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Otter Tail Power Company, a division of Otter Tail Corporation

[Docket No. EC02–48–000]

Take notice that on January 31, 2002, Otter Tail Power Company, a division of Otter Tail Corporation, (Otter Tail) tendered for filing, an Application to Transfer Contractual Rights Over Transmission Facilities to the Midwest Independent Transmission System Operator, Inc. under section 203 of the Federal Power Act. This application is intended to fill in the gaps of Otter Tail's prior application for which the Commission authorized transfer of operational control over transmission facilities. Otter Tail Power Co., 97 FERC ¶61,226, (2001). This application regards the transfer of Otter Tail's contractual rights, as provided by certain agreements, in certain jointly-owned facilities to the Midwest Independent Transmission System Operator, Inc.

Comment Date: February 21, 2002.

2. Keystone Power LLC

[Docket No. EG02–82–000]

Take notice that on February 1, 2002, Keystone Power LLC filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA). The applicant states that it is a limited liability company organized under the laws of the State of Delaware that will increase to 6.17 percent its undivided interests in the Keystone Generating Station in Shelocta, Pennsylvania (Facilities) and sell electric energy at wholesale. The total capacity of the applicant's interest in the Facilities is 105.7 MW. Determinations pursuant to section 32(c) of PUHCA have been received from the State commissions of Delaware, Maryland, New Jersey, and Virginia.

Comment Date: February 27, 2002.

3. Conemaugh Power LLC

[Docket No. EG02–83–000]

Take notice that on February 1, 2002, Conemaugh Power LLC filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA). The applicant states that it is a limited liability company organized under the laws of the State of Delaware that will increase to 7.55 percent its undivided interests in the Conemaugh Generating Station in New Florence, Pennsylvania (Facilities) and sell electric energy at wholesale. The total capacity of the applicant's interest in the Facilities is 128.8 MW. Determinations pursuant to section 32(c) of PUHCA have been received from the State commissions of Delaware, Maryland, New Jersey, and Virginia.

Comment Date: February 27, 2002

4. Mirant Sugar Creek, LLC

[Docket No. EG02–84–000]

Take notice that on February 4, 2002, Mirant Sugar Creek, LLC (Sugar Creek) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Sugar Creek proposes to own a 560 MW generating facility located in West Terre Haute, Indiana (Facility). The proposed Facility is expected to commence commercial operation in June, 2002. All output from the Facility will be sold by Sugar Creek exclusively at wholesale.

Comment Date: February 27, 2002.

5. San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, Respondents. Investigation of Practices of the California Independent System Operator and the California Power Exchange, Public Meeting in San Diego, California, Reliant Energy Power Generation Inc., Dynegy Power Marketing, Inc., and Southern Energy California, L.L.C., Complainants, v. California Independent System Operator Corporation, Respondent. California Electricity Oversight Board, Complainant, v. All Sellers of Energy and Ancillary Services Into the Energy and Ancillary Services Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, Respondents. California Municipal Utilities Association, Complainant, v. All Jurisdictional Sellers of Energy and Ancillary Services Into the Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, Respondents. Californians for Renewable Energy, Inc. (CARE), Complainant, v. Independent Energy Producers, Inc., and All Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; All Scheduling Coordinators Acting on Behalf of the Above Sellers; California Independent System Operator Corporation; and California Power Exchange Corporation, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council.

[Docket Nos. EL00–95–058, EL00–98–050, EL00–107–009, EL00–97–003, EL00–104–008, EL01–1–009, EL01–2–003, EL01–68–011]

Take notice that on January 25, 2002, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing pursuant to the Commission's December 19, 2001 ''Order Accepting In Part And Rejecting In Part Compliance Filings,'' 97 FERC ¶ 61,293; the December 19, 2001 ''Order On Clarification and Rehearing,'' 97 FERC ¶ 61,275; and the December 19, 2001 ''Order Temporarily Modifying The West-Wide Price Mitigation Methodology,'' 97 FERC ¶ 61,294. Also the ISO filed an erratum to the above-referenced compliance filing on January 29, 2002.

The ISO has served copies of these filings on all parties in the above-captioned proceedings.

Comment Date: February 15, 2002.

6. Old Dominion Electric Cooperative

[Docket No. ER97–4314–007]

Take notice that on October 26, 2000, Old Dominion Electric Cooperative (Old Dominion) filed with the Federal Energy Regulatory Commission (Commission) an amended version of its October 17, 2000 filing with the Commission of a Request for Determination That Updated Market Analysis is Not Necessary or, in the Alternative, for Extension of Time in the above-referenced proceeding.

Comment Date: February 27, 2002.

7. Northern Indiana Public Service Company

[Docket No. ER01–2541–001]

Take notice that on January 28, 2002, Northern Indiana Public Service Company (Northern Indiana) filed Amendment No. 1 to interconnection and Operating Agreement with Whiting Clean Energy, Inc. The filing is made in compliance with an order issued by the Commission in Docket No. ER01–2541–000. Northern Indiana has requested an effective date of July 9, 2001.

Copies of this filing have been sent to Whiting Clean Energy, Inc., the Indiana utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment Date: February 22, 2002.

8. GNE, LLC

[Docket No. ER02–159–002]

Take notice that on January 28, 2002, GNE, LLC (GNE) hereby submits to the Federal Energy Regulatory Commission (Commission) additional information regarding a change in the ownership of GNE, which GNE submits is a non-material departure from the characteristics that the Commission relied upon in approving GNE's market-based rate authorization.

Comment Date: February 19, 2002.

9. New England Power Pool

[Docket No. ER02–940–000]

Take notice that on February 1, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include Emera Energy Services, Inc. (Emera), Allegheny Energy Supply Company, LLC (Allegheny), RWE Trading Americas Inc. (RWE), Maclaren Energy Inc. (Maclaren) and Leonard LaPorta (LaPorta). The Participants Committee requests an effective date of February 1, 2002, for commencement of participation in NEPOOL by Allegheny and Maclaren, March 1, 2002 for RWE, and April 1, 2002 for Emera and LaPorta.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment Date: February 22, 2002.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–941–000]

Take notice that on February 1, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.16 of the Commission's regulations, 18 CFR 35.16 (2001), the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Succession for certain Transmission Service Agreements and Network Transmission Service and Operating Agreements held by Southern Indiana Gas & Electric Company (SIGECO).

Copies of this filing were sent to all applicable customers under the SIGECO Open Access Transmission Tariff by placing a copy of the same in the United States mail, first-class postage prepaid.

Comment Date: February 22, 2002.

11. Cinergy Services, Inc.

[Docket No. ER02–942–000]

Take notice that on February 1, 2002, Cinergy Services, Inc. (Provider) tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Provider and Cinergy Services, Inc. (Customer) (AREF# 69646977). This service agreement has a yearly firm transmission service with American Electric Power via the Gibson Generating Station.

Provider and Customer are requesting an effective date of January 31, 2002.

Comment Date: February 22, 2002.

12. California Independent System Operator Corporation

[Docket No. ER02–943–000]

On February 1, 2002, the California Independent System Operator Corporation (ISO) submitted a notice

concerning the termination of the Meter Service Agreement for Scheduling Coordinators between the ISO and California Polar Power Brokers, LLC (CALPOL).

The ISO states that this filing has been served on CALPOL and the persons listed on the service list for Docket No. ER98–1864–000.

Comment Date: February 22, 2002.

13. California Independent System Operator Corporation

[Docket No. ER02–944–000]

On February 1, 2002, the California Independent System Operator Corporation (ISO) submitted a notice concerning the termination of the Scheduling Coordinator Agreement between the ISO and California Polar Power Brokers, LLC (CALPOL).

The ISO states that this filing has been served on CALPOL and the persons listed on the service list for Docket No. ER98–999–000.

Comment Date: February 22, 2002.

14. Louisville Gas and Electric Company Kentucky Utilities Company

[Docket No. ER02–945–000]

Take notice that on February 1, 2002, Louisville Gas and Electric Company and Kentucky Utilities Company filed a proposal to cancel parts of its Open Access Transmission Tariff and substitute an Ancillary Services Form of Agreement. Such cancellation and substitution are proposed in order to accommodate the start-up of Midwest Independent Transmission System Operator, Inc. Open Access Transmission Tariff administration.

Comment Date: February 22, 2002.

15. Southern Company Services, Inc.

[Docket No. ER02–946–000]

Take notice that on February 1, 2002, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively Southern Companies), filed a service agreement under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5) (Tariff) with Duke Energy Corporation regarding OASIS request 314698. This agreement has been designated Service Agreement No. 446 under Southern Companies' Tariff.

Comment Date: February 22, 2002.

16. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–947–000]

Take notice that on February 1, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing revisions to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, Original Volume No. 1, which are intended to accommodate retail customer choice in Illinois, Michigan and Ohio.

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: February 22, 2002.

17. PJM Interconnection, L.L.C.

[Docket No. ER02–948–000]

Take notice that on February 1, 2002, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission) one executed umbrella agreement for short-term firm point-to-point transmission service with Allegheny Energy Supply Company, LLC (Allegheny Energy).

PJM requests a waiver of the Commission's notice regulations to permit effective date for the agreement of January 3, 2002. Copies of this filing were service upon Allegheny Energy, as well as the state utility regulatory commissions within the PJM control area.

Comment Date: February 22, 2002.

18. Progress Energy On behalf of Florida Power Corporation

[Docket No. ER02–949–000]

Take notice that on February 1, 2002, Florida Power Corporation (FPC) tendered for filing a Service Agreement for Long-Term Firm Point-to-Point Transmission Service with Central Power & Lime, Inc. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of FPC.

FPC is requesting an effective date of February 1, 2002 for this Service Agreement. A copy of the filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment Date: February 22, 2002.

19. Puget Sound Energy, Inc.

[Docket No. ER02–950–000]

Take notice that on February 1, 2002, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Parallel Operation Agreement with the Public Hospital District No. 1 of King County, Washington, doing business as the Valley Medical Center (Valley Medical Center).

A copy of the filing was served upon Valley Medical Center.

Comment Date: February 22, 2002.

20. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–951–000]

Take notice that on February 1, 2002, pursuant to Section 205 of the Federal Power Act and Section 35.16 of the Commission's regulations, 18 CFR 35.16 (2001), the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Succession for certain Transmission Service Agreements and Network Transmission Service and Operating Agreements held by Northern States Power Company (NSP).

Copies of this filing were sent to all applicable customers under the NSP Open Access Transmission Tariff by placing a copy of the same in the United States mail, first-class postage prepaid.

Comment Date: February 22, 2002.

21. New England Power Company

[Docket No. ER02–952–000]

Take notice that on February 1, 2002, New England Power Company (NEP) submitted for filing complete revised Service Agreement No. 6 between NEP and Granite State Electric Company (Granite State) under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP states that a copy of this filing has been served upon Granite State and the New Hampshire Public Utilities Commission.

Comment Date: February 22, 2002.

22. New England Power Company

[Docket No. ER02–953–000]

Take notice that on February 1, 2002, New England Power Company (NEP) submitted Second Revised Service Agreement No. 129 (Service Agreement) between NEP and New Hampshire Electric Cooperative, Inc. For network integration transmission service under NEP's open access transmission tariff—New England Power Company, FERC Electric tariff, Second Revised Volume No. 9. This Service Agreement is an amended version of the First Revised Service Agreement that was filed on

August 9, 2001, in Docket No. ER01–2802–000. The terms of the amended agreement are identical to the terms of the original agreement, except for the addition of new delivery points and a change in the agreement's expiration date. NEP requests an effective date of February 1, 2002.

NEP states that a copy of this filing has been served upon the appropriate state regulatory agencies and parties to the agreement.

Comment Date: February 22, 2002.

23. Somerset Windpower LLC

[Docket No. ER02–954–000]

Take notice that on February 1, 2002, Somerset Windpower LLC (Somerset) filed with the Federal Energy Regulatory Commission an application to amend its existing authorization to sell capacity and energy at market-based rates pursuant to Section 205 of the Federal Power Act. Somerset is engaged exclusively in the business of owning and operating a 9 MW wind-powered electric generating facility located in Somerset Township, Somerset County, Pennsylvania and selling its capacity and energy at wholesale to Exelon Power Generation LLC.

Comment Date: February 22, 2002.

24. Mill Run Windpower LLC

[Docket No. ER02–955–000]

Take notice that on February 1, 2002, Mill Run Windpower LLC (Mill Run) filed with the Federal Energy Regulatory Commission (Commission) an application to amend its existing authorization to sell capacity and energy at market-based rates pursuant to Section 205 of the Federal Power Act.

Mill Run is engaged exclusively in the business of owning and operating a 15 MW wind-powered electric generating facility located in Springfield and Stuart Townships, Fayette County, Pennsylvania and selling its capacity and energy at wholesale to Exelon Power Generation LLC.

Comment Date: February 22, 2002.

25. PECO Energy Company

[Docket No. ER02–956–000

Take notice that on February 1, 2002 PECO Energy Company (PECO) submitted for filing an Interconnection Agreement by and between PECO and Philadelphian Owners Association for Generation Interconnection and Parallel Operation, designated as Service Agreement No. 633 under PJM Interconnection, L.L.C.'s FERC Electric Tariff, Fourth Revised Volume No. 1, to be effective on February 4, 2002. Copies of this filing were served on Philadelphian Owners Association and PJM.

Comment Date: February 22, 2002.

26. Commonwealth Edison Company

[Docket No. ER02–957–000]

Take notice that on February 4, 2002, Commonwealth Edison Company (ComEd) submitted for filing an interconnection agreement between ComEd and Crete Energy Ventures, LLC. ComEd requests an effective date for the interconnection agreement of February 5, 2002, and, accordingly, seeks waiver of the Commission's notice requirements.

ComEd states that a copy of the filing was served on Crete Energy Ventures, LLC and the Illinois Commerce Commission.

Comment Date: February 22, 2002.

27. PECO Energy Company

[Docket No. ER02–958–000]

Take notice that on February 1, 2002 PECO Energy Company (PECO) submitted for filing an Interconnection Agreement by and between PECO and Phoenix Foods for Generation Interconnection and Parallel Operation, designated as Service Agreement No. 634 under PJM Interconnection, L.L.C.'s FERC Electric Tariff, Fourth Revised Volume No. 1, to be effective on February 4, 2002. Copies of this filing were served on Phoenix Foods and PJM.

Comment Date: February 22, 2002.

28. UAE Mecklenburg Cogeneration LP

[Docket No. QF89–339–005]

Take notice that on February 1, 2002, UAE Mecklenburg Cogeneration LP (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a 132 megawatt (net) topping-cycle pulverized coal cogeneration facility (the Facility) located in Clarksville, Virginia. The Facility is interconnected with the Virginia Electric and Power Company system and power from the Facility is sold to Virginia Electric and Power Company. The Facility's backup power supply when the Facility is not operating is provided by Mecklenburg Electric Cooperative, Inc.

Comment Date: March 4, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3450 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP01–176–000 and CP01–179–000]

Georgia Strait Crossing Pipeline LP; Notice of a Public Comment Meeting on the Draft Environmental Impact Statement for the Proposed Georgia Strait Crossing Project

February 7, 2002.

The staff of the Federal Energy Regulatory Commission (FERC) has prepared a draft environmental impact statement (DEIS) that discusses the environmental impacts of the Georgia Strait Crossing Project. This project involves construction and operation of facilities by Georgia Strait Crossing Pipeline LP (GSX–US) in Whatcom and San Juan Counties, Washington. The facilities includes about 47 miles of 20- and 16-inch-diameter pipeline (33.4 miles onshore, 13.9 miles offshore), the Sumas Interconnect Facility (receipt point meter station, pig launcher, interconnect piping, and mainline valve), the Cherry Point Compressor Station (a 10,302-horsepower compressor unit, pig launcher/receiver, and mainline /tap valves), and other associated aboveground facilities (four

mainline valves and an offshore tap valve).

This notice is being sent to all persons to whom we[1] mailed the DEIS.

In addition to or in lieu of sending written comments on the DEIS, we invite you to attend a public comment meeting that the FERC will conduct in the project area. The location and time for the meeting is listed below:

Date and Time/ Location

February 26, 2002, 7 p.m.—Lynden High School, Cafeteria, 1201 Bradley Road, Lynden, WA 98264

The public meetings are designed to provide you with an opportunity to offer your comments on the DEIS in person. A transcript of the meetings will be made so that your comments will be accurately recorded.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3464 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11566–000––Maine Damariscotta Mills Project]

Ridgewood Maine Hydro Partners, L.P.; Notice Modifying a Restricted Service List for Comments on a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

February 7, 2002.

On October 18, 2001, the Federal Energy Regulatory Commission (Commission) issued a notice for the Damariscotta Mills Hydroelectric Project (FERC No. 11566–000) proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement for managing properties included in or eligible for inclusion in the National Register of Historic Places. The Damariscotta Mills Hydroelectric Project is located on the Damariscotta River, in Lincoln County, Maine. Ridgewood Maine Hydro Partners, L.P. is the licensee.

Rule 2010 of the Commission's rules of practice and procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The following additions are made to the restricted service list notice issued on October 18, 2001, for Project No. 11566–000:

Mr. Dale Wright, Chairman, Town of Nobleboro, 192 US Highway 1, Nobleboro, ME 04555.

Mr. Jonathan C. Hull, Esq., P.O. Box 880, Damariscotta, ME 04543.

Ms. Rosa Sinclair, Chair, Town of Jefferson, 58 Washington Road, Jefferson, ME 04348.

Alec Giffen, Land & Water Associates, 9 Union Street, Hallowell, ME 04347.

Magalie R. Salas,

Secretary.

[FR Doc. 02–3468 Filed 2–12–02; 8:45 am]

BILLING CODE 6717–01–P

[1] "We" refers to the environmental staff of the Office of Energy Projects.

[1] 18 CFR 385.2010.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7143–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Acid Rain Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Acid Rain Program ICR, EPA ICR Number: 1633.13, OMB Control Number: 2060–0258, Expiration Date: September 30, 2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 15, 2002.

ADDRESSES: The current ICR is available on the internet at *www.epa.gov/airmarkets/AcidRainICR.pdf.*

FOR FURTHER INFORMATION CONTACT: Contact Kenon Smith at (202–564–9164) or (*smith.kenon@epa.gov*).

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which participate in the Acid Rain Program.

Title: Acid Rain Program ICR; (OMB Control No. 2060–0258; EPA ICR No. 1633.13) expiring 9/30/2002.

Abstract: The Acid Rain Program was established under Title IV of the 1990 Clean Air Act Amendments. The program calls for major reductions of the pollutants that cause acid rain while establishing a new approach to environmental management. This information collection is necessary to implement the Acid Rain Program. It includes burden hours associated with developing and modifying permits, transferring allowances, monitoring emissions, participating in the annual auctions, completing annual compliance certifications, participating in the Opt-in program, and complying with Nox permitting requirements. Most of this information collection is mandatory under 40 CFR parts 72–78. Some parts of it are voluntary or to obtain a benefit, such as participation in the annual auctions under 40 CFR part 73, subpart E. 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 EPA would like to solicit comments to:

(i) 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;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) 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.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 132 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 previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 850.

Estimated Number of Respondents: 850.

Frequency of Response: Varies by task.

Estimated Total Annual Hour Burden: 1,330,327 hours.

Estimated Total Annualized Capital and Start-up Cost: $92,058,000.

Estimated Total Annualized Operation and Maintenance Cost: $43,574,000.

Dated: February 4, 2002.

Janice Wagner,

Chief, Market Operations Branch.

[FR Doc. 02–3547 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181085; FRL–6822–9]

Pesticide Emergency Exemptions; Agency Decisions and State and Federal Agency Crisis Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted or denied emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of pesticides as listed in this notice. The exemptions or denials were granted during the period October 1, 2001 to December 31, 2001 to control unforseen pest outbreaks.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption or denial for the name of a contact person. The following information applies to all contact persons: Team Leader, Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366.

SUPPLEMENTARY INFORMATION: EPA has granted or denied emergency exemptions to the following State and Federal agencies. The emergency exemptions may take the following form: Crisis, public health, quarantine, or specific. EPA has also listed denied emergency exemption requests in this notice.

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you petition EPA for authorization under section 18 of FIFRA to use pesticide products which are otherwise unavailable for a given use. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Federal Government	9241	Federal agencies that petition EPA for section 18 pesticide use authorization
State and Territorial government agencies charged with pesticide authority	9241	State agencies that petition EPA for section 18 pesticide use authorization

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table in this unit could also be regulated. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR part 166. 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 or Copies of this Document or Other Documents?

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–181085. 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

Under FIFRA section 18, EPA can authorize the use of a pesticide when emergency conditions exist. Authorizations (commonly called emergency exemptions) are granted to State and Federal agencies and are of four types:

1. A ''specific exemption'' authorizes use of a pesticide against specific pests on a limited acreage in a particular State. Most emergency exemptions are specific exemptions.

2. ''Quarantine'' and ''public health'' exemptions are a particular form of specific exemption issued for quarantine or public health purposes. These are rarely requested.

3. A ''crisis exemption'' is initiated by a State or Federal agency (and is confirmed by EPA) when there is insufficient time to request and obtain EPA permission for use of a pesticide in an emergency.

EPA may deny an emergency exemption: If the State or Federal agency cannot demonstrate that an emergency exists, if the use poses unacceptable risks to the environment, or if EPA cannot reach a conclusion that the proposed pesticide use is likely to result in ''a reasonable certainty of no harm'' to human health, including exposure of residues of the pesticide to infants and children.

If the emergency use of the pesticide on a food or feed commodity would result in pesticide chemical residues, EPA establishes a time-limited tolerance meeting the ''reasonable certainty of no

harm standard'' of the Federal Food, Drug, and Cosmetic Act (FFDCA).

In this document, EPA identifies the State or Federal agency granted the exemption or denial, the type of exemption, the pesticide authorized and the pests, the crop or use for which authorized, number of acres (if applicable), and the duration of the exemption. EPA also gives the **Federal Register** citation for the time-limited tolerance, if any.

III. Emergency Exemptions and Denials

A. U.S. States and Territories

Arizona
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

California
Environmental Protection Agency, Department of Pesticide Regulation
Denial: On November 29, 2001, EPA denied the use of avermectin on leaf lettuce to control leafminers. This request was denied because at this time, the Agency is unable to reach a ''reasonable certainty of no harm'' finding regarding health effects which may result if this use were to occur. Contact: (Barbara Madden).
Specific: EPA authorized the use of maneb on walnuts to control walnut blight; November 8, 2001 to June 15, 2002. Contact: (Libby Pemberton)

EPA authorized the use of avermectin on spinach to control leaf miners; November 1, 2001 to October 31, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of carboxin on onion seed to control onion smut; November 13, 2001 to May 31, 2002. Contact: (Andrew Ertman)

EPA authorized the use of imidacloprid on strawberries to control silverleaf whiteflies; December 24, 2001 to December 23, 2002. Contact: (Andrew Ertman)

EPA authorized the use of cyhalofop-buty on rice to control bearded sprangletop; April 15, 2002 to August 15, 2002. Contact: (Barbara Madden)

Colorado
Department of Agriculture
Specific: EPA authorized the use of bifenazate on greenhouse grown tomatoes to control spider mites; December 12, 2001 to December 11, 2002. Contact: (Barbara Madden)

Connecticut
Department of Environmental Protection
Specific: EPA authorized the use of triazamate on Christmas trees to control root aphids; November 8, 2001 to September 30, 2002. Contact: (Andrew Ertman)

Florida
Department of Agriculture and Consumer Services
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; January 19, 2002 to January 18, 2003. Contact: (Barbara Madden)

Georgia
Department of Agriculture
Specific: EPA authorized the use of fenbuconazole on blueberries to control mummy berry disease; December 6, 2001 to July 1, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; January 19, 2002 to January 18, 2003. Contact: (Barbara Madden)

Idaho
Department of Agriculture
Specific: EPA authorized the use of flufenacet on wheat and triticale to control annual ryegrass; October 3, 2001 to June 30, 2002. Contact: (Barbara Madden)

EPA authorized the use of pendimethalin on mint to control kochia and redroot pigweed; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

Louisiana
Department of Agriculture and Forestry
Crisis: On November 7, 2001, for the use of azoxystrobin on strawberries to control crown rot disease. This program ended on November 23, 2001. Contact: (Libby Pemberton)

Michigan
Michigan Department of Agriculture
Specific: EPA authorized the use of tebuconazole on asparagus to control rust; October 2, 2001 to November 1, 2001. Contact: (Barbara Madden)

Minnesota
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

Mississippi
Department of Agriculture and Commerce
Specific: EPA authorized the use of niclosamide in commercially operated, man-made levee containment ponds for catfish production to control ram's horn snail, an intermediate host to the yellow grub trematode (*Bolbophorus confusus*); November 21, 2001 to November 21, 2002. Contact: (Barbara Madden)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

Missouri
Department of Agriculture
Specific: EPA authorized the use of clethodim on tall fescue to suppress stem and seedhead formation in tall fescue pasture or hay to reduce toxin producing endophyte-fungus; November 8, 2001 to April 15, 2002. Contact: (Barbara Madden)

New Mexico
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of propiconazole in sorghum to control sorghum ergot; June 1, 2002 to September 30, 2002. Contact: (Dan Rosenblatt)

North Dakota
Department of Agriculture
Specific: EPA authorized the use of tebuconazole on wheat to control *Fusarium* Head Blight; May 15, 2002 to September 1, 2002. Contact: (Meredith Laws)

EPA authorized the use of tebuconazole on barley to control *Fusarium* Head Blight; May 15, 2002 to September 1, 2002. Contact: (Meredith Laws)

Oklahoma
Department of Agriculture
Specific: EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

Oregon
Department of Agriculture
Denial: On October 4, 2001, EPA denied the use of propoxycarbazone-sodium on wheat to control jointed goatgrass. This request was denied because it was not demonstrated that wheat growers will suffer significant economic losses without its use. Contact: (Libby Pemberton)
Specific: EPA authorized the use of flufenacet on wheat and triticale to control annual ryegrass; October 3, 2001 to June 30, 2002. Contact: (Barbara Madden)

EPA authorized the use of clopyralid on cranberries to control lotus, Douglas aster, and clover; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of pendimethalin on mint to control kochia and redroot pigweed; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

South Carolina
Clemson University
Crisis: On November 16, 2001, for the use of flufenacet on wheat to control annual ryegrass. This program ended

December 31, 2001. Contact: (Barbara Madden)
Specific: EPA authorized the use of flufenacet on wheat to control annual ryegrass; November 29, 2001 to December 31, 2001. Contact: (Barbara Madden)

Texas

Department of Agriculture
Crisis: On March 21, 2001, for the use of bifenthrin on citrus to control weevils. This program is expected to end on November 14, 2002. Contact: (Andrea Conrath)
Specific: EPA authorized the use of bifenthrin on citrus to control weevils; November 14, 2001 to November 14, 2002. Contact: (Andrea Conrath)

EPA authorized the use of azoxystrobin on cabbage to control leaf spot caused by *Cercospora brassicicola* and *Alternaria bassicae*; November 29, 2001 to March 18, 2003. Contact: (Libby Pemberton)

EPA authorized the use of propiconazole in sorghum to control sorghum ergot; December 14, 2001 to December 13, 2002. Contact: (Dan Rosenblatt)

EPA authorized the use of imazapic-ammonium on bermudagrass hay meadows and pastures to control grassy weeds; February 1, 2002 to October 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of coumaphos in beehives to control *varroa* mites and small hive beetles; February 2, 2002 to February 1, 2003. Contact: (Barbara Madden)

EPA authorized the use of bifenazate on greenhouse grown tomatoes to control spider mites; June 13, 2002 to June 12, 2003. Contact: (Barbara Madden)

Virginia

Department of Agriculture and Consumer Services
Specific: EPA authorized the use of flufenacet on wheat to control annual ryegrass; October 1, 2001 to December 31, 2001. Contact: (Barbara Madden)

Washington

Department of Agriculture
Specific: EPA authorized the use of flufenacet on wheat and triticale to control annual ryegrass; October 3, 2001 to June 30, 2002. Contact: (Barbara Madden)

EPA authorized the use of clopyralid on cranberries to control lotus, Douglas aster, and clover; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

EPA authorized the use of pendimethalin on mint to control kochia and redroot pigweed; January 1, 2002 to December 31, 2002. Contact: (Libby Pemberton)

B. Federal Departments and Agencies

Environmental Protection Agency

Office of Solid Waste and Emergency Response
Crisis: On November 9, 2001, for the use of chlorine dioxide liquid on structures or other property identified as contaminated or potentially contaminated by *Bacillus anthracis* to control anthrax. This program is expected to end on November 9, 2002. Contact: (Barbara Madden)

On November 16, 2001, for the use of hydrogen peroxide and dimethylbenzyl ammonium chlorides on structures or other property identified as contaminated or potentially contaminated by *Bacillus anthracis* to control anthrax. This program is expected to end on November 16, 2002. Contact: (Barbara Madden)

On November 30, 2001, for the use of chlorine dioxide gas in the Hart Senate Office Building to control anthrax (*Bacillus anthracis*). This program ended on February 1, 2002. Contact: (Barbara Madden)

On December 7, 2001, for the use of ethylene oxide to fumigate items retrieved from Congressional Offices that were contaminated or potentially contaminated by *Bacillus anthracis*. This program is expected to end by December 6, 2002. Contact: (Barbara Madden)

On December 17, 2001, for the use of ethylene oxide to fumigate mail received by the Department of Justice that may have been contaminated or potentially contaminated by *Bacillus anthracis*. This program ended on January 1, 2002. Contact: (Barbara Madden)

List of Subjects

Environmental protection, Pesticides and pest.

Dated: January 30, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–3099 Filed 2–12–02; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7143–5]

Operating Permits Program; Notice of Location of Response Letters to Citizens Concerning Program Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is identifying a website which contains letters from EPA to citizens which respond to the citizens' comments on alleged deficiencies in State and local air operating permits programs. The citizen comments were submitted to EPA as a result of a 90-day comment period EPA provided for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs required by title V of the Clean Air Act (Act). The 90-day comment period was from December 11, 2000, until March 12, 2001.

FOR FURTHER INFORMATION CONTACT: Jeff Herring, C304–04, Information Transfer and Program Integration Division, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711. Telephone: 919–541–3195. Internet address: *herring.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 11, 2000 (65 FR 77376), EPA announced a 90-day comment period during which the public could submit comments identifying deficiencies they perceived to exist in State and local agency operating permits programs required by title V of the Act. The 90-day comment period ended on March 12, 2001.

The December 11, 2000 notice solicited comment from the public regarding either deficiencies in the elements of the approved program, such as deficiencies in the States' approved regulations, or deficiencies in how a permitting authority was implementing its program. The Agency indicated that it would consider information received from the public and determine whether it agreed or disagreed with the purported deficiencies and would then publish notices of those findings. Where the Agency agreed that a claimed shortcoming constituted a deficiency, it indicated it would issue a notice of deficiency. Where the Agency disagreed as to the existence of a deficiency, it indicated it would respond to the citizen comments by December 1, 2001, for comments on programs granted interim approval as of December 11, 2000. For programs granted full approval as of December 11, 2000, EPA indicated it would respond to citizen comments by April 1, 2002.

In accordance with the procedures set forth in the December 11, 2000, notice and outlined above, EPA has issued notices of deficiency for several State permitting authorities in connection with the citizen comment letters submitted pursuant to the December 11, 2000, notice. Notices of deficiency have been published in the **Federal Register** for the following permitting authorities:

Permitting authority	Citation
State of Michigan	66 FR 64038, December 11, 2001.
State of Indiana	66 FR 64039, December 11, 2001.
District of Columbia	66 FR 65947, December 21, 2001.
State of Washington	67 FR 72, January 2, 2002.
State of Texas	67 FR 732, January 7, 2002.

Also in accordance with the December 11, 2000, notice, EPA has issued Agency response letters to citizen comments which explain EPA's reasoning in those instances where the Agency disagrees that particular alleged problems constitute deficiencies within the meaning of part 70. The EPA hereby notifies the public that these letters are available via the internet at the following web address: *(http://www.epa.gov/air/oaqps/permits/response/)*. The EPA notes further that the terms ''deficiency'' and ''notice of deficiency'' are terms of art under the operating permits regulations in part 70. Thus, as explained in our letters responding to citizen comments, in some instances where EPA declined to issue a notice of deficiency, it was because the Agency disagreed that there was a problem with the State program or its implementation that requires correction. In other instances, however, EPA agreed in whole or in part with commenters that a program was not being properly implemented but nevertheless did not issue a notice of deficiency. Rather, EPA determined that the alleged deficiency had been corrected because the State had made a firm commitment to correct program implementation shortcomings where that could be accomplished on a timely basis by the State administratively without additional rulemaking or legislation.

Background

Pursuant to section 502(b) of the Act, EPA has promulgated regulations establishing the minimum requirements for State and local air agency operating permits programs. We promulgated these regulations on July 21, 1992 (57 FR 32250), in part 70 of title 40, chapter I, of the Code of Federal Regulations. Section 502(d) of the Act requires each State to develop and submit to EPA an operating permits program meeting the requirements of the part 70 regulations and requires us to approve or disapprove the submitted program. In some cases, States have delegated authority to local city, county, or district air pollution control agencies to administer operating permits programs in their jurisdictions. These operating permits programs must meet the same requirements as the State programs. In accordance with section 502(g) of the Act and 40 CFR 70.4(d), for 99 State and local operating permits programs, we granted ''interim'' rather than full approval because the programs substantially met, but did not fully meet, the provisions of part 70. For interim approved programs, we identified in the notice of interim approval those program deficiencies that would have to be corrected before we could grant the program full approval. As of December 11, 2000, some of those 99 programs had since been granted full approval and the remainder still had interim approval status.

After a State or local permitting program is granted full or interim approval, EPA has oversight of the program to insure that the program is implemented correctly and is not changed in an unacceptable manner. Section 70.4(i) of the part 70 regulations requires permitting authorities to keep us apprised of any proposed program modifications and also to submit any program modifications to us for approval. Section 70.10(b) requires any approved operating permits program to be implemented '' * * * in accordance with the requirements of this part and of any agreement between the State and the Administrator concerning operation of the program.''

Furthermore, §§ 70.4(i) and 70.10(b) provide authority for us to require permitting authorities to correct program or implementation deficiencies. As explained previously, EPA has exercised these authorities by in some instances issuing notices of deficiency and in other instances issuing letters explaining why we do not agree that deficiencies exist.

Dated: February 5, 2002.

Anna B. Duncan,

Acting Director, Information Transfer and Program Integration Division.

[FR Doc. 02–3548 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting Thursday, February 14, 2002

February 7, 2002.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 14, 2002, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Common Carrier	*Title:* Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; and Universal Service Obligations of Broadband Providers. *Summary:* The Commission will consider a Notice of Proposed Rule Making initiating a thorough examination of the appropriate legal and policy framework under the Communications Act of 1934, as amended, for broadband access to the Internet provided over domestic wireline facilities.
2	Common Carrier	*Title:* Federal-State Joint Board on Universal Service (CC Docket No. 96–45); 1998 Biennial Regulatory Review (CC Docket No. 98–171); Telecommunications Services for Individuals with Hearing and Speech Disabilities (CC Docket No. 90–571); Administration of the North American Numbering Plan (CC Docket No. 92–327); Number Resource Optimization (CC Docket No. 99–200); Telephone Number Portability (CC Docket No. 95–116); and Truth-in-Billing and Billing Format (CC Docket No. 98–170). *Summary:* The Commission will consider a Further Notice of Proposed Rulemaking and Order concerning the system for assessment and recovery of universal service contributions.

Item No.	Bureau	Subject
3	Mass Media	*Title:* Reexamination of the Comparative Standards for Noncommercial Educational Applicants (MM Docket No. 95–31); and Association of America's Public Television Stations' Motion for Stay of Low Power Television Auction (No. 81). *Summary:* The Commission will consider a Second Further Notice of Proposed Rule Making to adopt new procedures for licensing spectrum in which both commercial and noncommercial educational entities have an interest.
4	International	*Title:* Amendment of the Commission's Space Station Licensing Rules and Policies; and 2000 Biennial Regulatory Review—Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of and Spectrum Usage by Satellite Network Earth Stations and Space Stations (IB Docket No. 00–248). *Summary:* The Commission will consider a Notice of Proposed Rule Making and First Report and Order inviting comments on revising the procedures for considering satellite license applications.
5	Consumer Information	*Title:* Establishment of Rules Governing Procedures to Be Followed When Informal Complaints Are Filed by Consumers Against Entities Regulated by the Commission; and Amendment of Subpart E of Chapter 1 of the Commission's Rules Governing Procedures to Be Followed When Informal Complaints Are Filed Against Common Carriers—2000 Biennial Regulatory Review (CC Docket No. 94–93). *Summary:* The Commission will consider a Notice of Proposed Rule Making to establish a uniform consumer complaint process applicable to all services regulated by the Commission which are not currently covered by the common carrier informal complaint rules.
6	Office of Engineering and Technology	*Title:* Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153). *Summary:* The Commission will consider a First Report and Order to provide for new ultra-wideband devices.
7	Wireless Tele-Communications and Office of Engineering and Technology.	*Title:* The 4.9 GHz Band Transferred from Federal Government Use (WT Docket No. 00–32). *Summary:* The Commission will consider a Second Report and Order regarding the allocation and designation of the 4940–4990 MHz band; and a Further Notice of Proposed Rule Making concerning the service rules for this band.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@apl.com*

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 834–1470 Ext. 10. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <*http://www.fcc.gov/realaudio/*>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–3576 Filed 2–8–02; 4:38 pm]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 2:25 p.m. on Thursday, February 7, 2002, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution activities.

In calling the meeting, the Board determined, on motion of Director James E. Gilleran (Director, Office of Thrift Supervision), seconded by Director John M. Reich (Appointive), concurred in by Chairman Donald E. Powell, and Ms. Julie L. Williams, acting in the place and stead of Director John D. Hawke, Jr. (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B))

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: February 8, 2002.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 02–3613 Filed 2–11–02; 10:49 am]

BILLING CODE 6714–01–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.: 011325–027.

Title: Westbound Transpacific Stabilization Agreement.

Parties: American President Lines, Ltd. and APL Co. PTE Ltd. (operating as a single carrier) A.P. Moller-Maersk Sealand, China Ocean Shipping (Group) Co., Evergreen Marine Corporation, Hanjin Shipping Company, Ltd., Hapag-Lloyd Container Linie GmbH, Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line Limited, P&O Nedlloyd B.V., P&O Nedlloyd Limited., Yangming Marine Transport Corp.

Synopsis: The proposed amendment authorizes the parties to establish a reefer trade management program whereby participating members will have certain program shares designated for one-year periods and will pay for overcarriage or receive payments for undercarriage of containerized refrigerated cargoes.

Agreement No.: 011737–004.

Title: The MCA Agreement.

Parties: Allianca Navegacao E. Logistica Ltda., Antillean Marine Shipping Corporation CMA CGM S.A., Compania Chilena De Navegacion Interoceanica S.A., Companhia Libra de Navegacao, Compania Sud Americana de Vapores S.A., CP Ships (UK) Limited d.b.a. ANZDL and d.b.a. Contship Containerlines, Crowley Liner Services, Inc., Dole Ocean Cargo Express, Far Eastern Shipping Company, Hamburg Sud d.b.a. Columbus Line and d.b.a. Crowley, American Transport, Hapag-Lloyd Container Linie, King Ocean Central America S.A., King Ocean Service De Colombia S.A., King Ocean Service De Venezuela S.A., Lykes Lines Limited, LLC, Montemar Maritima S.A., Norasia Container Line Limited, Tecmarine Lines, Inc., TMM Lines Limited LLC, Tropical Shipping & Construction Co., Ltd., Wallenius Wilhelmsen Lines AS.

Synopsis: The proposed amendment adds Companhia Libra de Navegacao, Compania Sud Americana de Vapores S.A., CP Ships (UK) Limited d.b.a. ANZDL and d.b.a. Contship Containerlines, Dole Ocean Cargo Express, Inc., Hapag-Lloyd Container Linie, Montemar Maritima S.A., Norasia Container Line Limited, and Wallenius Wilhelmsen Lines AS as parties to the agreement. The amendment also corrects the name of Mexican Line Limited to TMM Lines Limited, LLC and changes the name of the administrators of the agreement from Maritime Credit Alliance, Inc. to Maritime Credit Alliance, LLC.

Agreement No.: 011789.

Title: Contship/Zim Indian Subcontinent Space Charter Agreement.

Parties: Contship Containerlines, a division of CP Ships (UK) Limited, Zim Israel Navigation Company Ltd.

Synopsis: The proposed agreement authorizes Zim to charter space from Contship on vessels operated under F.C. Agreement No. 011692 from the U.S. East Coast to ports in the Indian Subcontinent.

Agreement No.: 201114–001.

Title: Oakland Evergreen Terminal Use Agreement.

Parties: City of Oakland: Board of Port Commissioners Evergreen Marine Corp. (Taiwan) Ltd., Lloyd Triestino di Navigazione S.p.A.

Synopsis: The amendment adds an additional party. The agreement continues to run through July 31, 2005.

Agreement No.: 201128.

Title: Florida Ports Conference II.

Parties: Canaveral Port Authority, Broward County, Port Everglades Department, Jacksonville Port Authority, Port of Key West, Manatee County Port Authority, Miami-Dade County, Port of Miami, Ocean Highway and Port Authority, Nassau County, Port of Palm Beach District, Panama City Port Authority, City of Pensacola, Port of Pensacola, Tampa Port Authority.

Synopsis: The proposed agreement will establish a voluntary discussion and cooperative working agreement authorizing the parties to confer, discuss, and agree on rates, charges, practices regulations, definitions, administration, and matters of interest to the ports. It will supercede the present Florida Ports Conference, F.C. Agreement No. 200887.

Agreement No.: 201129.

Title: Port Manatee Warehouse Lease Agreement.

Parties: Manatee County Port Authority, WSI of The Southeast, L.L.C.

Synopsis: The agreement is a lease for a warehouse and is effective through December 31, 2003.

Dated: February 8, 2002.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–3523 Filed 2–12–02; 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 Applicant:

GSA Shipping, Inc., 500 W. 140th Street, Gardena, CA 90248. Officers:, Marq Shim, President, (Qualifying Individual), John Kim, General Manager.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant:

Fastcarga, LLC, 2111 NW 79th Avenue, Miami, FL 33122. Officers: Michael P. McCarthy, Traffic Manager, (Qualifying Individual), Carolina Avelianeda, Operation Manager.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

Air Sea Transport Inc., 268 Howard Avenue, Des Plaines, IL 60018. Officers: Frank Ku, President, (Qualifying Individual), Tommy Shing, Vice President.

M & N Seatank Agencies, Inc., 118 East 92nd Street, #3D, New York, NY 10128. Officers: Evangelos N. Sakellarios, President, (Qualifying Individual), Nicholas E. Sakellarios, Vice President.

Ridgeway International (USA) Inc., 1080 Military Turnpike, Plattsburgh, NY 12901. Officers: Wendy Wray, Compliance Officer, (Qualifying Individual), Guy M. Tombs, President.

Dated: February 8, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–3524 Filed 2–12–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 27, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Randi Lynn Cohen, Owings Mills, Maryland; to acquire additional voting shares of Maryland Permanent Capital Corporation, Owings Mills, Maryland, and thereby indirectly acquire additional voting shares of Maryland Permanent Bank and Trust Company, Owings Mills, Maryland.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Benjamin Louis Doskocil, Sr., Arlington, Texas; to acquire additional voting shares of ANB Financial Corporation, Arlington, Texas, and thereby indirectly acquire additional voting shares of Arlington National Bank, Arlington, Texas.

Board of Governors of the Federal Reserve System, February 7, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–3397 Filed 2–12–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System

TIME AND DATE: 11:00 a.m., Tuesday, February 19, 2002.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR MORE INFORMATION PLEASE CONTACT: Michelle Smith, Assistant to the Board at 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 11, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–3651 Filed 2–11–02; 12:34 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Office of Communications; Revision of SF 820, Review of Federal Advisory Committees

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA), Office of Governmentwide Policy revised the SF 820, Review of Federal Advisory Committees to remove unneeded information and collect additional data that will improve the operation of the program. You can access this form from the following web site: *http://www.facadatabase.gov.*

FOR FURTHER INFORMATION CONTACT: Charles Howton, General Services Administration, (202) 273–3561.

DATES: Effective February 13, 2002.

Dated: February 4, 2002.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General services Administration.

[FR Doc. 02–3448 Filed 2–02–02; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0235]

Submission for OMB Review; Comment Request Entitled Price Reductions Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of a request for an extension to an existing OMB clearance 3090–0235, Price Reductions Clause.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration, Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Price Reductions Clause. A request for public comments was published at 66 FR 54772, October 20, 2001. No comments were received.

Public comments are particularly invited on: Whether the information collection generated by the GSAR Clause, Price Reductions is necessary to determine an offeror's price is fair and reasonable; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: *Comment Due Date:* March 15, 2002.

ADDRESSES: Comments regarding this collection of information should be submitted to Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration, Acquisition Policy Division, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Office of GSA Acquisition Policy (202) 208–6750.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0235, Price Reductions Clause. The Price Reductions Clause used in multiple award schedule contracts ensures that the Government maintains its relationship with the contractor's customer or category of customers, upon which the contract is predicated.

B. Annual Reporting Burden

Number of Respondents: 9,547.

Total Annual Responses: 19,094.

Percentage of these responses: 100 *collected electronically.*

Average hours per response: 7.5 hours.

Total Burden Hours: 143,205.

Obtaining Copies of Proposals: Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4744. Please cite OMB Control No. 3090–0235, Price Reductions Clause.

Dated: January 29, 2002.

Al Matera,

Director, Acquisition Policy Division

[FR Doc. 02–3533 Filed 2–12–02; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Government Travel and Transportation Policy; National Travel Forum 2002

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) is announcing that it will hold the National Travel Forum 2002: Excellence in Government Travel and Transportation (NTF 2002) on June 17–20, 2002, at the Opryland Hotel in Nashville, Tennessee. Nearly 1,500 travel, transportation and other professionals within Federal, State, and local governments, as well as the private sector will attend. Much of the focus will be on travel and transportation safety, electronic travel, the Federal Premier Lodging Program and revised travel rules. Also included will be best practices in Government travel and transportation, retirement of the Government Bill of Lading (GBL) and adoption of Commercial Bills of Lading (CBLs), implementation of order entry systems and unique numbering systems, promotional items, as well as a full range of other travel and transportation topics. To attend, exhibit, or hold an agencywide meeting, visit the web site at *www.nationaltravel2002.org.*

FOR FURTHER INFORMATION CONTACT: Jane Graot, Federal Travel Regulation, Office of Governmentwide Policy, at (202) 501–4318, or by e-mail to *jane.groat@gsa.gov.*

Dated: February 7, 2002.

Timothy J. Burke,

Director, Travel Management Division.

[FR Doc. 02–3449 Filed 2–12–02; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration).

ACTION: Notice of modified or altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an SOR, ''Long Term Care-Minimum Data Set' (LTCMDS), System No. 09–70–1516. We propose to assign a different CMS sequential identification number this system to correct the inadvertent publication of 2 CMS systems with the same system identifying number. The new identifying number for this system should read: System No. 09–70–1517. We propose to broaden the purpose to include the administration of payment for hospital swing bed services. To assist in this purpose, we will add a new routine use to permit certain disclosures to national accrediting organizations. We will also delete published routine use number 2 pertaining to the ''Bureau of the Census,'' number 5 pertaining to contractors, number 6 pertaining to an agency of a state government or an agency established by state law, number 7 pertaining to another Federal agency, number 8 pertaining to certain contractors, and numbers 9, 10, and 11 pertaining to disclosures to combat fraud and abuse in certain health benefits programs.

Routine use number 2 unnecessarily duplicated Exception 4 of the Privacy Act allowing release of data to the Bureau of the Census. Disclosures authorized under published routine use number 5 will be permitted by proposed routine use number 1. Disclosures permitted under routine uses number 6, and 7 will be made a part of proposed routine use number 2. The scope of routine use number 2 will be broaden to allow for release of information to ''another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent.'' Disclosures authorized under published routine use number 8 will be permitted by proposed routine use number 4 authorizing release to Peer Review Organizations (PRO). We propose to delete routine use number 11 and modify routine uses number 9 and 10 to combat fraud and abuse in certain Federally funded health care programs.

The security classification previously reported as ''None'' will be modified to reflect that the data in this system is considered to be ''Level Three Privacy Act Sensitive.'' We are modifying the language in the remaining routine uses to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the system is to aid in the administration of the survey and certification, and payment of Medicare Long Term Care services, which include skilled nursing facilities (SNFs), nursing facilities (NFs) SNFs/NFs, and hospital swing beds, and to study the effectiveness and quality of care given in those facilities. Information in this system will also be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) Peer Review Organizations (PRO); (4) other insurers for processing individual insurance claims; (5) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (6) support constituent requests made to a congressional representative; (7) support litigation involving the Agency; (8) combat fraud and abuse in certain health benefits programs, and (10) national accrediting organizations. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

Effective Dates: CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 7, 2002. To ensure that all parties have adequate time in which to comment, the modified or

altered SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution, CMS, Mail-stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Helene Fredeking, Director, Division of Outcomes and Improvements, Center for Medicaid and State Operations, CMS, 7500 Security Boulevard, S2–14–26, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–7304.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified System

A. Background

CMS published a notice that identified a newly established SOR, ''Long Term Care Minimum Data Set,'' System No. 09–70–1516 at 63 **Federal Register** (FR) 28396 (May 22, 1998). Additional global routine uses affecting this system were published at 63 FR 38414 (July 16, 1998) (added three fraud and abuse uses), and 65 FR 50552 (Aug. 18, 2000) (deleted one and modified two fraud and abuse uses).

B. Statutory and Regulatory Basis for System

Authority for maintenance of the system is given under sections 1102(a), 1819(b)(3)(A), 1819(f), 1919(b)(3)(A), 1919(f), and 1864 of the Social Security Act (the Act).

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The system contains information related to Medicare enrollment and entitlement and Medicare Secondary Payer (MSP) data containing other party liability insurance information necessary for appropriate Medicare claim payment. It contains hospice election, premium billing and collection, direct billing information, and group health plan enrollment data. The system also contains the individual's health insurance numbers, name, geographic location, race/ethnicity, sex, and date of birth.

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release LTCMDS information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use. We will only disclose the minimum personal data necessary to achieve the purpose of LTCMDS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, e.g., developing and refining payment systems, determine effectiveness, and monitoring the quality of care provided to patients.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the LTCMDS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We have provided a brief explanation of the routine uses we are proposing to establish or modify for disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been engaged by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies in their administration of a Federal health program may require LTCMDS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided;

In addition, other state agencies in their administration of a Federal health program may require LTCMDS information for the purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the state;

The Social Security Administration may require LTCMDS data to enable them to assist in the implementation and maintenance of the Medicare program;

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Act, and for the administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state;

We also contemplate disclosing information under this routine use in situations in which state auditing agencies require LTCMDS information for auditing state Medicaid eligibility considerations. CMS may enter into an agreement with state auditing agencies to assist in accomplishing functions relating to purposes for this system.

3. To PROs in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

PROs will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. PROs will assist the state agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

4. To insurance companies, underwriters, third party administrators (TPA), employers, self-insurers, group health plans, health maintenance organizations (HMO), health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, liability insurers, no-fault medical automobile insurers, workers compensation carriers or plans, other groups providing protection against medical expenses without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting (a) an individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the MSP provision at 42 U.S.C. 1395y (b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific function. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

Other insurers may require LTCMDS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

5. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

LTCMDS data will provide research, evaluations and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

6. To a Member of Congress or congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries often request the help of a Member of Congress in resolving an issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

7. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

8. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend

against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require LTCMDS information for the purpose of combating fraud and abuse in such Federally funded programs.

10. To a national accrediting organization whose accredited facilities are presumed to meet certain Medicare requirements for inpatient hospital (including swing beds) services; e.g., the Joint Commission for the Accrediting of Healthcare Organizations (JCAHO). Information will be released to accrediting organizations only for those facilities that they accredit and that participate in the Medicare program.

CMS anticipates providing those national accrediting organizations with LTCMDS information to enable them to target potential or identified problems during the organization's accreditation review process of that facility.

B. Additional Circumstances Affecting Routine Use Disclosures

This SOR contains Protected Health Information as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, 65 FR 82462 (12–28–00), as amended by 66 FR 12434 (2–26–01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.''

In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

A. Administrative Safeguards

The LTCMDS system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: The Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act (PRA) of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix III, ''Security of Federal Automated Information Resources.'' CMS has prepared a comprehensive system security plan as required by the OMB Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, ''Guide for Developing Security Plans for Information Technology Systems.'' Paragraphs A–C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

Authorized users: Personnel having access to the system have been trained in Privacy Act and systems security requirements. Employees and contractors who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. In addition, CMS is monitoring the authorized users to ensure against excessive or unauthorized use. Records are used in a designated work area or workstation and the system location is attended at all times during working hours.

To assure security of the data, the proper level of class user is assigned for each individual user as determined at the Agency level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- Database Administrator class owns the database objects, e.g., tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects;
- Quality Control Administrator class has read and write access to key fields in the database;
- Quality Indicator Report Generator class has read-only access to all fields and tables;
- Policy Research class has query access to tables, but are not allowed to access confidential patient identification information; and
- Submitter class has read and write access to database objects, but no database administration privileges.

A. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the LTCMDS system: Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination which grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System (AIS) resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- User Log-ons—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.
- Workstation Names—Workstation naming conventions may be defined and implemented at the Agency level.
- Hours of Operation—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the Agency level.
- Inactivity Log-out—Access to the NT workstation is automatically logged out after a specified period of inactivity.
- Warnings—Legal notices and security warnings display on all servers and workstations.
- Remote Access Services (RAS)—Windows NT RAS security handles resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security as stated previously in this section. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the Modified System on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will

collect, use, and disseminate information only as prescribed therein.

We will only disclose the minimum personal data necessary to achieve the purpose of LTCMDS. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of data in this system.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: January 30, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

09–70–1517

SYSTEM NAME:

''Long Term Care-Minimum Data Set (LTCMDS),'' Department of Health and Human Services (HHS)/Centers for Medicare & Medicaid Services (CMS)/ Center for Medicaid and State Operations (CMSO).

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850, and at various other remote locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Residents in all long-term care facilities that are Medicare and/or Medicaid certified, including private pay individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the individual's health insurance numbers, name, geographic location, race/ethnicity, sex, date of birth, as well as clinical status data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under sections 1102(a), 1819(b)(3)(A), 1819(f), 1919(b)(3)(A), 1919(f), and 1864 of the Social Security Act (the Act).

PURPOSE(S):

The primary purpose of the system is to aid in the administration of the survey and certification, and payment of Medicare Long Term Care services, which include skilled nursing facilities (SNFs), nursing facilities (NFs) SNFs/ NFs, and hospital swing beds, and to study the effectiveness and quality of care given in those facilities. Information in this system will also be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) Peer Review Organizations (PRO); (4) other insurers for processing individual insurance claims; (5) facilitate research on the quality and effectiveness of care provided, as well as payment related projects; (6) support constituent requests made to a congressional representative; (7) support litigation involving the Agency; (8) combat fraud and abuse in certain health benefits programs, and (10) national accrediting organizations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the LTCMDS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

This SOR contains Protected Health Information as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, 65 FR 82462 (12–28–00), as amended by 66 FR 12434 (2–26–01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). We are proposing to establish or modify the following routine uses for disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been engaged by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

3. To PROs in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

4. To insurance companies, underwriters, third party administrators (TPA), employers, self-insurers, group health plans, health maintenance organizations (HMO), health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, other groups providing protection against medical expenses of their enrollees without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting (a) an individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer (MSP) provision at 42 U.S.C. 1395y (b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific

function. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

5. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

6. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

7. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

8. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

10. To a national accrediting organization whose accredited facilities are presumed to meet certain Medicare requirements for inpatient hospital (including swing beds) services; e.g., the Joint Commission for the Accrediting of Healthcare Organizations. Information will be released to accrediting organizations only for those facilities that they accredit and that participate in the Medicare program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

All Medicare records are accessible by HIC number or alpha (name) search. This system supports both online and batch access.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the LTCMDS system. For computerized records, safeguards have been established in accordance with the Department of Health and Human Services (HHS) standards and National Institute of Standards and Technology guidelines, e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information Systems Security Program; CMS Automated Information Systems Guide, Systems Securities Policies, and Office of Management and Budget Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Outcomes and Improvements, CMSO, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, health insurance claim number, address, date of birth, and sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and social security number (SSN). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

The data contained in these records are furnished by the individual, or in the case of some MSP situations, through third party contacts. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Railroad Retirement Board, and the Master Beneficiary Record maintained by the Social Security Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–3451 Filed 2–12–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel SPORES.
Date: March 12–13, 2002.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Timothy C. Meeker, MD, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852, 301/594–1279.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3418 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Innovative Technologies for the Molecular Analysis of Cancer.
Date: March 6–8, 2002.
Time: 7 pm to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, National Institutes of Health, National Cancer Institute, Special Review, Referral and Resources Branch, 6116 Executive Boulevard, Room 8068, Bethesda, MD 20892, (301) 435–1822.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3419 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Agency 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 Caner Institute Initial Review Group, Subcommittee G—Education.
Date: March 4–6, 2002.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Harvey P. Stein, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8137, Bethesda, MD 20892, (301) 496–7841.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research, 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3420 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, International Tobacco and Health Research and Capacity Building Program.
Date: March 4–5, 2002.
Time: 8 am to 6 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mary Jane Slesinski, PHD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892, 301/594–1566.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology

Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3421 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grant Program for Behavioral Research in Cancer Control.

Date: March 12, 2002.

Time: 8 am to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mary Jane Slesinski, PHD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institute of Health, 6116 Executive Boulevard, Room 8045, Bethesda, MD 20892, 301/594–1566.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3422 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: February 19, 2002.

Time: 1 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Office of Review, National Center for Research Resources, 6705 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles G. Hollingsworth, DRPH, Director, Office of Review, National Center for Research Resources, National Institutes of Health, One Rockledge Drive, Room 6018, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, 301–435–0806, *charlesh@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine.

Date: February 21, 2002.

Time: 8 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eric H. Brown, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, 6075 Rockledge Drive, MSC 7965, One Rockledge Centre, Room 6018, Bethesda, MD 20892–7965, 301–435–0815, *brown@ncrr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: February 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3430 Filed 2–12–02; 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 grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Mentored Patient Oriented Research Career Development Award.

Date: February 8, 2002.

Time: 11 am to 12:15 pm.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Room 4212, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Diane M. Reid, MD, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3434 Filed 2–12–02; 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 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, Cardiac Disease in Children with Chronic Renal Failure.

Date: February 8, 2002.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, (Telephone Conference Call).

Contact: Diane M. Reid, MD, Scientific Review Administrator, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0277.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases of Resources Research, National Institutes of Health, HHS)

Dated: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3435 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research 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 provision set fort in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group, Genome Research Review Committee.

Date: March 5, 2002.

Time: 3 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NHGRI Conference Rm B2B32, 31 Center Dr, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzati, PHD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3444 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research 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 hte following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in other. 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 Human Genome Research Institute Special Emphasis Panel.

Date: March 5, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate granta applications.

Place: NHGRI Conference Rm B2B32, 31 Center Dr., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, PHD, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3445 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: February 12, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Ave., Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Arthur D. Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel.

Date: February 14–15, 2002.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Cleveland Hotel at Playhouse Square, 1260 Euclid Avenue, Cleveland, OH 44115.
Contact Person: Ramesh Vemuri, PHD, National Institute on Aging The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C2212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: February 20–21, 2002.
Time: 6 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Radisson Hotel and Suites Chicago, 160 East Huron Street, Chicago, IL 60611.
Contact Person: Aliccja L. Markowska, PhD, DSC, Scientific Review Office, Gateway Building/Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20817.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: February 24–25, 2002.
Time: 6 p.m. to 5 p.m.
*Agenda:*To review and evaluate grant applications.
Place: Providence Biltmore Hotel, Kennedy Plaza, 11 Dorrance Street, Providence, RI 02903.
Contact Person: James P. Hardwood, PHD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.
Date: March 4–6, 2002.
Time: 6 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: James P. Harwood, PhD, Deputy Chief, Scientific Review Office, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666, *harwood@mail.nih.gov.*

Name of Committee: National Institute of Aging Initial Review Group, Clinical Aging Review Committee.
Date: March 7–8, 2002.
Time: 6 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott, 5151 Pooks Hill Rd, Bethesda, MD 20814.
Contact Person: Alicja L. Markowska, Scientific Review Office, National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *markowsa@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Special Emphasis Panel (SEP).
Date: March 11, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Four Points Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel.
Date: March 13–14, 2002.
Time: 6 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham Checkers, 535 South Grand Avenue, Los Angeles, CA 90071.
Contact Person: Jeffrey M. Chernak, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3423 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''High-throughput Screening of Functional Activity of Proteins Using Biosensor-based, Technology''.
Date: February 14, 2002.
Time: 10 am to 12 pm.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, 301–435–1437.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Novel Drug Delivery System for the Mouse''.
Date: February 21, 2002.
Time: 10 am to 12 pm.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office Of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, 301–435–1437.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards: 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3425 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of 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 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 Dental and Craniofacial Research Special Emphasis Panel 02–39, Review of R13 Grants.

Date: February 13, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PHD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–60, Review of R–44 Grants.

Date: February 21, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–57, Review of R44 Grants.

Date: March 19, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–37, Review of R25 Grants.

Date: March 19, 2002.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PHD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–46, Review of R01 Grants.

Date: March 21, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PHD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3426 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Program Project.

Date: March 25, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 6001 Executive Boulevard, Suite 3158, Bethesda, MD 20892–9547, (Telephone Conference Call).

Contact Person: Khursheed Asghar, PHD, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9574, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93–277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3427 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual other conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: March 10–12, 2002.

Closed: March 10, 2002, 8 p.m. to 9:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27709.

Open: March 11, 2002, 8:30 a.m. to 5 p.m.

Agenda: An overview of the organization and conduct of research in the Laboratory of Reproductive & Developmental Toxicology.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: March 12, 2002, 8:30 AM to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27709

Contact Person: Steven K. Akiyama, PhD, Acting Deputy Scientific Director, Division of Intramural Research, Nat. Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, MSC A2–09, Research Triangle Park, NC 27709, 919/541–3467, akiyama@niehs.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3428 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of P01 Applications.

Date: February 19–21, 2002.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Hotel-Denver, Stapleton Plaza, 3333 Quebec Street, Denver, CO 80207.

Contact Person: Brenda K. Weis, PHD, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes of Environmental Health Sciences, P.O. Box 12233, MD/EC–30, Research Triangle Park, NC 27709, 919/541–4964.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel To Review Program Project Applications.

Date: March 4–6, 2002.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 120 West Broadway, Louisville, KY 40202.

Contact Person: Linda K. Bass, PHD, Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3431 Filed 2–12–02; 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 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 Mental Health Special Emphasis Panel.

Date: February 21, 2002.

Time: 1 p.m. to 3 p.m.

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.

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. 93.242, 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: February 1, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3432 Filed 2–12–02; 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.

Date: March 12, 2002.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Adriana Costero, PHD, Scientific Review Administrator, NIAID/DEA, Scientific Review Program, Room 2217, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 2089–2761, 301–496–2550.

(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: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3438 Filed 2–12–02; 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, 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 ''Statistical and Clinical Coordinating Center: Immunologic Approaches to Reduce Asthma''.

Date: February 21, 2002.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract 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, *pm18b@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: February 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3439 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed 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 of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Review of Program Project Applications.

Date: March 4–6, 2002.

Time: 7 pm to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, Two Albany Street, New Brunswick, NJ 08901.

Contact Person: Ethel B. Jackson, DDS Chief, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–7846, *jackson4@niehs,nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resoruces and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3440 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: March 12, 2002.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Carolyn Miles, PhD, Scientific Research Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: March 20, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Blvd., Room 756, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maxine Lesniak, Scientific Research Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3441 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice of 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 Diabetes and Digestive and Kidney Diseases Initial Review Group Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: March 7–8, 2002.

Time: 12 pm to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20853.

Contact Person: Michele L. Barnard, Ph.D., Scientific Research Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 657, 6707 Democracy Boulevard, Bethesda, MD 20892, 301/594–8898.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Kidney, Urologic and Hematologic D Subcommittee.

Date: March 8, 2002.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Neal A. Musto, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 750, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7798, *muston@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Digestive Diseases and Nutrition C Subcommittee.

Date: March 12–13, 2002.

Time: 1 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

Contact Person: Carolyn Miles, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metalobic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3442 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: February 28, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Blvd., Room 746, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 746, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, 301–594–7637, *davila-bloomm@extra.niddk.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3443 Filed 2–12–02; 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 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 21, 2002.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 6700–B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yen Li, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550, *yli@niaid.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: February 6, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3446 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: March 7–8, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: RAC will review and discuss: selected human gene transfer protocols; data management activities related to human gene transfer clinical trials; informed consent issues; Liver-Directed Gene Transfer of rAAV for Hemophilia B; Update of Clinical Protocol and Data. The RAC meeting will be Web cast and can be viewed at *http://www.webconferences.com/nihoba* during the meeting.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Laurie Harris, RAC Program Assistant, Office of Biotechnology Activities, Rockledge 1, Room 750, Bethesda, MD 20892, 301–496–9839.

Information is also available on the Institute's/Center's home page: *www4.od.nih.gov/oba/,* where an agenda and any additional Information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions tot he information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 5, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3429 Filed 2–12–02; 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: Surgery, Radiology and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: February 20–21, 2002.

Time: 1 pm to 1 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Mirage I, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Gerald L. Becker, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170.

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 21, 2002.

Time: 3 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia Greenwel, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2175, MSC 7818, Bethesda, MD 20892, (301) 435–1169, *greenwelp@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 24–26, 2002.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Mushtaq A. Khan, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, (301) 435–1778, *khanm@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 24, 2002.

Time: 6:30 pm to 9:30 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Prabha L. Atreya, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7842, Bethesda, MD 20892, (301) 435–8367.

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: Genetic Sciences Integrated Review Group, Genome Study Section.

Date: February 24–26, 2002.

Time: 7:30 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sally Ann Amero, Ph.D. Scientific Review Administrator, Center for Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC7890, Bethesda, MD 20892–7890, 301–435–1159, *ameros@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: Oncological Sciences Integrated Review Group, Metabolic Pathology Study Section.
Date: February 24–26, 2002.
Time: 7:30 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street NW., Washington, DC 20007.
Contact Person: Angela Y. Ng, Ph.D. MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, 301–435–1715, *nga@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 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

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: Endocrinology and Reproductive Sciences Integrated Review Group, Human Embryology and Development Subcommittee 1.
Date: February 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Michael Knecht, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046.

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 25–26, 2002.
Time: 8 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, Washington, DC 20037.
Contact Person: Gloria B. Levin, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, *leving@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 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Nadarajen A. Vydelingum, Ph.D. Scientific Review Administrator, Special Study Section—8, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, MSC 7854, Rm 5122, Bethesda, MD 20892, (301) 435–1176, *vydelinn@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 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, NW., Bethesda, MD 20814.
Contact Person: Dharam S. Dhindsa, DVM, Ph.D. 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.*

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: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Alcohol and Toxicology Subcommittee 3.
Date: February 25–26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham Washington Hotel, 1400 M Street NW., Washington, DC 20005–2750.
Contact Person: Christine Melchior, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7816, Bethesda, MD 20892, (301) 435–1713.

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: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Nursing Research Study Section.
Date: February 25–26, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.
Contact Person: Gertrude McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784.

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: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 4.
Date: February 25–26, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Cheri Wiggs, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

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: Pathophysiological Sciences Integrated Review Group, Lung Biology and Pathology Study Section.
Date: February 26–28, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel & Suites, 2033 M Street, NW., Washington, DC 20036.
Contact Person: George M. Barnas, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0696, *george_barnas@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Peter J. Perrin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Pathology A Study Section.
Date: February 26–27, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Virology Study Section.
Date: February 26–27, 2002.
Time: 8:30 am to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Rona L. Hirschberg, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7808, Bethesda, MD 20892, (301) 435–1150.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26–27, 2002.
Time: 9 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245. *richard.marcus@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 3 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2002.
Time: 7 pm to 11 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.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–28, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Gopal C. Sharma, DVM, MS, Ph.D. Diplomat American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *sharmag@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Microbial Physiology and Genetics Subcommittee 1.
Date: February 27–28, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.
Contact Person: Alicia J. Dombroski, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, 301–435–1149, *dombrosa@csr.nih.gov.*

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, General Medicine A Subcommittee 1.
Date: February 27–28, 2002.
Time: 8:30 am to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Harold M. Davidson, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1776, *davidsoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–28, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.
Contact Person: Gertrude K. McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4110, MSC 7816, Bethesda, MD 20892, (301) 435–1784, *mcfarlag@drg.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27, 2002.
Time: 10 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Royal Sonesta Hotel, 300 Bourbon Street, New Orleans, LA 70140–1014.
Contact Person: Charles N. Rafferty, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, Bethesda, MD 20892, (301) 435–3562.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–March 1, 2002.
Time: 7:30 pm to 10:30 am.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Noni Byrnes, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, 301–435–1217, *byrnesn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 27–March 1, 2002.
Time: 8 pm to 2 pm.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.
Contact Person: Peter J. Perrin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–March 1, 2002.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Richard D. Rodewald, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, (301) 435–1024, *rodewalr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–March 1, 2002.
Time: 8 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: La Jolla Coves Suites, 1155 Coast Blvd., La Jolla, CA 92037.
Contact Person: Tracy E. Orr, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 5118, Bethesda, MD 20892, (301) 435–1259, *orrt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–March 1, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.
Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, 301–435–0676, *siroccok@csr.nih.gov.*

Name of Committee: Immunological Sciences Integrated Review Group, Immunological Sciences Study Section.
Date: February 28–March 1, 2002.
Time: 8:30 am to 6 pm.
Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Alexander D. Politis, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, *politisa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Harold M. Davidson, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1777, *davidsoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 PM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Ann Guadagno. Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7770, Bethesda, MD 20892, (301) 451–8011.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sally Ann Amero, Ph.D. Scientific Review Administrator, Center for Scientific Review, Genetic Sciences Integrated Review Group, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892–7890, 301–435–1159, *ameros@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28, 2002.

Time: 2 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael A. Oxman, Ph.D. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892, 301/435–3565, *oxmanm@mail.nih.gov.*

(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: February 5, 2002.

Laverne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3424 Filed 2–12–02; 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 meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552(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 7, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892, (301) 435–1783, *shamag@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: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Imaging Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: LaJolla 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.

Name of Committee: Nutrional and Metabolic Sciences Integrated Review Group, Metabolism Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892, (301) 435–4514.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Diagnostic Radiology Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant appliations.

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, *bradleye@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group, Physiological Chemistry Study Section.

Date: February 21–22, 2002.

Time: 8 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 21, 2002.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 7.

Date: February 21–22, 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: Joanne T. Fujii, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435–1178, *fujiij@drg.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 8.

Date: February 21–22, 2002.

Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892, (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Washington, 515 15th Street, NW., Washington, DC 20004.
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: Cell Development and Function Integrated Review Group, Cell Development and Function 1.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.
Contact Person: Michael H. Sayre, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *sayrem@csr.nih.gov*.

Name of Committee: Immunological Sciences Integrated Review Group, Allergy and Immunology Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Wyndham City Center, 1143 New Hampshire Avenue NW., Washington, DC 20037.
Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892, (301) 435–1152, *edwardss@csr.nih.gov*.

Name of Committee: Cell Development and Function Integrated Review Group, International and Cooperative Projects Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7840, Bethesda, MD 20892, (301) 435–1019.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Biophysical Chemistry Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.
Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, (301) 435–1153.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Experimental Virology Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892, 301 435–1050, *freundr@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 6.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Radison Barcelo Hotel, 2121 P Street, NW., Washington, DC 20037.
Contact Person: Michael Nunn, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *nunnm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 8:30 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, 1250 22nd Street, NW., Washington, DC 20037.
Contact Person: Jay Cinque, MSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252.

Name of Committee: Biochemical Sciences Integrated Review Group, Biochemistry Study Section.
Date: February 21–22, 2002.
Time: 8:30 am to 3 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Bethesda, MD 20815.
Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739, *gangulyc@csr.nih.gov*.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Bio-Organic and Natural Products Chemistry Study Section.
Date: February 21–22, 2002.
Time: 8:45 AM to 1 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, (301) 435–1728, *radtkem@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 9 AM to 6 PM.
Agenda: To review and evaluate grant applications.
Place: Madison Hotel, Fifteenth & M Streets NW., Washington, DC 20005.
Contact Person: Ellen K. Schwartz, EDD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, (301) 435–0681, *schwarte@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21–22, 2002.
Time: 9 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, Versailles III, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Mary Ann Guadagno, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7770, Bethesda, MD 20892, (301) 451–8011.

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 3.
Date: February 21–22, 2002.
Time: 9 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
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: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Social Sciences, Nursing, Epidemiology and Method 3.
Date: February 21–22, 2002.
Time: 9 am to 4 pm.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Robert Weller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694.

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 6.
Date: February 21–22, 2002.
Time: 9 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Anita Miller Sostek, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, (301) 435–1260.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Social Sciences, Nursing, Epidemiology and Method 2.
Date: February 21–22, 2002.
Time: 9 AM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Yvette Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–0906.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 21, 2002.
Time: 4:30 p.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Thomas A. Tatham, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *tathamt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 22, 2002.
Time: 7 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 3.
Date: February 22–23, 2002.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin St. Francis, 355 Powell Street, San Francisco, CA 94102.
Contact Person: Michael A. Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 22, 2002.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW., Washington, DC 20037.
Contact Person: Calbert A. Laing, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, (301) 435–1221, *laingc@csr.nih.gov.*

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Metallobiochemistry Study Section.
Date: February 22, 2002.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW., Washington, DC.
Contact Person: Janet Nelson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1723, *nelsonj@csr.nih.gov.*

(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: February 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–3433 Filed 2–12–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, DHHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2002 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreements for the Comprehensive Community Mental Health Services For Children and Their Families Program, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application. Please note that, by statutory mandate, this program requires that the applicant entity will provide, directly or through donations from public or private entities, non-federal contributions. These matching requirements are further detailed in Part I of the GFA.

Activity	Application deadline	Estimated funds FY 2001	Estimated number of awards	Project period
Cooperative Agreements for the Comprehensive Community Mental Health Service for Children and Their Families Program.	April 26, 2002 ..	$13 million	13–16	6 years

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310.

SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which

includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: Knowledge Exchange Network, P.O. Box 42490, Washington, DC 20015, 800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS) announces the availability of fiscal year (FY) 2002 funds for grants to develop systems of care that deliver effective comprehensive community mental health services for children and adolescents with serious emotional disturbance and their families. The cooperative agreements will award funds to develop community service systems for the target population, and also to fund a broad array of services within these community service systems.

Eligibility: Under Federal regulations, eligibility is limited to state governments, Indian tribes or tribal organizations (as defined in section 4(b) and section 4(c) of the Indian Self-determination and Education Assistance Act), political subdivision of a state (e.g., a county or city), the District of Columbia, and the territories of Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. This program has specific limitations on eligibility that are further detailed in Part I, Cooperative Agreements for the Comprehensive Community Mental Health Services For Children and Their Families Program.

Availability of Funds: In FY 2002, approximately $13,000,000 will be available for the total costs (direct and indirect) of 13 to 16 awards. Awards will be made in annual increments. Actual funding levels will vary depending on the availability of appropriated funds.

Period of Support: An award may be requested for a project period of up to 6 years.

Criteria for Review and Funding: General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact: Diane L. Sondheimer, M.S., M.P.H. or Rolando L. Santiago, Ph.D., Child, Adolescent, and Family Branch, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration 5600 Fishers Lane, Room 11C–16, Rockville, MD 20857, (301) 443–1333, E-Mail: dsondhei@samhsa.gov, *rsantiag@samhsa.gov.*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-Mail: shudak@samhsa.gov.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep state and local health officials apprized of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2002 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: February 7, 2002.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Administration.

[FR Doc. 02–3462 Filed 2–12–02; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4740–N–01]

Letter of Transmittal; Resolution of Board of Director and Certificate of Authorized Signatures; and Master Servicing Agreement; Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the President of Government National Mortgage Association (Ginnie Mae), HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date*: April 15, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya Suarez, Office of Program Operations, Department of Housing & Urban Development, 451 7th Street, SW., Room 6226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya Suarez, Ginnie Mae, (202) 708–2772 (this is not a toll-free number) for copies for the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: (1) Letter of Transmittal, (2) Resolution of Board of Directors and Certificate of Authorized Signatures, and (3) Master Servicing Agreement.

OMB Control Number, if applicable: 2503–0016.

Description of the Need for the Information and Proposed Use

The purpose of the Letter of Transmittal is to provide issuers with a form to transmit documentation to Ginnie Mae when requesting Ginnie Mae's action on certain activities such as requests for commitment authority and pool numbers. The Resolution of Board of Directors and Certificate of Authorized Signature is used by the issuers to provide a list of the names and signatures of officers of the company authorized to execute documents with respect to issuance of securities. The Master Servicing Agreement is used to provide assurance to Ginnie Mae that servicing the mortgages backing the securities approved for issuance will be performed in accordance with acceptable standards of mortgage servicing. It is also used to determine whether the issuer of the pool is the sole servicer or whether the issuer has established a sub-contract servicer arrangement with another institution to perform certain servicing functions on behalf of the issuer.

Agency form numbers, if applicable: HUD form 11700, 11702, and 11707.

Members of affected public: For profit business (mortgage companies, thrifts, savings & loans, etc.)

ESTIMATION OF THE TOTAL NUMBERS OF HOURS NEEDED TO PREPARE THE INFORMATION COLLECTION INCLUDING NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, AND HOURS OF RESPONSE

HUD form	Respondents	Frequency of response	Hours per response *	Total annual responses	Total hours
11700	275	2	.17	500	93.5
11702	275	1	.17	275	46.8
11707	275	1	.17	275	46.8
Total				1,100	187.1

* Approximately 10 minutes.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 5, 2002

George S. Anderson,

Executive Vice President, Ginnie Mae.

[FR Doc. 02–3415 Filed 2–12–02; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–03]

Notice of Submission of Proposed Information Collection to OMB; Mortgagor's Certificate of Actual Cost

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 15, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0112) should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of ours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Mortgagor's Certificate of Actual Cost.

OMB Approval Number: 2502–0112.

Form Numbers: HUD–92330.

Description of the Need for the Information and its Proposed Use: The Mortgagor's Certificate of Actual certifies cost the development in order to make an informed determination of mortgage insurance acceptability and to prevent windfall profits. It provides a basis for evaluating housing programs, labor costs, and physical improvements in connection with the construction of multifamily housing.

Respondents: Business or other for-profit.

Frequency of Submission: At final endorsement.

Reporting burden	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
	500		1		8		4,000

Total Estimated Burden Hours: 4,000.

Status: Reinstatement, without changed.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 5, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–3414 Filed 2–12–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–04]

Notice of Submission of Proposed Information Collection to OMB for Emergency Review; Comment Request for Proposed Changes to Generic Application, Religious Status, and Budget Forms Contained in Grant Applications; Notice of Proposed Information Collection for Public Comment

AGENCY: Office of The Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 20, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number) and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package containing additional alternatives to the SF 424, Application for Federal Assistance, and directly related forms intended to offer standardized, consolidated and streamlined grant application processes in accordance with the provisions of Public Law 106–107, The Federal Financial Assistance Improvement Act of 1999. The two additional forms are a detailed budget and a voluntary indicator of religious status. This submission also proposes minimal changes to the budget summary form to be included in grant applications.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also listed the following information:

Title of Proposal: Emergency Comment Request for Proposed Changes to Generic Application, Religious Status, and Budget Forms Contained in Grant Applications.

OMB Control Number: 2501–0017.

Agency Form Numbers: HUD–424, HUD–424–B, HUD–424–C, HUD–424–CB, HUD–424–M, HUD–424–F.

Members of Affected Public: State, Local or Tribal Government, Not-for-Profit Institutions.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: An estimation of the total number of hours need to prepare the forms for each grant application is 1, however, the burden will assessed against each individual grant program submission under the Paperwork Reduction Act; Estimated number of respondents is 9,091; frequency of response is on the occasion of application for benefits.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 7, 2002.

Wayne Eddins,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–3416 Filed 2–13–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council; Standard Grant Application Instructions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice includes instructions for applying for standard grants (see **SUPPLEMENTARY INFORMATION**) under the U.S. North American Wetlands Conservation Act.

DATES: Proposals may be submitted at any time. To ensure adequate review time prior to upcoming North American Wetlands Conservation Council (Council) meetings, the Council Coordinator must *receive* proposals by March 1, 2002 and July 26, 2002.

ADDRESSES: For detailed application instructions, sample proposal information, frequently asked questions, and summaries of recently approved proposals, visit the North American Wetlands Conservation Act (NAWCA) web site at *http://birdhabitat.fws.gov.* If you cannot access the web site, contact the Council Coordinator at U.S. Fish and Wildlife Service, Division of Bird Habitat Conservation, 4401 North Fairfax Drive, Room 110, Arlington, VA 22203 or by phone at 703–358–1784 or by fax at 703–358–2282 or by e-mail at *dbhc@fws.gov.* Send proposals to the Council Coordinator at the above address by mail (faxed proposals are not accepted). Mail one original, three copies, and a computer disk version of the proposal to the Council Coordinator. Send a copy of the proposal to your U.S. North American Waterfowl Management Plan (NAWMP) Coordinator (see next section) and all partners in the proposal.

FOR FURTHER INFORMATION CONTACT: North American Wetlands Conservation Council Coordinator at (703) 358–1784 or *dbhc@fws.gov,* Bettina Sparrowe at (703) 358–1784 or *bettina__sparrowe@fws.gov* or a NAWMP Joint Venture Coordinator (Coordinator) at the numbers given below. Coordinators can give you advice about developing a proposal and about proposal ranking and can provide compliance requirements for the National Environmental Policy Act, Endangered Species Act, National Historic Preservation Act, and contaminant surveys. Even though all areas of all States are not in a Joint Venture, each Coordinator is available to provide information to NAWCA applicants. To determine which Coordinator to call, consult the following Joint Venture list (note that only the States in Joint Ventures are listed below) or consult the NAWMP Joint Venture map at *http://birdhabitat.fws.gov/NAWCA/images/namap.gif.*

Atlantic Coast (CT, DE, FL, GA, MA, MD, ME, NC, NH, NJ, NY, PA, Puerto Rico, RI, SC, VA, VT, WV) 413–253–8269

Central Valley (Central Valley of CA) 916–414–6459

Gulf Coast (AL, LA, MS, TX) 505–248–6876

Intermountain West (AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, WY) 801–975–3330 x 129

Lower Mississippi Valley (AR, KY, LA, MS, OK, TN, TX) 601–629–6600

Pacific Coast (CA,OR, WA) 360–696–7630

Playa Lakes (CO, KS, NM, OK, TX) 303–659–8750

Prairie Pothole (IA, MN, MT, ND, SD) 303–236–8155 x 252

Rainwater Basin (NE) 308–382–8112

San Francisco Bay (San Francisco Bay in CA) 916–414–6459

Upper Mississippi River-Great Lakes (IA, IL, IN, KS, MI, MN, MO, NE, OH, WI) 612–713–5433

SUPPLEMENTARY INFORMATION: The Council has two U.S. conservation grants programs for acquisition, restoration, and enhancement of wetlands in the U.S. Any individual or organization who has a long-term, partner-based project with matching funds can apply. The focus of this notice is standard grant proposals for requests from $51,000 to $1,000,000 per proposal. A separate notice will be issued later this year for small grant proposals for requests up to $50,000 per proposal.

This notice provides general instructions to develop and submit a NAWCA standard grant proposal. In order to complete a proposal correctly, consult the web site at *http://birdhabitat.fws.gov* for detailed instructions. If you cannot access the web site or want a printed version of the instructions or a personal computer disk that contains proposal forms, contact the Council Coordinator.

We prepare the instructions to assist partners in developing proposals that comply with NAWCA. The NAWCA established the Council, a Federal-State-private body that recommends projects to the Migratory Bird Conservation Commission (MBCC) for final approval and requires that proposals contain a minimum 1:1 ratio of non-Federal matching funds to grant funds. ''Match'' (as referred to throughout this document) can be cash, in-kind services, or land acquired/title donated for wetlands conservation purposes.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501), the Office of Management and Budget has assigned clearance number 1018–0100 to this information collection authorized by the North American Wetlands Conservation Act of 1989, as amended (16 U.S.C. 4401 *et seq.*). The information collection solicited is necessary to gain a benefit in the form of a grant, as determined by the Council and MBCC, is necessary to determine the eligibility and relative value of wetland projects, results in an approximate paperwork burden of 400 hours per application, and does not carry a premise of confidentiality. Your response is voluntary. 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 public is invited to submit comments on the accuracy of the estimated average burden hours for application preparation and to suggest ways in which the burden may be reduced. Comments may be submitted to: Information Collection Clearance Officer, Mail Stop 224 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240 and/or Desk Officer for Interior Department (1018–0100), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Standard Grant Instructions

This **Federal Register** notice contains basic information about NAWCA standard grant proposals. Detailed instructions are available at the NAWCA web site at *http://birdhabitat.fws.gov.* A standard grant proposal is a 4-year plan of action supported by a NAWCA grant and partner funds to conserve wetlands and wetlands-associated fish and wildlife through acquisition (including easements and land title donations), restoration, and/or enhancement (including creation). Match must be non-Federal and at least equal the grant request (referred to as a 1:1 match). Match is eligible up to two years prior to the year the proposal is submitted, and grant and match funds are eligible during the two-year future Grant Agreement period.

Proposal Format. The Summary has a specific format. With the exception of the one-page Cover Page, Matching Contributions Plan, Standard Form 424, and two-page Summary, there are no page number limitations. The ultimate size of the proposal will depend on its complexity, but we request that you attempt to minimize the size of the proposal. Each page should be no larger than 8.5 by 11 inches. Neither the original proposal, nor required copies, should be permanently bound. A proposal contains the following sections: Project Officer's Page; Summary; Purpose and Scope; Budget and Matching Contributions Plan; Technical Assessment Questions; Funding Commitment Letters; Tract and Location Information; Standard Form 424 and Attachments; and Required Attachments.

Proposal Project Officer's Page and Checklist. This part contains the following sections: Proposal Title, State(s), Latitude/Longitude; Date Submitted; Previous and Future Proposals; Project Officer Information; Project Officer's Statements; and Comments on the NAWCA Program. Correspondence is sent only to the Project Officer. Each proposal can have only one Project Officer, who must belong to the grant recipient's organization. The Project Officer states that partners have reviewed the Grant Agreement, so the Grant Agreement is available via the NAWCA web site at *http://birdhabitat.fws.gov/NAWCA/grant.pdf.*

Proposal Summary. The Summary is the only narrative material provided to the Council and MBCC, so it must be descriptive and succinct. This part contains the following sections: Proposal Title, Congressional Districts, States; and Narrative.

Proposal Purpose and Scope. Use this part to describe how all the pieces of the proposal fit together to form a solid wetlands and migratory bird conservation proposal that should be funded under NAWCA. This part contains the following sections: Context of the NAWCA Proposal; Threat and Special Circumstances; Public and Private Use and Support; and Work Plan.

Proposal Budget and Matching Contributions Plan. This part contains the following sections: Compliance Statement; Subrecipients; Budget Justification; Justification for Grant Request that Exceeds $1,000,000; and Matching Contributions Plan. The Budget Justification displays activities and costs broken out by grant funding and partner funding according to cost categories (Non-contract Personnel and Travel, Fee Title Acquisitions and Donations, Easement and Lease Acquisitions and Donations, Materials and Equipment, Contracts, and Indirect and Other Costs) and contains eligibility information about partner matching funds/work and cost details.

If you have matching funds in addition to those used in the proposal and you need to maintain the eligibility of those funds beyond two years for future proposals, you may request approval to use the match in the future by submitting a one-page Matching Contributions Plan (Match Plan) with the proposal. A Match Plan is optional, but, if submitted, must include the following information: Match Plan Amount and Purpose; Match Intent; Match Need; and a chart.

Technical Assessment Questions. The Council uses seven Technical Assessment Questions, site visits, available funding, and other information to select proposals. See the table at the end of this notice that shows the Technical Assessment Questions and point values. Questions 1 and 2 include priority lists of species, so you need to refer to the web site or the Council Coordinator's office to complete a proposal. Answer the questions for the completed proposal and all tracts in the proposal (grant and match).

Funding Commitment Letters. To document match, send signed commitment letters from all matching and non-matching partners, including the grant recipient and private landowners (if providing funds or land as match), with the proposal. The proposal will be returned if the 1:1 match is not documented by partner letters. Letters must document the exact contribution level identified in the proposal and whether the contribution is in cash, goods, services, or land; the partner's responsibility in the proposal's implementation, including land donations; how the partner was involved in proposal planning; and that the partner is fully aware of how the contribution will be spent. Letters have 3 sections: Contributions Statements; Compliance Statements; and Partnership Statements.

Tract and Location Information. Give the following information for each tract in the proposal: (1) Acreage; (2) Activity, method, and schedule for work on the tract; (3) Funding source; (4) Township, range, section, county, and state; (5) Title holder at completion of proposal; and (6) Whether tract is affected by a Matching Contributions Plan.

Provide one to two 8.5 by 11-inch color (preferred) maps with the following information: (1) Location of tracts within State(s) and counties where grant and match funds have or will be spent; (2) Identification of fee-title, easement, and lease tracts or acquisition priority areas if specific tracts cannot be given; (3) Location of major water control structures and other restoration/enhancement features; (4) Location of natural features, such as rivers or lakes, to show how the proposal fits into the natural landscape; and (5) If applicable, location of previous and future NAWCA grant proposal sites; and (6) If applicable, where the proposal is in relation to a larger wetlands conservation project. The proposal title should be on each map. One to two aerial photographs may also be submitted.

Required Attachments. If applicable, attach 8.5 by 11-inch copies of the following: (1) Easements and leases in place when the proposal was submitted; (2) Model easements and leases; (3) Your negotiated indirect cost rate agreement; and (4) Sample/model landowner agreements.

Standard Form 424 ''Application for Federal Assistance'' and Assurances Forms B ''Non-construction'' and D ''Construction.'' All applicants, except the U.S. Fish and Wildlife Service, must send an SF 424 and the B, D, or both Assurances forms with the proposal. All applicants must comply with the laws listed on the Assurances forms. The forms are available via the Internet at *http://www.gsa.gov/forms/,* at *http://www.nctc.fws.gov/fedaid/toolkit/toolkit.pdf* or from the Council Coordinator.

Exhibits and Examples. Examples of various sections of a proposal, lists of eligible and ineligible activities and costs, general process information about the NAWCA program, and people and organizations who may be contacted for

assistance are available via the web site or from the Council Coordinator and should be consulted at some time in the proposal development process.

Blank Proposal Forms. The following forms are available from the web site for you to download and use to develop a proposal: (1) A blank proposal form developed using Microsoft Word; (2) A blank proposal form using Word Perfect; and (3) A blank optional budget table using Microsoft Excel (very useful for planning and may be submitted with the proposal).

Dated: January 15, 2002.

Steve Funderburk,

Acting Deputy Assistant Director, Migratory Birds and, State Programs, U.S. Fish and Wildlife Service.

Technical assessment questions	Points = 100
#1. How does the proposal contribute to the conservation of waterfowl habitat?	Maximum = 15
A. High priority species	0–7
B. Other priority species	0–5
C. Other waterfowl	0–3
#2. How does the proposal contribute to the conservation of other wetland-dependent or wetland-associated migratory birds?	Maximum = 15
A. Bird Conservation Regions and high priority birds.	
B. Other wetland-associated birds.	
#3. How does the proposal benefit the North American Waterfowl Management Plan and contribute to sites that have been recognized for wetland values?	Maximum = 15
A. Joint Ventures and Areas of Concern: Prairie Pothole Joint Venture, Other Joint Ventures, Areas of Concern, combination.	0–10, 0–8, 0–4, 0–?
B. Specially recognized sites	0–5
#4. How does the proposal relate to the National status and trends of wetlands types?	Maximum = 10
A. Decreasing wetlands types	0–10
B. Stable wetlands types	0–4
C. Increasing wetlands types	0–1
D. No trend data types	0–?
E. Uplands	0–8
#5. How does the proposal contribute to long-term conservation of wetlands and associated habitats?	Maximum = 15
A. Benefits in perpetuity	0–12
B. Benefits for 26–99 years	0–8
C. Benefits for 10–25 years	0–6
D. Benefits for <10 years	0–4
E. Significance to long-term conservation	0–3
#6. How does the proposal contribute to the conservation of habitat for Federally listed, proposed, and candidate endangered species, State-listed species, and other wetland-dependent fish and wildlife?	Maximum = 10
A. Federal endangered, threatened, proposed or candidate species (1, 2, >2)	0–3, 0–4, 0–5
B. State-listed species (≥1)	0–3
C. Other wetland-dependent fish and wildlife (≥1)	0–2
#7. How does the proposal satisfy the partnership purpose of the North American Wetlands Conservation Act?	Maximum = 20
A. Ratio of non-Federal match to grant (≤ 1:1, 1.01–1.49:1, 1.5–1.99:1, ≥ 2:1)	0, 1, 3, 6
B. Matching partners contributing 10% of the grant request (0–, 1, 2, 3, >3)	0, 1, 2, 3
C. Partner categories (1, 2, 3, >3)	0, 2, 3, 4
D. Important partnership aspects	0–7

[FR Doc. 02–3459 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EM, WYW6266]

Federal Coal Lease Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Decision Record Finding of No Significant Impact (DR/FONSI) and Environmental Assessment (EA) and notice of public hearing on the Modification of Federal Coal Lease WYW6266 at the Black Butte Mine operated by Black Butte Coal Company, in Sweetwater County, WY.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and implementing regulations and other applicable statutes, the Bureau of Land Management (BLM) announces the availability of the DR/FONSI for the modification of Federal coal lease WYW6266 east of Rock Springs, Wyoming, and announces the scheduled date and place for a public hearing pursuant to 43 CFR part 3432, 3425.3 and 3425.4. The DR/FONSI addresses the impacts of modifying this Federal coal lease and mining the modification area as a part of the Black Butte Mine, Pit 10 operated by Black Butte Coal Company, in Sweetwater County, WY. The purpose of the hearing is to solicit public comments on the DR/FONSI, the fair market value, the maximum economic recovery, and the proposed noncompetitive offer of the coal included in the proposed lease modification. This lease modification is being considered for offer as a result of a request received from Black Butte Coal Company on August 7, 2000. The tract as requested includes 80.00 acres containing approximately 2.6 million tons of Federal coal reserves.

DATES: A public hearing will be held at 1 p.m. MDT, on February 7, 2002, at the BLM Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming. Written comments on the DR/FONSI will be accepted for 30 days from the date this notice is published.

ADDRESSES: Please address questions, comments or requests for copies of the DR/FONSI to the BLM Rock Springs Field Office, Attn: Scott Sanner, 280 Highway 191 North, Rock Springs, WY 82901; or you may fax them to 307–352–0329.

FOR FURTHER INFORMATION CONTACT: Scott Sanner or Ted Murphy at the above address, or phone: 307–352–0256.

SUPPLEMENTARY INFORMATION: The BLM Rock Springs Field Office has received a request to modify an existing Federal

coal lease at the Black Butte Mine. This mine is operated by Black Butte Coal Company, and is located east of Rock Springs in Sweetwater County, WY. On August 7, 2000, Black Butte Coal Company filed an application with the BLM to modify Federal lease WYW6266 by adding the following lands:

T. 19 N., R. 100 W., 6th PM, Wyoming
Section 24: NWNW, W2NENW, N2SWNW.

This tract is adjacent to Black Butte Mine, Pit 10 and includes 80.00 acres more or less with an estimated 2.6 million tons of coal. This application was filed as a lease modification under the provisions of 43 CFR part 3432.

BLM believes that this lease modification serves the interest of the United States because it will avoid a bypass of Federal coal reserves. This area is a natural extension of the existing mine workings of the Black Butte Mine, Pit 10 of the current lease. This modification area is logically recovered as a part of the planned operations on the existing lease, and would avoid the bypass of these Federal coal reserves. This coal is ripe for recovery and is easily incorporated into Black Butte's current operation. If this coal is recovered in concert with the existing lease, it would result in minimal additional surface disturbance.

BLM further believes that there is no current competitive interest in the lands proposed for lease modification. Under the lease modification process, the modified lands would be added to the existing lease without competitive bidding. Before offering the lease modification the BLM will prepare an appraisal of the fair market value of the lease. The United States would receive fair market value of the lease for the added lands.

The proposed lease modification is within the mine permit area of the Black Butte Mine. No new facilities or employees would be needed to mine the coal. Physical extraction of these reserves would begin in 2004 and continue through 2007. BLM prepared a DR/FONSI for this action. If this tract is modified into the current lease, the new lands must be incorporated into the existing mining plans for the Black Butte Mine. The Office of Surface Mining Reclamation and Enforcement (OSM) is a cooperating agency in the preparation of the environmental document because it is the Federal agency that is responsible for any required actions necessary to incorporate these lands into the current mining plan.

In addition to preparing the DR/FONSI, BLM will also develop possible stipulations regarding mining operations, determine the fair market value of the tract and evaluate maximum economic recovery of the coal in the proposed tract while processing this lease modification.

Comments on the DR/FONSI, the fair market value, the maximum economic recovery, and the proposed noncompetitive offer of the coal included in the proposed lease modification, will be available for public review at the address below during regular business hours (7:45 a.m.–4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: January 11, 2002.

Alan Rabinoff,

Deputy State Director, Minerals and Lands.

[FR Doc. 02–3454 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–929–1320–HN; MTM 88970]

Notice of Availability of Environmental Assessment; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: A copy of an environmental assessment (EA) for the transfer of Federal mineral rights in lands designated as Otter Creek Tracts 1, 2, and 3 to the State of Montana is available for review. This EA assesses the impacts of the compliance by the Secretary of the Interior with Section 503 of Public Law 105–83 regarding the transfer of mineral assets to the State of Montana.

DATES: Comments must be post marked no later than February 27, 2002.

ADDRESSES: Comments should be sent to the Bureau of Land Management (920), Montana State Office, 5001 Southgate Drive, Billings, Montana 59102.

SUPPLEMENTARY INFORMATION: We welcome your comments on this document. The Bureau of Land Management is collecting comments on behalf of the Secretary of the Interior. We regret that as of February 4, 2002, we do not have internet capability. Therefore, this document is not posted on the internet and comments cannot be received through that medium. Copies of the EA are available at the BLM Montana State Office at the above address.

Comments, including names and addresses of respondents, will be available for public review at the above address during regular business hours (9 a.m. to 4 p.m.) Monday through Friday, except during holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such request will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. Thank you for participating in the environmental process.

Dated: February 4, 2002.

Roberta A. Moltzen,

Acting State Director, BLM Montana State Office.

[FR Doc. 02–3518 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–020–E01–18; WYW–134032]

Notice of Realty Action Direct Sale of Public Land in Big Horn County, Wyoming, Cody Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has determined that the following land is suitable for direct sale to Hawkins & Powers Aviation Inc. (H&P) under sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976 , (90 Stat. 2750, 2757), (43 U.S.C. 1713, 1719), (43 CFR 2711.3–3[1] and [5] and (43 CFR part 270) at not less than fair market value. The land will not be offered for sale until at least 60 days after the date of this notice.

Sixth Principal Meridian, Wyoming

T. 52 N., R. 93 W.,
Section 6, Lot 9
Parcel 9A (Cadastral Survey)
Containing 0.99 acres more or less.

FOR FURTHER INFORMATION CONTACT: Duane Feick, Cody Field Office Realty Specialist, Bureau of Land Management, 1002 Blackburn, Cody, Wyoming, 82414; (307) 578–5900.

SUPPLEMENTARY INFORMATION: The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, which ever occurs first. The land would be offered by direct sale to Hawkins and Powers Aviation Inc., an adjacent private landowner, at fair market value. This sale is consistent with Bureau of Land Management policies and the Cody Resource Management Plan (RMP) approved November 8, 1990. As indicated in the Cody RMP, the preferred method of land disposal to a private landowner is by exchange. However, because of the small acreage and relatively low dollar value involved, BLM believes a sale is more appropriate.

The purpose of the sale is to allow consolidation of Hawkins and Powers Aviation Inc. land holdings in the area, and to allow H&P to construct a parking area on the parcel in conjunction with their Museum of Aerial Fire Fighting. This tract is adjoined on three sides by land owned by Big Horn County, and on one side by land owned by the Federal Highway Administration. Access to the parcel is via an existing public county road. The tract is composed of a level gravel terrace with very little vegetation. Public comments were solicited on this proposed direct sale at an open house held in June 1998—no adverse comments were received.

Hawkins & Powers Aviation, Inc. will be required to submit a nonrefundable application fee of $50 in accordance with 43 CFR part 2720, for conveyance of all unreserved mineral interests in the lands. There are no grazing privileges associated with the land.

Any deed issued will be subject to all valid existing rights. Specific patent reservations are:

1. A right-of-way for ditches and canals constructed by authority of the United States pursuant to the Act of August 30, 1890, (43 U.S.C. 945).

2. All oil and gas will be reserved to the United States, together with the right to prospect for, mine and remove the same.

3. All other existing rights of record.

The fair market value, planning document and environmental assessment covering the proposed sale will be available for review at the Bureau of Land Management, Cody Field Office, 1002 Blackburn, Cody, Wyoming 82414.

For a period of 45 days from the date of this notice published in the **Federal Register**, interested parties may submit comments to the Cody Field Office, P.O. Box 518, Cody, WY 82414. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

Comments, including names and addresses of respondent will be available for public review at the Cody Field Office, 1002 Blackburn, Cody, Wyoming during regular business hours (7:30 a.m.–4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and address from public review, or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: December 3, 2001.

Michael Blymyer,

Cody Field Manager.

[FR Doc. 02–3532 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[86% to CO–956–1420–BJ–0000–241A; 14% to CO–956–9820–BJ–CO01–241A]

Colorado: Filing of Plats of Survey

January 14, 2002.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., January 14, 2002. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The plat representing the entire record of the dependent resurvey of M.S. No. 2318, Champion Lode, Suspended T 43 N., R. 6 W., New Mexico Principal Meridian, Group 1238, Colorado, was accepted October 24, 2001.

The plat representing the entire record of the dependent resurvey of certain mineral claims, Suspended T. 44 N., R. 5 W., New Mexico Principal Meridian, Group 1238, Colorado, was accepted October 24, 2001.

The plat representing the entire record of the dependent resurvey of certain mineral claims. T44 N., R. 4 W., New Mexico Principal Meridian, Group 1238, Colorado, was accepted October 24, 2001.

The plat (in two sheets) representing the entire record of the corrective dependent resurvey and dependent resurvey of a portion of the subdivisional lines, Mineral Survey No. 228, Hayden Placer, and Lot 78, in section 31, T. 11 S., R. 79 W., Sixth Principal Meridian, Group 724, Colorado, was accepted October 24, 2001.

The plat representing the limited corrective dependent resurvey of a portion of the Georgetown Townsite, T. 4 S., R. 74 W., Sixth Principal Meridian, Group 696, Colorado, was accepted October 31, 2001.

The plat representing the dependent resurvey of portions of the Eleventh Correction Line North, First Guide Meridian West, subdivisional lines, and the subdivision of section 31, T. 45 N., R. 8 W., New Mexico Principal Meridian, Group 1343, Colorado, was accepted December 5, 2001.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 16, T. 1 N., R. 80 W., Sixth Principal Meridian, Group 1287, Colorado, was accepted December 20, 2001.

The supplemental plat creating new lots in sections 4, 5, 8, 9, and 17, in T. 11 N., R. 79 W., Sixth Principal Meridian, Colorado, is based upon the memo dated May 12, 1998, canceling certain lodes of Mineral Survey No. 20796, and plats approved April 18, 1941, April 21, 1953, July 26, 1982 and January 14, 1983, was accepted November 15, 2001.

The supplemental plat creating new lots 168, 169, and 170, from original lot 164 in the SE¼SE¼ of section 6, T. 1 N., R. 72 W., Sixth Principal Meridian, Colorado, is based upon the Dependent Resurvey and Survey Plat approved January 31, 1996, and the Supplemental Plat approved March 8, 1999, was accepted December 3, 2001.

The supplemental plat creating new lots 171 through 175, and depicting certain private land tracts in the SW¼SW¼ and the W½SE¼SW¼ section 6, is based upon the Dependent Resurvey and Survey plats (sheets 9 and 10 of 12) approved January 31, 1996, the Supplemental plat of the SE¼SE¼ of section 6, approved December 3, 2001 and the official records of mineral claims M.S. 13766, M.S. 17695 and M.S. 20071, was accepted December 3, 2001.

The supplemental plat creating new lots 176 and 177, from original lot 136 in the N½NW¼SW¼ of section 6, is based upon the Dependent Resurvey and Survey plats (sheets 1 and 8 of 12) approved January 31, 1996, the Supplemental plat of the SW¼SW¼ and the W½SE¼SW¼ section 6, approved December 3, 2001, was accepted December 3, 2001.

These surveys and supplemental plats were requested by the Bureau of Land Management for administrative purposes.

The plat representing the entire record of the dependent resurvey and survey to create an irregular lot under the Small Tracts Act, in section 28, T. 6 N., T. 71 W., Sixth Principal Meridian, Group 632, Colorado, was accepted October 3, 2001.

The plat representing the dependent resurvey of the North Boundary, and portions of M.S. No. 15969 A and B, in sections 2 and 3, T. 5 S., R. 75 W., Sixth Principal Meridian, Group 1186, Colorado, was accepted December 20, 2001.

These surveys were requested by the Forest Service for administrative purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 02–3543 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–1420–BJ–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described lands is scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 40 N., R. 116 W., accepted September 28, 2001

T. 41 N., R. 116 W., accepted September 28, 2001

T. 40 N., R. 117 W., accepted September 28, 2001

T. 41 N., R. 117 W., accepted September 28, 2001

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest these surveys must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest within thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

If protests against these surveys, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

FOR FURTHER INFORMATION CONTACT: John P. Lee, (307) 775–6216, Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: January 14, 2002.

John P. Lee,

Chief Cadastral Surveyor for Wyoming.

[FR Doc. 02–3544 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–935–1430–ET; COC–23653]

Notice of Proposed Extension of Withdrawal; Opportunity for Public Meeting; Colorado

December 6, 2001.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Agriculture, Forest Service, proposes to extend Public Land Order No. 6311 for a 20-year period. This order withdrew public lands from operation of the public land laws, including location and entry under the U.S. mining laws, to protect a Forest Service administrative site. The land has been and remains open to mineral leasing. This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by April 15, 2002.

ADDRESSES: Comments and meeting requests should be sent to the Colorado State Director, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius at 303–239–3706.

SUPPLEMENTARY INFORMATION: The Department of Agriculture, Forest Service, has requested that Public Land Order No. 6311 be extended for another 20-year period. This withdrawal was made to protect constructed buildings and storage facilities at the Rifle District Office. This withdrawal will expire August 10, 2002.

The withdrawal is for the Fravert Administrative Site which is used in management of the White River National Forest. The withdrawal comprises 4.84 acres of public land described as lot 1 in Section 8, T. 6 S., R. 93 W., 6th Principal Meridian in Garfield County .

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed extension, or to request a public meeting may present their views in writing to the Colorado State Director at the address shown above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed extension. Any interested persons who desire a public meeting for the purpose of being heard on this proposed action should submit a written request to the Colorado State Director within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days prior to the scheduled date of the meeting.

This extension will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 02–3545 Filed 2–12–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 2, 2002. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW., Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by February 28, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Orange County

Greystone Villa—Cabin 18, Sievers Canyon, Trabuco Ranger District, Cleveland National Forest, 02000151

COLORADO

Denver County

Gates, Russell and Elinor, Mansion, 1365–1375 Josephine, Denver, 02000152

MASSACHUSETTS

Franklin County

East Northfield School, 13 Pine St., Northfield, 02000156

Sunderland Center Historic District, Roughly along S. Main St., from Old Amherst Rd. to French's Ferry Rd., Sunderland, 02000157

Norfolk County

Inness—Fitts House and Studio/Barn, 406 Main St., Medfield, 02000153

Suffolk County

Greenwood Memorial United Methodist Church, 378A–380 Washington St., Boston, 02000154

Worcester County

Dodge Block and Sawyer Building, Bancroft Trust Building (Worcester MRA), 60 Franklin St., Worcester, 02000155

MICHIGAN

Lake County

Podjun, John and Katharine Tunkun, Farm, 9581 E 1 mi. Rd., Ellsworth, 02000160

Oakland County

Axford—Coffin Farm, 384–388 W. Predmore Rd., Oakland Township, 02000159

Botsford—Graser House, 24105 Locust Dr., Farmington Hills, 02000158

Saginaw County

Saginaw Armory, 234 S. Water St., Saginaw, 02000161

MISSOURI

Boone County

Virginia Building, 111 S. Ninth St., Columbia, 02000163

Knox County

Edina Double Square Historic District, 118–124 S. Main St., Edina, 02000164

Platte County

Pleasant Ridge United Baptist Church, Jct. of MO P and Woodruff Rd., Weston, 02000162

NEW HAMPSHIRE

Coos County

Balsams, The, NH 26, 10 mi. E of Colebrook, Dixville, 02000166

Rockingham County

James, Benjamin, House, 186 Towle Farm Rd., Hampton, 02000168

NEW JERSEY

Sussex County

Black Creek Site—28-Sx-297, Maple Grange Rd., Vernon, 02000167

NORTH CAROLINA

Wake County

Peeny, Jesse, House and Outbuildings, NC 1379, 1 mi. SW of NC 1371, Raleigh, 02000165

OKLAHOMA

Beckham County

Danner, J.W., House, 408 N. Fourth St., Sayre, 02000169

Cherokee County

Ross Cemetery, 0.5 mi. S of jct. of Murrell Rd. and N4530 Rd., Park Hill, 02000170

Harper County

Cooper Bison Kill Site, Address Restricted, Fort Supply, 02000171

Jefferson County

First Presbyterian Church, 124 West Broadway, Waurika, 02000175

Rock Island Passenger Station, 105 S. Meridian, Waurika, 02000173

Oklahoma County

Harding Junior High School, 3333 N. Shartel Ave., Oklahoma City, 02000172

Hightower Building, 105 N. Hudson, Oklahoma City, 02000176

VIRGINIA

Highland County

Monterey High School, Spruce St., 0.5 mi. S of US 250, Monterey, 02000178

Loudoun County

Rock Spring Farm, 329 Loudoun St. SW, Leesburg, 02000177

Lynchburg Independent city Lynch's Brickyard House, 700 Jackson St., Lynchburg (Independent City), 02000180

Phaup, William, House, 911 Sixth St., Lynchburg (Independent City), 02000182

Nottoway County

Mountain Hall, 181 Mountain Hall Dr., Crewe, 02000184

Orange County

Rebel Hall, 151 May-Fray Ave., Orange, 02000179

Richmond Independent city

St. Christopher's School, 711 St. Christopher's Rd., Richmond (Independent City), 02000183

Shenandoah County

Munch, Daniel, House, 2588 Seven Fountains Rd., Fort Valley, 02000181

WASHINGTON

Spokane County

Weaver, Lawrence and Lydia, House, 520 W. 16th Ave., Spokane, 02000186

WISCONSIN

Crawford County

Larsen Cave, (Wisconsin Indian Rock Art Sites MPS) Address Restricted, Eastman, 02000187

Milwaukee County

Kenwood Park—Prospect Hill Historic District, Roughly bounded by N. Hackett Ave., E. Edgewood Ave., N. Lake Dr. and E. Newberry Ave., Milwaukee, 02000185

Walworth County

Main Street Historic District, Roughly Main St., from Center St. to Broad St., Lake Geneva, 02000188

A request of REMOVAL has been made for each of the following resources:

ILLINOIS

Cook County

Lewis Round Barn (Round Barns in Illinois TR), NW of Clayton, Clayton vicinity, 84000916

New Michigan School, 2135 S. Michigan Ave., Chicago, 83003562

Washington School, 7970 Washington Blvd., River Forest, 96000855

Johnson County

Ater-Jaques House, 207 W. Elm St., Urbana, 96000855

Kane County

Old Hotel, 241 Main St., Sugar Grove, 89001464

Vermilion County

Temple Building, 102–1–06 N. Vermilion St. Danville, 00001457

SOUTH DAKOTA

Oahe Addition Historic District, Roughly bounded by N. Poplar, LaBarge Ct., and #3rd and 4th Sts. Pierre, 00000599

[FR Doc. 02–3509 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 26, 2002. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW, Suite 400, Washington DC 20002; or by fax, 202–343–1836 . Written or faxed comments should be submitted by February 28, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ARIZONA

Navajo County

Lower Cibecue Lutheran Mission, Fort Apache Indian Reservation, Lower Cibecue, White Mountain Apache, 02000126

MASSACHUSETTS

Essex County

Old Lynn High School, 50 High St., Lynn, 02000130

Norfolk County

Endicott Estate, 656 East St., Dedham, 02000128

Plymouth County

Island Grove Park National Register District, Park Ave., Abington, 02000127

Worcester County

Tuttle Square School, 41 South St., Auburn, 02000129

NEW JERSEY

Monmouth County

Lauriston, Addriess Restricted, Rumson, 02000134

Somerset County

Van Horne House, 941 E. Main St., Bridgewater Township, 02000133

NEW YORK

Albany County

Merchant, Walter, House, 188 Washington Ave., Albany, 02000137

Allegany County

Canaseraga Four Corners Historic District, 42–64 and 43–69 Main St., 9 S. Church St., Canaderaga, 02000145

Cortland County

First Presbyterian Church Complex, 23 Church St., Cortland, 02000142

Greene County

Bronk-Silvester House, 188 Mansion St., Coxsackie, 02000140

Jefferson County

Thomas Memorial AME Zion Church, 715 Morrison St., Watertown, 02000144

Orange County

Paramount Theatre, South St., Middletown, 02000136

Walden, Jacob T., Stone House, N. Montgomery St., Walden, 02000138

Otsego County

Otsdawa Baptist Church, Cty Rd. 8, Otsdawa, 02000143

Suffolk County

Wells, Joshua, House, 525 N. Suffolk Rd., Cutchogue, 02000139

Ulster County

Bevier Stone House, 2687 NY 209, Marbletown, 02000135

Westchester County

Yonkers Trolley Barn, 92 Main St., Yonkers, 02000141

NORTH CAROLINA

Greene County

Coward, Edward R. and Sallie Ann, House, NC 1405, 0.2 mi. E of jct. with NC 1400, Ormondsville, 02000131

NORTH DAKOTA

Ramsey County

Devils Lake Carnegie Library, (Philanthropically Established Libraries in North Dakota MPS), 623 4th Ave., Devils Lake, 02000132

TEXAS

Bowie County

Garland Community School Teacherage, TX 2, 2.5 mi. W of Dekalb, Dekalb, 02000146

WISCONSIN

Door County

Little Lake Archeological District, Address Restricted, Washington Island, 02000147

Fond Du Lac County

Dana, George and Mary Agnes, House, 136 Sheboygan St., Fond du Lac, 02000148

North Main Street Historic District, Roughly along Main St., from Merrill to Sheboygan, Fond du Lac, 02000149

[FR Doc. 02–3510 Filed 2–12–02; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–458]

Certain Digital Display Receivers and Digital Display Controllers and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') terminating the above-captioned investigation in its entirety by granting the unopposed motion of complainant Silicon Image, Inc. (''SII'') to withdraw its complaint and terminate the investigation.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3012. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 29, 2001, based on a complaint filed by Silicon Image, Inc., of Sunnyvale, California (''SII''). 66 FR 29173 (2001). The notice of investigation named two respondents: Genesis Microchip Inc., of Thornhill,

Ontario, Canada, and Genesis Microchip Corp. of Alviso, California (collectively, ''Genesis''). *Id.* The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain digital display receivers and digital display controllers and products containing same by reason of infringement of claims 1–12, 14, and 20 of U.S. Letters Patent 5,905,769. *Id.*

On December 7, 2001, complainant SII moved to withdraw the complaint and to terminate the investigation on the basis of the withdrawal of the complaint. On December 13, 2001, the Commission investigative attorney filed a response in support of the motion. On December 18, 2001, respondents Genesis filed a response stating that they did not oppose the motion. On January 24, 2002, the presiding ALJ issued an ID (Order No. 7) granting the motion. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.42 of the Commission's rules of practice and procedure (19 CFR 210.42).

Issued: February 7, 2002.

By order of the Commission.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–3485 Filed 2–12–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. 98–475 JJF]

Public Comments and Response on Proposed Final Judgment in United States v. Federation of Physicians and Dentists, Inc.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States of America hereby publishes below the comment received on the proposed Final Judgment in United States v. Federation of Physicians and Dentists, Inc., Civil Action No. 98–475 JJF, filed in the United States District Court for the District of Delaware, together with the United States' response to the comment.

Copies of the comment and response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530, Telephone: (202) 514–2481, and at the office of the Clerk of the United States District Court for the District of Delaware, Federal Building, Room 4209, 844 King Street, Wilmington, Delaware 19801. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger Enforcement.

Comments of Jones, Day, Reavis & Pogue

Jones, Day, Reavis & Pogue, pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''Tunney Act''), submits these comments on the Final Judgment proposed by the United States Department of Justice to settle charges that the Federation of Physicians and Dentists (the ''Federation'') violated the antitrust laws by coordinating an understanding among competing physicians to negotiate exclusively through the Federation.

Summary

The proposed Final Judgment provides injunctive relief prohibiting unlawful collective negotiations by the Federation and its members, and contains a number of other provisions to protect payers that wish to negotiate with individual providers rather than dealing through the Federation. In one particular area, however, the proposed Final Judgment could be strengthened to provide additional protection.

The provisions of the Final Judgment should prohibit retaliation against payers that decline to communicate with providers through the Federation. Such a restriction would prevent the Federation and its members from taking adverse actions against payers that choose not to deal with the Federation. Such adverse actions could prevent individual negotiations, thereby circumventing the Final Judgment's prohibition on exclusive negotiations through the Federation.

The Final Judgment Should Prohibit Retaliation Against Payers That Decline To Communicate With Providers Through the Federation

I. Background

The Final Judgment settles charges that the Federation unlawfully coordinated an understanding among competing physicians to negotiate exclusively through the Federation. The illegal agreement among the Federation and its members was enforced through a concerted refusal by Federation members to deal with payers individually. These refusals to deal impaired the ability of payers to seek lower prices from Federation members.

In carrying out the illegal agreement, the Federation and its members claimed that they were acting pursuant to the ''messenger model,'' a method of communicating with payers that does not entail an agreement among the competing providers who use the messenger. A concerted refusal to deal, however, is not a legitimate use of a messenger model. To the contrary, the messenger model was developed to avoid concerted action by competing providers. See United States Department of Justice and Federal Trade Commission *Statements of Antitrust Enforcement Policy in Healthcare,* 4 Trade Reg. Rep. (CCH) ¶13,153 at 20,831 (Aug. 28, 1996). Thus, the Federation and its members improperly invoked the messenger model.

II. The Proposed Final Judgement

The proposed Final Judgment prohibits the Federation and its members from entering into or facilitating an agreement among competing providers to deal with payers exclusively through the Federation. With respect to the use of a messenger model, the proposed Final Judgment expressly forbids the Federation and its members from requiring that a payer deal only with providers through the messenger (or other agent or representative of the providers) (Paragraph IV.A.2.), and requires the Federation, when acting as a messenger, to inform payers that they are free to decline to communicate with providers through the messenger (Paragraph IV.A.8.f.). Thus, the proposed Final Judgment directly prohibits the unlawful conduct engaged in by the Federation and its members.

The protection afforded by the proposed Final Judgment appears, however, to be incomplete. If a payer declines to deal with the Federation, and chooses to deal with individual providers instead, the proposed Final Judgment does not directly prohibit retaliation against that payer. For example, the proposed Final Judgment does not expressly forbid the Federation from assisting a member to ''unilaterally'' terminate an existing contract with a payer that declines to deal through the Federation. If the Federation and individual providers are able to engage in such retaliation, the ability of payers to decline to deal through the Federation could provide to be illusory.

III. Proposed Language Modifying the Final Judgment

The gap in coverage identified above could easily be remedied with one small change to the Final Judgment. The following language, which would be inserted as a new Subparagraph 9 in Paragraph IV.A., would prevent the Federation from orchestrating provider retaliation against payers that declined to deal though the Federation. The Federation would be prohibited from:

> encouraging, facilitating, assisting, or participating in the termination of any existing contract or in any other action adverse to any payer after that payer has declined to communicate with a physician through defendant.

Thus, any adverse action taken by the Federation after a payer declines to deal with providers collectively would be presumed to be in furtherance of an unlawful agreement. With this language, attempts to circumvent the prohibitions of the Final Judgment by retaliating against payers that declined to deal with the Federation would be prohibited.

Conclusion

The proposed Final Judgment imposes strict requirements to prevent the Federation and its members from engaging in the unlawful behavior that prompted this litigation, and provides significant protections for payers that do not wish to engage in collective negotiations with competing physicians. With the additional language outlined above, the Federation and its members will not be able to retaliate against such payers, and the protection afforded by the Final Judgment will be enhanced.

Dated: January 18, 2002.

Respectfully submitted,
Jones, Day, Reavis & Pogue

Toby G. Singer,

Jones, Day, Reavis & Pogue, 51 Louisiana Avenue, NW., Washington, DC 20001–2113, Telephone: (202) 879–939.

United States Response to Public Comments

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act (the ''APPA''), 15 U.S.C. 16(b)–(h), the United States responds to public comments received regarding the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Procedural History

On August 12, 1998, the United States filed a civil antitrust Complaint alleging that defendant, Federation of Physicians and Dentists, Inc. (''the Federation''), restrained competition in the sale of orthopedic surgical services, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that the Federation, in coordination with certain of its members—nearly all private practice orthopedic surgeons located in Delaware—organized and became the hub of a conspiracy to oppose and prevent reductions in payments for orthopedic services by Blue Cross and Blue Shield of Delaware (''Blue Cross'').

On October 22, 2001, the United States filed a proposed Final Judgment (D.I. 228) and a Stipulation (D.I. 226) signed by both it and defendant, agreeing to entry of the Final Judgment following compliance with the APPA. Pursuant to the APPA, the Stipulation, proposed Final Judgment, and Competitive Impact Statement (''CIS'') (D.I. 227) were published in the **Federal Register** on November 20, 2001, at 66 FR 58,163–69 (2001). A summary of the terms of the proposed Final Judgment and CIS were published for seven consecutive days in the Washington Post from October 25 through October 31, 2001, and in The News Journal from November 15 through November 21, 2001. Pursuant to 15 U.S.C. 16(b)–(d), the 60-day period for public comments on the proposed Final Judgment began on November 21, 2001 and expired on January 22, 2002. During that period, one comment was received.

II. Summary of the Complaint's Factual Allegations

The defendant Federation is a labor organization with its headquarters in Tallahassee, Florida. The Federation has traditionally acted, in employment contract negotiations, as a collective bargaining agent under federal and state labor laws for physicians who are employees of public hospitals or other health care entities. For several years, however, the federation has recruited economically independent physicians in private practice in several states to encourage these independent physicians to use the Federation in negotiating their fees and other terms in their contracts with health care insurers.

The Federation and its Delaware orthopedic surgeon members allegedly conspired to restrain competition in the sale of orthopedic surgical services in various areas of Delaware. This alleged conspiracy developed in the fall of 1996 when the Federation began recruiting orthopedic surgeons in Delaware, touting itself as a vehicle for increasing their bargaining leverage with insurers in fee negotiations. During 1997, the Federation succeeded in recruiting nearly all of the orthopedic surgeons in private practice in Delaware.

In August 1997, Blue Cross notified all of its network physicians, including orthopedic physicians, of a planned fee reduction. By this action, Blue Cross sought to set the fees for Delaware orthopedic surgeons at levels closer to those paid to orthopedic surgeons in nearby ares, such as metropolitan Philadelphia. To resist Blue Cross's proposed fee reductions, the Federation and its orthopedic-surgeon members allegedly reached an understanding that Federation members would negotiates fees with Blue Cross solely through the Federation's executive director, John ''Jack'' Seddon.

The purpose of the Federation's and its members' alleged agreement was to force Blue Cross to rescind the proposed fee reduction for orthopedic surgeons and to inhibit Blue Cross effort to contract with those surgeons at reduced fees. In some cases, Blue Cross subscribers who needed to receive orthopedic services either paid higher prices to receive care from their former physicians as non-participating providers or had to forego or delay receiving such care.

III. Response to Public Comment

The only comment received (copy attached) recognizes that the decree contains ''strict requirements'' to prevent a reoccurrence of the challenged conduct and provides ''significant protection'' for payers that prefer not to engage in collective contractual negotiations with competing physicians. Comment at 4. Nevertheless, the comment argues that in ''one particular area'' the decree ''could be strengthened to provide additional protection.'' *Id.* at 1. Specifically, the comment asserts that the proposed Final Judgment does not expressly forbid the Federation from ''orchestrating provider retaliation'' or ''assisting a member to 'unilaterally' terminate an existing contract with a payer that declines to deal through the Federation.'' *Id.* at 3. The comment, therefore, proposes adding a provision that prohibits retaliation against payers that decline to communicate with provides through the Federation.[1]

The comment's proposed addition is unnecessary because the proposed Final Judgment already prohibits such activity. The proposed Final Judgment contains a prophylactic measure to preclude the Federation from influencing individual members' contractual decisions. Section IV(A)(4)

[1] The comment suggests inserting a new subparagraph 9 in section IV(A), prohibiting the Federal from: encouraging, facilitating, assisting, or participating, in the termination of any existing contract or in any other action adverse to any payer after that payer has declined to communicate with a physician through defendant.

Comment at 3.

enjoins the Federation from directly or indirectly ''making any recommendation to competing physicians about any actual or proposed payer contract or contract term or whether to accept or reject any such payer contract or contract term.'' Moreover, Section IV(A)(2) of the proposed Final Judgment enjoins the Federation from directly or indirectly ''participating in, encouraging, or facilitating any agreement or understanding between competing physicians to deal with any payer exclusively through a messenger rather than individually or through other channels.'' Consequently, any Federal recommendation that competing providers' concerted termination of their contracts in retaliation against payers' declination to communicate with them through the Federation would violate the proposed Final Judgment.

These injunctive provisions prevent the Federation from engaging in the sort of conduct addressed by the comment: retaliation against payers that refuse to deal with the Federation. Therefore, the proposed modification is not necessary to provide an effective and appropriate remedy for the antitrust violation alleged in the complaint.

IV. Conclusion

The United States has concluded that the proposed Final Judgment reasonably and appropriately addresses the harm alleged in the Complaint. Therefore, following publication of this response to comments, pursuant to the APPA, and submission of the United States' certification of compliance with the APPA, the United States intends to request entry of the proposed Final Judgment once the Court determines that entry is in the public interest.

Dated: January 31, 2002.

Respectfully submitted,

Steven Kramer,
Richard S. Martin,
Scott Scheele,
Adam J. Falk,
Attorneys, Antitrust Division, Department of Justice, 325 Seventh St NW., Ste. 400, Washington, DC 20530, Tel: (202) 307–0997, Fax: (202) 514–1517.
Virginia Gibson-Mason,
Assistant U.S. Attorney, Chief, Civil Division, 1201 Market Street, Suite 1100, Wilmington, DE 19801, (302) 573–6277.

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DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1345]

Drug-Free Communities Support Program

AGENCY: Office of National Drug Control Policy, Executive Office of the President, and Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of funding availability.

SUMMARY: The Executive Office of the President, Office of National Drug Control Policy (ONDCP), and the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), are requesting applications for the fiscal year 2002 Drug-Free Communities Support Program to reduce substance abuse among youth and, over time, among adults. Approximately 70 grants of up to $100,000 each will be awarded to community coalitions that are working to prevent and reduce substance abuse among youth.

DATES: Applications must be received by April 24, 2002.

ADDRESSES: All applications must be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 2277 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301–519–5535. Faxed or e-mailed applications will not be accepted. Interested applicants can obtain the *FY 2002 Drug-Free Communities Support Program Application Package,* which includes the Program Announcement, required forms, and instructions on how to apply at OJJDP's Web site at *http://www.ojjdp.ncjrs.org* (click on ''Grants & Funding'').

FOR FURTHER INFORMATION CONTACT: One of the following Program Managers at the Office of Juvenile Justice and Delinquency Prevention:

- Tom Bell, Northwest Region, at 202–616–3664 or e-mail *bell@ojp.usdoj.gov*
- Mark Morgan, Southwest Region, at 202–353–9243 or e-mail *morganm@ojp.usdoj.gov*
- Jay Mykytiuk, Midwest/West Region, at 202–514–1351 or e-mail *mykytiuk@ojp.usdoj.gov*
- Judy Poston, Southeast Region, at 202–616–1283 or e-mail *poston@ojp.usdoj.gov*
- James Simonson, Northeast/East Region, at 202–353–9313, or e-mail simonson@ojp.usdoj.gov
- Gwen Williams, Central Region, at 202–616–1611, or e-mail *williamg@ojp.usdoj.gov*

[These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: The Drug-Free Communities Support Program was established by the Drug-Free Communities Act of 1997 (Pub. L. 105–20). On December 14, 2001, Pub. L. 107–82 reauthorized the program for 5 years. The program is designed to strengthen community antidrug coalitions and reduce substance abuse among youth.

Grantees will receive up to $100,000 in funding and training and technical assistance to reduce substance abuse among youth by addressing the factors in a community that serve to increase or decrease the risk of substance abuse and establish and strengthen collaboration among communities, including Federal, State, local, and tribal governments and private nonprofit agencies to support community coalition efforts to prevent and reduce substance abuse among youth.

Eligible applicants are community coalitions whose members have worked together on substance abuse reduction initiatives for a period of not less than 6 months. The coalition will use entities such as task forces, subcommittees, community boards, and any other community resources that will enhance the coalition's collaborative efforts. With substantial participation from community volunteer leaders, the coalition will implement multisector, multistrategy, long-term plans designed to reduce substance abuse among youth. Coalitions may be umbrella coalitions serving multicounty areas.

Dated: February 6, 2002.

Gregory L. Dixon,

Administrator, Drug-Free Communities Support Program, Office of National Drug Control Policy.

Dated: February 6, 2002.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents

summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of January, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,961; WRS Motion Picture and Video Lab, Pittsburgh, PA

TA–W–39,438; United Veil Dyeing and Finishing, Jersey City, NJ

TA–W–40,605; Powerbrace Corp., Kenosha, WI

TA–W–40,478; Dimension Carbide, Inc., Guys Mills, PA

TA–W–40,480; Flambeau Corp., Sun Prairie, WI

TA–W–40,058; Belco Tool and Manufacturing, Inc., Meadville, PA

TA–W–39,925; Baker Enterprises, Inc., Alpena, MI

TA–W–40,528; Syst-A-Matic Tool and Design, Inc., Meadville, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–40,360 & A; Reptron Electronics, Reptron Manufacturing Services, Tampa, FL and Gaylord, MI

TA–W–40,288; Compaq Computer Corp., CCM6 Plant, Houston, TX

TA–W–40,256; Lucent Technologies (now known as Celestica), Columbus Works, Columbus, OH

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–40,636; King Manufacturing Co., Inc., Corinth, MS

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date followed the company name and location of each determination references the impact date for all workers of such determination.

TA–W–40,043; Steelcase Architectural Walls, Inc., a/k/a Clestra Hauserman, Inc., Solon, OH: August 24, 2000.

TA–W–40,184; Parker Hannifin Corp., Belleville, NJ: September 26, 2000.

TA–W–40,431 & A,B: Acme Steel Co., Riverdale, IL, Acme Coke Plant, Chicago, IL and Acme Furnace Plant, Chicago, IL: November 28, 2000.

TA–W–40,499; Swift Spinning Mills, Main Mill and Open End Spin Plant, Columbus, GA: December 19, 2000.

TA–W–40,541; Americold, A Div. Of AB Electrolux, Cullman, AL: November 28, 2000.

TA–W–40,554; Beltex Underwear Co., LLC, Formerly Beltex Corp., Belmont, NC: December 20, 2000.

TA–W–40,593; TRW, Inc., Steering Product Center, Rogersville, TN: October 18, 2000.

TA–W–40,660; Mettler Toledo Process Analytical, Inc., Woburn, MA: December 3, 2000.

TA–W–40,690; Willacy Apparel, Div. Of Indiana Knitwear Corp., Lyford, TX: October 23, 2000.

TA–W–40,356; Littonian Shoe Co, Littlestown, PA: January 25, 2002.

TA–W–38,887; Schlage Lock Co., San Jose, CA: March 8, 2000.

TA–W–39,410; North Star Steel, Wilton, IA: May 22, 2000.

TA–W–39,625; Kimlor Mills, Inc., Orangeburg, SC: June 30, 2000.

TA–W–39,845; R.B. and W. Manufacturing, LLC, Coraopolis, PA: August 6, 2000.

TA–W–40,088; R&V Industries, Inc. d/b/a Shape Global Technology, Sanford, ME: April 15, 2000.

TA–W–40,450; A.O. Smith, Electrical Products Co., Lexington, TN: November 28, 2000.

TA–W–40,517; Artex International, Boiling Springs, NC: November 23, 2000.

TA–W–40,524; Intermetro Industries, Corp., Douglas, GA: November 19, 2000.

TA–W–40,568; Carlisle Engineered Products, Erie, PA: October 25, 2000.

TA–W–40,698; 3M San Marcos, Formerly JM Outfitters, San Marcos, CA: November 2, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of January, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05556A; Alfa Laval, Inc., Formerly known as Tri-Clover, Kenosha, WI: All workers engaged in the production of pumps are denied.

NAFTA–TAA–05717; National Oilwell, McAlester, OK

NAFTA–TAA–05204; Baker Enterprises, Inc., Alpena, MI

NAFTA–TAA–05240; Valley Machining, Rock Valley, IA
NAFTA–TAA–05271; Belco Tool and Manufacturing, Inc., Meadville, PA
NAFTA–TAA–05504; Flambeau Corp., Sun Prairie, WI
NAFTA–TAA–05544; Powerbrace Corp., Kenosha, WI
NAFTA–TAA–05568; Dimension Carbide, Inc., Guys Mills, PA
NAFTA–TAA–04799; B.F. Goodrich Performance Materials, Taylors Plant, Taylors, SC

The workers firm does not produce an article as required for certification under section 250(a), Subchapter D, Chapter 2, Title II, the Trade Act of 1974, as amended.

NAFTA–TAA–05686; Road Machinery Co., Baynard/Chino Branch, Bayard, NM
NAFTA–TAA–05661; Tree Machine Tools, Inc., Div. of Excel Machine Tools Ltd, Franklin, WI

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05556; Alfa Laval, Inc., Formerly Known as Tri-Clover Kenosha, WI: November 19, 2000. All workers engaged in the production of fittings.
NAFTA–TAA–05678; Swift Spinning Mills, Main Mill and Open End Spin Plant, Columbus, GA: December 19, 2000.
NAFTA–TAA–05515; Carlisle Engineered Products, Erie, PA: October 23, 2000.
NAFTA–TAA–05580; Intermetro Industries Corp., Douglas, GA: November 19, 2000.
NAFTA–TAA–05643; A.O. Smith, Electrical Products Co., Lexington, TN: November 30, 2000.
NAFTA–TAA–05697; R.B. and W. Manufacturing, LLC, Coraopolis, PA: December 16, 2000.
NAFTA–TAA–05711; FCI USA, Inc., Emigsville, PA: January 7, 2001.

I hereby certify that the aforementioned determinations were issued during the month of January, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 1, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–3399 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for worker Adjustment Assistance

Petitions have been field with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not late than February 25, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 25, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 22nd day of January, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 01/22/2002]

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
40,589	Agere Systems (IBEW)	Breinigsville, PA	09/06/2001	Fiber-optic devices.
40,590	Alfa Laval, Inc (Wrks)	Kenosha, WI	10/18/2001	Fittings, pumps and valves.
40,591	Parker Hannifin Corp (Co.)	Sarasota, FL	10/17/2001	Hydraulic valves and gear pumps.
40,592	Spectrian (Wrks)	Sunnyvale, PA	10/30/2001	Power amplifiers.
40,593	TRW, Inc (Co.)	Rogersville, TN	10/17/2001	Rack tubes—rack and pinion steering.
40,594	Alcoa Fujikura Ltd (Wrks)	El Paso, TX	10/25/2001	Wire harnesses assemblies.
40,595	Elkem Metals Co (PACE)	Alloy, WV	10/30/2001	Silicon and ferrosilicon alloys.
40,596	Tyco Electronics Power (CWA)	Mesquite, TX	10/22/2001	Power supplies.
40,597	Huhtamaki Food Service (Wrks)	Mt. Carmel, PA	10/29/2001	Plastic containers, lids.
40,598	Parker Hannifin Corp. (Wrks)	Eaton, OH	10/25/2001	Tube fittings.
40,599	Erie Concrete and Steel (Co.)	Erie, PA	10/19/2001	Structural steel beams and plates.
40,600	FiberTech Group, Inc (Co.)	Landisville, NJ	10/18/2001	Non-woven roll goods.
40,601	ArvinMeritor, Inc. (Co.)	Fayette, AL	10/19/2001	Automotive exhaust components.
40,602	Chemwest Systems, Inc. (Wrks)	Portland, OR	11/02/2001	Plastic storage cabinets.
40,603	Tiffany Knits, Inc. (Wrks)	Schuylkill Have, PA	11/05/2001	Circular knit fabrics.
40,604	Matsushita Kotobuki (Co.)	Vancouver, WA	11/13/2001	Electronics.
40,605	Powerbrace Corp (Wrks)	Kenosha, WI	11/13/2001	Railcar gates, lock rods for trucks.
40,606	Hibbing Taconite Co (Wrks)	Hibbing, MN	11/16/2001	Taconite pellets.
40,607	Xerox Corp. (UNITE)	Farmington, NY	11/27/2001	Ink jet printhead cartridges.
40,608	Boeing Defense and Space (Wrks)	Oak Ridge, TN	11/21/2001	Commercial aircraft wings.
40,609	Lebold Vacuum USA, Inc (Wrks)	Export, PA	12/07/2001	Dry vacuum pumps.
40,610	Goodyear Tire and Rubber (USWA)	East Gadsden, AL	11/16/2001	Radial passenger and truck tires.
40,611	Hammond Power Solutions (Co.)	Baraboo, WI	01/11/2002	Dry type electrical transformers.

APPENDIX—Continued

[Petitions instituted on 01/22/2002]

TA–W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
40,612	Odetics, Inc. (Co.)	Anaheim, CA	11/26/2001	Electronic video surveillance equip.
40,613	Celestica-Wisconsin (Wrks)	Chippewa Falls, WI	11/30/2001	Printed circuit boards.
40,614	Port Townsend Paper (Wrks)	Portland, OR	11/08/2001	Paper bags.
40,615	Emerson Electronic (Wrks)	Waseca, MN	11/29/2001	RF coaxial connector assemblies.
40,616	Storm Copper Components (Co)	Decatur, TN	11/13/2001	Wire harnesses.
40,617	Bull Moose Tube Co. (Wrks)	Gerald, MO	11/08/2001	Welded steel tubing.
40,618	Acordis Industrial Fibers (Co.)	Scottsboro, AL	11/30/2001	Tire cord fabric.
40,619	Cherry Electrical Product (Wrks)	Pleasant Prairi, WI	11/29/2001	Switch assemblies.
40,620	Ethyl Petroleum Additives (Wrks)	Natchez, MS	11/13/2001	Petroleum additives.
40,621	G.E. Transportation Globa (Wrks)	Warrensburg, MO	11/19/2001	Aluminum/steel bungalows.
40,622	Teva Pharmaceuticals USA (Co.)	Elmwood Park, NJ	11/02/2001	Antibiotics.
40,623	Pacific Scientific (Wrks)	Grants Pass, OR	11/30/2001	Particle counters and software.
40,624	Trion Industries, Inc (Co.)	Wilkes Barre, PA	11/05/2001	Toy products packaging.
40,625	Crane Pumps and Systems (PACE)	Decatur, IL	11/14/2001	Machined parts—water pumps.
40,626	Allegheny Tool and Mfg (Co.)	Meadville, PA	11/27/2001	Spare tooling.
40,627	Holland Company (Co.)	Hays, KS	11/27/2001	Welding.
40,628	Erickson Air-Crane (Wrks)	Central Point, OR	01/08/2002	Logs, timber.
40,629	Hyde Park Foundry (Co.)	Hyde Park, PA	11/15/2001	Steel rolls for metal processing.
40,630	USA Apparel Enterprises (Co.)	Fall River, MA	11/30/2001	Ladies' dresses.
40,631	Skips Cutting, Inc (Wrks)	Ephrata, PA	11/19/2001	Clothing—cut, sewn, dyed.
40,632	Corning, Inc. (AFGWU)	Corning, NY	11/08/2001	Corning products.
40,633	Morrison Berkshire, Inc (Co.)	North Adams, MA	10/28/2001	Textile needle looms.

[FR Doc. 02–3403 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40, 509]

Imerys, Dry Branch, Georgia; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 31, 2001, in response to a worker petition, which was filed by the company on behalf of workers at Imerys, Dry Branch, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of January, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3402 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,326]

Jones and Vining, Inc., Lewiston, ME; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Jones and Vining, Inc., Lewiston, Maine. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–40,326; Jones and Vining, Inc. Lewiston, Maine (January 30, 2002)

Signed at Washington, DC this 30th day of January, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–3401 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than February 25, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade

Adjustment Assistance, at the address shown below, not later than February 25, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 14th day of January, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 1/14/2002]

TA–W	Subject Firm (Petitioners)	Location	Date of petition	Product(s)
40,536	Rohm and Haas (Co.)	Moss Point, MS	12/19/2001	Liquid polysulfide.
40,537	Protel, Inc. (Wkrs)	Lakeland, FL	12/08/2001	Pay phones.
40,538	JMC LLC—Nexpas (Wkrs)	Rockaway, NY	12/19/2001	Plastic video/DVD cases.
40,539	Kemmer Prazision (Co.)	Chicago, IL	12/13/2001	Carbide cutting tools.
40,540	Beta Steel Corp. (Co.)	Portage, IN	12/26/2001	Hot rolled steel coils.
40,541	Americold (Co.)	Cullman, AL	11/20/2001	Refrigeration compressors.
40,542	Vision Metals-Gulf State (USWA)	Rosenberg, TX	12/08/2001	Steel tubing.
40,543	Steelcase (Wkrs)	Fletcher, NC	12/13/2001	Wood office furniture.
40,544	Tyco Electronics (Wkrs)	Dallas, OR	12/17/2001	Printed circuit boards.
40,545	Appleton Coated (PACE)	Combined Locks, WI	12/27/2001	Carbonless forms.
40,546	Midland Steel Product (Co.)	Janesville, WI	11/19/2001	Truck frame assemblies.
40,547	Cuvahoga Valley Railway (Co.)	Cleveland, OH	12/26/2001	Steel.
40,548	BP Exploration Alaska (Wkrs)	Anchorage, AK	12/27/2001	Oil.
40,549	DB, Inc. (Co.)	Potlatch, ID	12/21/2001	Custom tooling and patterns.
40,550	Nokia Networks (Wkrs)	Ft. Worth, TX	11/07/2001	Prototype and prezero modules.
40,551	Chemical Lime Co. (Co.)	Douglas, AZ	12/21/2001	Calcium oxide.
40,552	Electronic Data Systems (Wkrs)	Copley, OH	12/28/2001	Provide payroll services for LTV steel.
40,553A	Aalfs Manufacturing (Wkrs)	Mena, AR	11/14/2001	Denim jeans and shorts.
40,553B	Aalfs Manufacturing (Wkrs)	Arkadelphia, AR	11/14/2001	Denim jeans and shorts.
40,553C	Aalfs Manufacturing (Wkrs)	Malvern, AR	11/14/2001	Denim jeans and shorts.
40,553D	Aalfs Manufacturing (Wkrs)	Sioux City, IA	11/14/2001	Denim jeans and shorts.
40,553	Aalfs Manufacturing (Wkrs)	Glenwood, AR	11/14/2001	Denim jeans and shorts.
40,554	Beltex Underwear Co (Wkrs)	Belmont, NC	12/11/2001	Men's underwear.
40,555	Tom's Sportswear (UNITE)	Lehighton, PA	12/20/2001	Ladies' sportswear.
40,556	Hunt Foods (ConAgra) (UFCW)	Perrysburg, OH	07/18/2001	Tomato sauces, ketchup and BBQ sauces.
40,557	Midwest Garment Co. (Co.)	Chesterfield, MO	10/16/2001	Bed sheets, pillow cases.
40,558	Pennsylvania Tool & Gages (Co.)	Meadville, PA	10/26/2001	Mold and die tooling, machined component.
40,559	Maysville Garment (Co.)	Maysville, NC	10/12/2001	Knit woven shirts, dresses, & pants.
40,560	DataMark, Inc. (Wkrs)	El Paso, TX	10/22/2001	Forms processing services.
40,561	Thermal Industrial (Wkrs)	Pittsburgh, PA	10/19/2001	Vinyl lineal extrusions.
40,562	Lake Superior & Ishpeming (Co.)	Marquette, MI	10/18/2001	Transport iron ore.
40,563	Best Form Foundations (UNITE)	Johnstown, PA	10/17/2001	Women's under garments.
40,564	Texfi Industries (Co.)	New York, NY	10/23/2001	Apparel fabric.
40,565	Enirons, Inc.	Portland, OR	10/26/2001	Golf outerwear.
40,566	Angelica Image Apparel (Co.)	Winona, MS	10/16/2001	Aprons, tops, pants, shirts.
40,567	Ivaco Steel Processing (Wkrs)	Tonawanda, NY	10/18/2001	Steel.
40,568	Carlisle Engineered Prod (Wkrs)	Erie, PA	10/25/2001	Engine cooling components.
40,569	Tama Sportswear, Inc (Wkrs)	Long Island, NY	11/06/2001	Swimwear.
40,570	ATD Corporation (Wkrs)	Vienna, OH	11/10/2001	Steel and dunnage materials.
40,571	Moon Tool and Die (Co.)	Conneaut Lake, PA	10/22/2001	Injection molds.
40,572	Northeast Bleach and Dye (Wkrs)	Schuylkill Have, PA	11/13/2001	Bleach and dye cotton, poly materials.
40,573	Nortel Networks (Wkrs)	Bohemia, NY	11/07/2001	Computer systems.
40,574	Heckett Multiserv (Co.)	Provo, UT	11/20/2001	Slag & metal reclamation.
40,575	Phoenix Finishing (Co.)	Gaffney, SC	11/01/2001	Finished broadwoven fabrics.
40,576	Joners Apparel Group (Wkrs)	Bristol, PA	11/01/2001	Women's apparel.
40,577	Kurt Manufacturing (Wkrs)	Minneapolis, MN	11/30/2001	Cast molds and tooling.
40,578	Graphic Arts, Inc. (Co.)	Philadelphia, PA	11/27/2001	Commercial printing.
40,579	VDO North America (Co.)	Winchester, VA	11/29/2001	instrumentation and fuel systems.
40,580	Debbie Sue Fashions (UNITE)	Bethlehem, PA	11/20/2001	Ladies' swimwear.
40,581	Young Mens Shop (Wkrs)	Altoona, PA	11/02/2001	Retail clothing store.
40,582	General Electric, Austin (Wkrs)	Youngstown, OH	11/15/2001	Coils for incadecent light bulbs.
40,583	Mocaro Dyeing & Finishing (Co.)	Statesville, NC	11/14/2001	Dyeing and finishing piece goods.
40,584	Rockwell Collins (Co.)	Irvine, CA	01/03/2001	Inflight entertainment systems.
40,585	Center Finishing (UNITE)	Jersey City, NJ	11/29/2001	Printing on woven goods—upholstery.
40,586	VF Services (Co.)	Greensboro, NC	11/26/2001	Provide technical support.
40,587	UCAR Carbon Company (PACE)	Clarksburg, WV	11/14/2001	Specialty graphite products.
40,588	CNG International (Wkrs)	Hastings, MI	11/15/2001	Press repair parts.

[FR Doc. 02–3404 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–39,939 and TA–W–39,939A]

Willamette Industries, Inc., Korpine Particleboard Division, Including Temporary Workers of Express Personnel Services, Bend, Oregon; Willamette Industries, Inc., Particleboard Sales Office, Albany, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 15, 2002, applicable to workers of Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon. The notice was published in the **Federal Register** on January 31, 2002 (67 FR 4750).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State and the company shows that temporary workers of Express Personnel were employed at Willamette Industries, Korpine Particleboard Division to produce industrial pine particleboard at the Bend, Oregon location of the subject firm.

Information also shows that worker separations occurred at the Particleboard Sales Office, Albany, Oregon. Workers provide sales function services for the Korpine Particleboard Division of the subject firm.

Based on these findings, the Department is amending the certification to include temporary workers of Express Personnel Services, Bend, Oregon employed at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon and to include the Particleboard Sales Office, Albany, Oregon.

The intent of the Department's certification is to include all workers of Willamette Industries, Inc., Korpine Particleboard Division adversely affected by imports.

The amended notice applicable to TA–W–39,939 is hereby issued as follows:

''All workers of Willamette Industries, Inc. Korpine Particleboard Division, Bend, Oregon including temporary workers of Express Personnel Services, Bend, Oregon (TA–W–39,939) engaged in employment related to the production of industrial pine particleboard at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon, and all workers of Willamette Industries, Particleboard Sales Office, Albany, Oregon (TA–W–39,939A) who became totally or partially separated from employment on or after August 17, 2000 through January 15, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 4th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3406 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5335]

Antec Corp., a/k/a Arris International Keptel-Antec Division Tinton Falls, New Jersey; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II of the Trade Act of 1974, as amended (19 USC 2331), an investigation was initiated on September 10, 2001, in response to a worker petition that was filed by the company on behalf of its workers at Keptel/Antec Division, Tinton Falls, New Jersey. The workers produced telephone equipment and interface devices.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 5th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3405 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04812]

CEMEX KOSMOS Cement Co. Pittsburgh Plant, Pittsburgh, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 20, 2001 the International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance, applicable to petition number NAFTA 04613. The denial notice was signed on June 26, 2001 and published in the **Federal Register** on July 11, 2001 (66 FR 36329).

The union requested administrative reconsideration based on the belief that Cemex (the acquiring company of the subject plant) replaced the subject plants customer base with imported cement products from Mexico.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 3rd day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–3400 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5574]

VF Corp., LP Lee Jean Division Lebanon, Missouri; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on November 26, 2001, in

response to a petition filed on behalf of workers at VF Corporation, LP, Lee Jean Division, Lebanon Equipment Center, Lebanon, Missouri.

This worker group is subject to an ongoing petition investigation, NAFTA–5681. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 5th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–3407 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05251 and NAFTA–05251A]

Williamette Industries, Inc., Korpine Particleboard Division Including Temporary Workers of Express Personnel Services Bend, Oregon; Williamette Industries, Inc., Particleboard Sales Office Albany, Oregon; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on December 7, 2001, applicable to workers of Willamette Industries, Inc., Korpine Division, Bend, Oregon. The Notice was published in the **Federal Register** on December 26, 2001 (66 FR 66427).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Informational provided by the State and the company shows that temporary workers of Express Personnel were employed at Willamette Industries, Korpine Particleboard Division of produced industrial pine particleboard at the Bend, Oregon location of the subject firm.

Information also shows that worker separations occurred at the Particleboard Sales Office, Albany Oregon. Workers provide sales function services for the Korpine Particleboard Division of the subject firm.

Based on these findings, the Department is amending the certification to include temporary workers of Express Personnel Services, Bend, Oregon Employed at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon and to include the Particleboard Sales Office, Albany, Oregon.

The intent of the Department's certification is to include all workers of Willamette Industries, Inc., Korpine Particleboard Div. affected by increased customer imports of industrial pine particleboard from Canada and Mexico.

The amended notice applicable to NAFTA–95251 is hereby issued as follows:

All workers of Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon including temporary workers of Express Personnel Services, Bend,Oregon (NAFTA–5251) engaged in employment related to the production of industrial pine particleboard at Willamette Industries, Inc., Korpine Particleboard Division, Bend, Oregon, and all workers of Willamette Industries, Particleboard Sales Office, Albany, Oregon (NAFTA–5251A) who became totally of partially separated from employment on or after August 17, 2000, through December 7, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 4th day of February, 2002.

Linda G. Poole,

Certifying Officer, Division of, Trade Adjustment Assistance.

[FR Doc. 02–3408 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Examinations and Tests of Electrical Equipment

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

ADDRESSES: Send comments to David L. Meyer, Director, Office of Administration and Management, 4015 Wilson Boulevard, Room 615, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to *Meyer-David@msha.gov*, along with an original printed copy. Mr. Meyer can be reached at (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Charlene N. Barnard, Regulatory Specialist, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 725, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Barnard can be reached at barnard-charlene@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Inadequate maintenance of electric equipment is a major cause of serious electrical accidents in the coal mining industry. Improperly maintained electric equipment has also been responsible for many disastrous mine fires and explosions. The most recent example is the mine fire that occurred at the Wilberg Mine, resulting in the deaths of 27 miners. It is imperative that mine operators adopt and follow an effective maintenance program to ensure that electric equipment is maintained in a safe operating condition if electrocutions, mine fires, and mine explosions are to be prevented.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Examinations and Tests of Electrical Equipment. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act submission (*http://www.msha.gov/regspwork.htm*)'', or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for a hard copy.

III. Current Actions

The subject regulations require the mine operator to establish an electrical maintenance program by specifying minimum requirements for the examination, testing, and maintenance of electric equipment. The regulations also contain recordkeeping requirements which may in some instances help operators in implementing an effective maintenance program. The subject records of tests and examinations are examined by coal miners, coal mine officials, and MSHA inspectors. MSHA inspectors examine the records to determine if the required tests and examinations have been conducted and to identify units of electric equipment that may be creating excessive safety problems, and to evaluate the effectiveness of the coal mine operator's electrical maintenance programs. By comparing the records with the actual condition of electric equipment, MSHA inspectors may in some cases be able to identify weaknesses in the coal mine operator's electrical maintenance programs and require that the weaknesses be corrected.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Examinations and Tests of Electrical Equipment.

OMB Number: 1219–0067.

Recordkeeping: 1 year.

Affected Public: Business or other for-profit.

City/reference	Total respondents	Frequency	Total responses	Average time per response	Burden hours
75.512	16,742	Weekly	870,584	42 minutes	593,762
75.703–3(d)(11)	Included with 75.512 calculation.				
77.502	25,485	Monthly	305,820	1 Hr	228,091
75.800–4 and 77.800–2	3,115	Monthly	37,380	45 min	28,035
77.900–2	1,699	Monthly	20,388	45 minutes	15,291
75.900–4	5,970	Monthly	71,640	1.5 hours	107,460
75.1001–1(c)	1,000	6 Months	2,000	1.5 hours	3,000
75.351	647	Monthly	7,764	1.5 hours	9,705
Totals	54,658		1,315,576		994,704

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 7, 2002.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. 02–3520 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–13–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Pine Ridge Coal Company

[Docket No. M–2001–122–C]

Pine Ridge Coal Company, 1970 Barrett Court, P.O. Box 1990, Henderson, Kentucky 42420 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Big Mountain No. 16 Mine (I.D. No. 46–07908) located in Boone County, West Virginia. The petitioner proposes to use trailing cables not to exceed 900 feet to supply its shuttle cars, roof bolters, and mobile roof supports. The petitioner states that the trailing cables for the shuttle cars would not be smaller than No. 6 AWG, for mobile roof supports not smaller than No. 4 AWG, and for roof bolters not smaller than No. 2 AWG. The petitioner has outlined in this petition specific procedures that would be used when its alternative method is implemented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Warrior Coal, LLC

[Docket No. M–2001–123–C]

Warrior Coal, LLC, P.O. Box Drawer 1210, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.1103–4(a) (automatic fire sensors and warning device systems; installation; minimum requirements) to its Cardinal Mine (I.D. No. 15–17216) located in Hopkins County, Kentucky. The petitioner proposes to install a carbon monoxide detection system that identifies the location of sensors in lieu of identifying belt flights. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Warrior Coal, LLC

[Docket No. M–2001–124–C]

Warrior Coal, LLC, P.O. Box Drawer 1210, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Cardinal Mine (I.D. No. 15–17216) located in Hopkins County, Kentucky. The petitioner proposes to use air coursed through conveyor belt entries to ventilate working places. The petitioner proposes to install and maintain a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative

method would provide at least the same measure of protection as the existing standard.

4. Oxbow Mining, L.L.C.

[Docket No. M–2001–125–C]

Oxbow Mining, L.L.C., P.O. Box 535, 3737 Highway 133, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Elk Creek Mine (I.D. No. 05–04674) located in Gunnison County, Colorado. The petitioner proposes to use a 480-volt, wye connected, 260 KW portable diesel generator for utility power and to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. The petitioner states that the 480-volt output uses a 300 KVA autom-transformer to develop 995-volts, and the generator would also be used to perform other minor activities in the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Oxbow Mining, L.L.C.

[Docket No. M–2001–126–C]

Oxbow Mining, L.L.C., P.O. Box 535, 3737 Highway 133, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.901 (protection of low- and medium-voltage three-phase circuits used underground) to its Elk Creek Mine (I.D. No. 05–04674) located in Gunnison County, Colorado. The petitioner proposes to use a 260KW, 480-volt portable diesel generator to move and operate electrically powered mobile equipment and stationary equipment throughout the mine. The petitioner states that the 480-volt output uses a 300 KVA auto-transformer to develop 995-volts, and the generator would also be used to perform other minor activities in the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Requests for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov,'' or on a computer disk along with an original hard copy to the Office of standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 15, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 7th day of January 2002.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02–3516 Filed 2–12–02; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on March 12–13, 2002, in Room N3437 (B–D), U.S. Department of Labor, located at 200 Constitution Avenue, NW., Washington, DC. The meeting is open to the public and will begin at 1 p.m. on March 12, and last until approximately 5 p.m. The meeting will reconvene on March 13 at 9 a.m. and end at approximately 4 p.m.

The meeting will begin with an overview of activities of the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH). Other agenda items include: a presentation on OSHA's enforcement, compliance assistance, and regulatory issues as well as a presentation by NIOSH on the National Personal Protective Technology Laboratory including its activities related to the World Trade Center disaster.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Vivian Allen at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Veneta Chatmon (phone: 202–693–1912: FAX 202–693–1634) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–693–2350). For additional information contact: Vivian Allen, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue NW., Washington, DC, 20210 (phone: 202–693–1935; FAX: 202–693–1641; e-mail *Vivian.Allen@osha.gov)*; or check the National Advisory Committee on Occupational Safety and Health information pages located at *www.osha.gov.*

Signed at Washington, DC, this 6th day of February, 2002.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 02–3398 Filed 2–2–02; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE (02–019)

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATES: Tuesday, March 5, 2002, 8:30 a.m. to 5:30 p.m., Wednesday, March 6, 2002, 8:30 a.m. to 5:30 p.m., Thursday, March 7, 2002, 8:30 a.m. to 12:30 p.m.

ADDRESSES: NASA Headquarters, Conference Room 9H40, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following:

—Associate Administrator's Budget Presentation
—Division and Program Directors' Reports
—Subcommittee Reports
—Education and Public Outreach Program Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3391 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–020)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee (SSES) Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Astronomical Search for Origins Planetary Systems Subcommittee.

DATES: Wednesday, February 27, 2002, 8:30 a.m. to 5:30 p.m., Thursday, February 28, 2002, 8:30 a.m. to 5:30 p.m., Friday, March 1, 2002, 8:30 a.m. to 5:30 p.m.

ADDRESSES: Holiday Inn Capitol, Columbia II Meeting Room, 500 C Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Solar System Program Update
—Space Science Update
—Mars Program
—Outer Planets Program
—Inner Planets Program
—Technology Issues
—in Space Propulsion
- In-Space Power
- Delta II Launch Vehicle Availability

—Research and Analysis and Data Analysis
—Roadmap

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3392 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–022)]

NASA Advisory Council (NAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC).

DATES: Tuesday, February 26, 2002, 8 a.m. to 5 p.m; and Wednesday, February 27, 2002, 8 a.m. to 12:30 p.m.

ADDRESSES: NASA Johnson Space Center, 2101 NASA Road 1, Building 1, Room 966, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Cleary, Code IC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Receive a status of NASA's restructuring of the International Space Station program
—An evaluation of NASA's Strategic Resources Review
—A discussion on NASA's communication plan for the International Space Station
—Hear Committee reports

Due to increased security measures at the NASA Johnson Space Center (JSC), interested members of the media must contact the JSC newsroom no later than Monday, February 25, 2002, by 12 noon CST (281–483–5111) to make arrangements for transportation onsite and escort while at the Center. Any other interested persons must contact Ms. Abby Cassell no later than Monday, February 25, 2002, by 12 noon CST (281–483–2467) to make arrangements for badging, parking and escort while at the Center. Any requests for access to this meeting received after the cutoff time will not be accommodated due to limited staffing and security issues. Access to JSC will be limited to those who show proper photo identification and who have made prior arrangements to attend as stipulated herein.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3486 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–021)]

Aerospace Safety Advisory Panel Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Thursday, March 7, 2002, 1 p.m. to 3 p.m. Eastern Standard Time.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW, Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Lengyel, Aerospace Safety Advisory Panel Executive Director, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0391.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will present its annual report to the NASA Administrator. This presentation is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that

involve the safety of human flight. The major subjects covered will be: Space Shuttle Program, International Space Station Program, Workforce, Mishap Investigation, Medical Operations, Extravehicular Activity, Aero-Space Technology, and Computer Hardware/Software. The Aerospace Safety Advisory Panel is currently chaired by Mr. Richard D. Blomberg and is composed of nine members and nine consultants. The meeting will be open to the public up to the capacity of the room (approximately 60 persons including members of the Panel).

Members of the public should contact Ms. Vickie Smith on (202) 358–1650 if you plan to attend. Upon arrival, you will be required to sign-in with Security where you will be issued a temporary visitor's badge. While you are in the building, you must be escorted by a NASA employee at all times.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–3393 Filed 2–12–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

PPL Susquehanna, LLC, Allegheny Electric Cooperative, Inc., Susquehanna Steam Electric Station, Units 1 and 2; Exemption

1.0 Background

PPL Susquehanna, LLC (PPL, the licensee), is the holder of Facility Operating License Nos. NPF–14 and NPF–22 which authorize operation of the Susquehanna Steam Electric Station, Units 1 and 2 (SSES–1 and 2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors located in Luzerne County in Pennsylvania.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), part 50, Section 50.60(a), requires nuclear power reactors to meet the fracture toughness requirements set forth in 10 CFR part 50, Appendix G. Appendix G of 10 CFR part 50 requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G, states that ''[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G, limits.

To address provisions of amendments to the technical specification (TS) P–T limits in the submittal dated July 17, 2001, as supplemented July 26 and October 15, 2001, the licensee requested, pursuant to 10 CFR part 50, section 50.60(b), that the NRC staff exempt SSES–1 and 2, from application of specific requirements of 10 CFR part 50, section 50.60(a), and Appendix G, and substitute use of ASME Code Case N–640 as the basis for establishing the P–T limit curves. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{Ic} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P–T limits. Because use of the K_{Ic} fracture toughness curve results in the calculation of less conservative P–T limits than the methodology currently required by 10 CFR part 50, Appendix G, an exemption to apply the Code Case would be required by 10 CFR 50.60.

The licensee proposed to revise the P–T limits for SSES–1 and 2, using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limit curves is more technically correct than the K_{Ia} curve because the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the initial conservatism of the K_{Ia} curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. Additionally, P–T curves based on the K_{Ic} curve will enhance overall plant safety by opening the operating window, with the greatest safety benefit in the region of low-temperature operations.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by applying the K_{Ic} fracture toughness, as permitted by Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances include, but are not limited to, the following case:

- Pursuant to 10 CFR 50.12(a)(2)(ii), the circumstance that application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The NRC staff accepts the licensee's determination that an exemption would be required to approve the use of Code Case N–640. The staff examined the licensee's rationale to support the exemption request and concurred that the use of the Code Case would meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR part 50, Appendix G; Appendix G of the Code; and Regulatory Guide 1.99, Revision 2, the staff concluded that application of Code Case N–640 as described would provide an adequate margin of safety against brittle failure of the RPV. Since strict compliance with the requirements of 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, is not necessary to serve the overall intent of the regulations, the NRC staff concludes that application of Code Case N–640 to the P–T limit curves meets the special circumstance provision of 10 CFR

50.12(a)(2)(ii). This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations. Therefore, the NRC staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that the methodology of Code Case N–640 may be used to revise the P–T limits for SSES–1 and 2.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants PPL Susquehanna, LLC, an exemption from the requirements of 10 CFR part 50, section 50.60(a) and Appendix G, for generating the P–T limit curves for SSES–1 and 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 5322).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3507 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50–461]

Amergen Energy Company, LLC; Clinton Power Station, Unit 1 Draft Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Thermal Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

SUMMARY: The NRC has prepared a draft environmental assessment (EA) as its evaluation of a request by AmerGen Energy Company, LLC (AmerGen or the licensee), for a license amendment to increase the maximum thermal power level at Clinton Power Station, Unit 1 (CPS), from 2894 megawatts thermal (MWt) to 3473 MWt. This represents a power increase of approximately 20 percent for CPS. The proposed amendment would also change the operating license and the technical specifications appended to the operating license to provide for implementing uprated power operation. As stated in the NRC staff's February 8, 1996, position paper on the Boiling-Water Reactor Extended Power Uprate Program, the staff has the option of preparing an environmental impact statement if it believes a power uprate will have a significant impact. The staff did not identify a significant impact from the licensee's proposed extended power uprate at CPS; therefore, the NRC staff is documenting its environmental review in an EA. Also, in accordance with the February 8, 1996, staff position paper, the draft EA and finding of no significant impact is being published in the **Federal Register** with a 30-day public comment period.

DATES: The comment period expires March 15, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only of comments received on or before March 15, 2002.

ADDRESSEES: Submit written comments to Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6 D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland 20852, from 7:45 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be available electronically at the NRC's Public Electronic Reading Room (PERR) link *http://www.nrc.gov/reading-rm/Adams.html* on the NRC Homepage or at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jon B. Hopkins, Office of Nuclear Reactor Regulation, at Mail Stop O–7 D3, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at (301) 415–3027, or by e-mail at *jbh1@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. NPF–62, issued to AmerGen Energy Company, LLC (AmerGen, the licensee) for the operation of the Clinton Power Station, Unit 1 (CPS), located on Clinton Lake in DeWitt County, Illinois. Therefore, pursuant to 10 CFR 51.21 and 51.35, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow AmerGen, the operator of CPS, to increase its electrical generating capacity at CPS by raising the maximum reactor core power level from 2894 MWt to 3473 MWt. This change is approximately 20 percent above the current licensed maximum power level for CPS. The change is considered an extended power uprate (EPU) because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. CPS has not submitted a previous power uprate application. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the condenser to support increased turbine exhaust steam flow requirements. The licensee with input from the plant designer, General Electric Company, evaluated the proposed EPU from a safety perspective and concluded that sufficient safety and design margins exist so that the proposed increase in core thermal power level can be achieved without any risk to health and safety of the public or impact on the environment.

The proposed action is in accordance with the licensee's application for amendment dated June 18, 2001, a letter providing initial environmental information dated September 7, 2001, and additional environmental information provided in a letter dated November 29, 2001. Also, the application was supplemented by letters dated September 28, October 17, 23, 26, and 31, November 8 (2 letters), 20, 21, and 30, and December 5, 6, 7, 13 (2 letters), 20, 21, and 26, 2001, and January 8, 15, 16, and 24, 2002. The proposed amendment would change the operating license and the technical specifications appended to the operating license to provide for implementing uprated power operation.

The Need for the Proposed Action

AmerGen evaluated the need for additional electrical generation capacity in its service area for the planning period 2000–2009. Information provided by the North American

Electric Reliability Council showed that, in order to meet projected demands, generating capacity must be increased by at least 1.6% per year for the Mid-Continent Area Power Pool (MAPP) and the Mid-America Interconnected Network (MAIN).

AmerGen determined that a combination of increased power generation and purchase of power from the electrical grid would be needed to meet the projected demands including an operating margin for reliability. Increasing the generating capacity at CPS was estimated to provide lower cost power than can be purchased on the current and projected energy market. In addition, increasing nuclear generating capacity would lessen the need to depend on fossil fuel alternatives that are subject to unpredictable cost fluctuations and increasing environmental costs.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating license for CPS, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of CPS, which was issued in May 1982. The original operating license for CPS allowed a maximum reactor power level of 2894 MWt. On September 7, 2001, Exelon submitted a supplement to its Environmental Report supporting the proposed EPU and provided a summary of its conclusions concerning the environmental impacts of the EPU at CPS. Based on the staff's independent analyses and the evaluation performed by the licensee, the staff concludes, as described further below, that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES, because the EPU would involve no extensive changes to plant systems that directly or indirectly interface with the environment. Additionally, no changes to any State permit limits would be necessary. This environmental assessment first discusses the non-radiological and then the radiological environmental impacts of the proposed EPU at CPS.

Non-Radiological Impacts at CPS

The following is the NRC staff's evaluation of the non-radiological environmental impacts of the proposed EPU on land use, water use, waste discharges, noise, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at CPS.

Land Use Impacts

The EPU at CPS as proposed will require no changes to the current use of land. Modification plans as submitted do not include building any new structures or materially altering any existing structures to implement EPU activities. With the exception of transportation of equipment and materials, and routine waste disposal, EPU activities will be confined to the area within the plant security fence. Capacity of above or below ground storage tanks are not scheduled to be changed by the EPU. Areas outside the plant security fence would not be affected in any way by the EPU implementation plan as submitted by AmerGen.

The CPS EPU includes replacement of turbine components that will be radiologically contaminated. The proposed maintenance plan includes decontamination and recycling of replaced turbine parts, or transfer to an approved offsite disposal facility. Thus, additional on-site, low-level radioactive waste storage facilities would not be needed. We conclude that the NRC staff's conclusions in the FES on land use would remain valid as a result of implementing the proposed EPU.

Water Use Impacts

No groundwater resources will be affected by the EPU. CPS uses the impounded volume of Clinton Lake (surface water) for all cooling water requirements. The licensee has stated that the EPU will result in a minimal change in the consumptive use of water from the lake. Thus, the NRC staff's conclusions in the FES on water use would continue to be valid under operating conditions expected after the EPU. Also note that in its October 1974 environmental statement for the construction of two units at the Clinton site, the NRC evaluated consumptive use of the lake water with two units operating.

Discharge Impacts

The NRC staff evaluated environmental impacts associated with the proposed EPU cooling water discharge such as fogging, icing, noise, lake water temperature changes, and cold shock.

Cooling Lake Fog and Icing

Environmental impacts such as fogging and icing could result from the increased heat load resulting from discharge of additional cooling water into Clinton Lake. However, the CPS Environmental Report addressed estimates of ground fog frequency and icing and associated environmental impacts for the current power level. These analyses included considerable conservatism, well beyond the projected 20% increase of release heat. The NRC staff concluded in the FES that the operation of the CPS cooling water discharge system was not harmful to the lake and surrounding environment. The NRC staff concludes that ground fog and icing that might be generated by plant operation at the uprated power level is bounded by the conclusions of the FES.

Noise

No significant changes to facilities are planned that would change the character, sources or energy of noise generated at CPS. All new equipment or components needed to modifying existing equipment in order to effect the EPU will be installed within existing plant facilities. No significant increase in ambient noise levels is anticipated in any work areas within the plant. The upgraded turbines are designed to operate at the same speed as under the existing power level. The conclusions regarding noise levels in the Environmental Report remain applicable for noise levels expected under EPU conditions.

Lake Water Temperature Changes

Effluent from the circulating water coolant system is directed back to Clinton Lake. The licensee has stated that it does not expect any increase in circulating water flow as a result of the EPU. However, because more heat must be rejected from the plant, circulating water discharge temperatures will be elevated as a result of the EPU. The Illinois Environmental Protection Agency (IEPA) has established limits for this effluent in the plant's National Pollutant Discharge Elimination System (NPDES) permit in order to protect the resource. The licensee has stated that the plant will continue to be operated in compliance with established limits in the NPDES permit. Consequently, there should not be a thermal impact to the lake as a result of the EPU in excess of that already considered by IEPA. If the NPDES limits prevent operation at full power under some conditions, the licensee will either have to derate the unit during those times or request a change to its permit.

Cold Shock

Cold water shock to aquatic species occurs when the warm water discharge from a plant stops due to an unplanned shutdown. The probability of an unplanned shutdown is independent of the power uprate. In the event of a shutdown the thermal differential will still be within the NPDES limits.

Consequently, the increase in the risk of fish mortality due to cold shock will not be significant, and the total impact will continue to be bounded by the FES.

Terrestrial Biota

The FES for CPS published in May 1982 identified two endangered species that may occur in the vicinity of the site; the bald eagle (Haliaeetus leucocephalus) and the Indiana bat (Myotis sodalis). Operation of the CPS under EPU conditions is expected to have no adverse effect on land use and will not disturb the habitats of any terrestrial plant or animal species as evaluated in the FES. Extended power uprate operating conditions will not significantly increase previously evaluated environmental impacts on terrestrial biota.

Aquatic Biota

As discussed previously, the licensee has stated that it does not expect to have to increase circulating water flow as a result of the EPU. Therefore, there should be no increase in the entrainment and impingement of aquatic species at the intake structure. In addition, the licensee has indicated that it expects the discharge temperature of the water to remain within the limits previously evaluated and approved by IEPA. As long as the plant is operated within these limits, impacts to aquatic species should not exceed those previously considered.

Human Health

In response to an NRC staff request for additional information, CPS submitted the following information regarding Naegleria fowleri in its letter dated November 29, 2001.

During the final regulatory review of the Final Environmental Statement (FES) in 1982, concerns were raised that the elevated temperatures in Clinton Lake due to plant operation might increase the abundance of pathogenic N. fowleri and constitute a risk for primary contact water sports. N. fowleri is the organism that causes a potentially fatal disease know as Primary Amoebic Meningoencephalitis (PAM). Initially, the Illinois Department of Public Health (IDPH) responded to concerns raised by the Illinois Department of Natural Resources (IDNR) and asked for a two-year pre- and post-operational monitoring program for N. fowleri and proposed a ban on primary water contact water sports once the plant went operational. After further review of the initial monitoring studies and projected lake temperatures, and a specially funded medical school review of the risks, the IDPH issued a letter in 1987 stating that there was no reason to restrict primary contact water sports. The IDPH, however requested additional Naegleria fowleri monitoring and lake temperature data collection by CPS. The monitoring program continued through 1990, when it was concluded that no further information was needed and that the risk of N. fowleri from Clinton Lake was insignificant relative to other public health risks.

The summary of the monitoring program results listed below illustrates two critical findings. The first was N. fowleri did exist in Clinton Lake prior to any thermal additions, and second, as expected, it was detected more frequently after thermal additions. However, even during the operational years, the frequency of N. fowleri in Clinton Lake was much lower than that found in ambient temperature lakes in Florida. N. fowleri is common in most fresh water lakes in Florida.

CPS *Naegleria fowleri* MONITORING PROGRAM SUMMARY

Year	Researcher	CPS status	Total # of samples	Positive for *Naegleria fowleri*
1983	Dr. Tyndall (Oak Ridge Nat. Labs)	Pre-operational	82	0
1984	Dr. Tyndall (Oak Ridge Nat. Labs)	Pre-operational	120	0
1986	Dr. Wellings & Dr. Lewis (Fla. D.H.&RS)	Pre-operational	219	1
1987	Dr. Wellings & Dr. Lewis (Fla. D.H.&RS)	Start-up	103	0
1986	Dr. Huizinga (IL State University)	Pre-operational	123	1
1987	Dr. Huizinga (IL State University)	Start-up	148	2
1988	Dr. Huizinga (IL State University)	Operational	400	21
1989	Dr. Huizinga (IL State University)	Operational	176	9
1990	Dr. Huizinga Operational (IL State University)	Operational	400	15

An increase in abundance of Naegleria fowleri does not directly correlate with an increase in the number of cases of PAM caused by this pathogen. As of 1998, there had only been about 54 documented cases of PAM in the entire country. Most of these cases were in Florida and a small isolated region of Virginia. The only case associated with a cooling lake was in Texas, and the victim contracted PAM from a non-heated portion of the lake.

Efforts were made to keep the IDPH informed of the N. fowleri monitoring results and operational changes that impacted lake temperatures. Each year the IDPH was given the N. fowleri monitoring data and temperature data from continuous recorders at key locations in Clinton Lake. When Illinois Power filed a petition in 1988 for a Site-Specific Adjusted Standard for higher thermal discharge limits, the IDPH was given a presentation on the modeled lake temperatures that would result from this Site-Specific Standard. The Site-Specific Standard was granted in 1992 and permitted the maximum daily average discharge temperature to be raised from 99°F to 110.7°F. The Station NPDES permit currently has two temperature limitations. The temperature of discharge water at the second drop structure in the discharge flume is limited to a maximum daily average temperature of 99°F for 90 days in a calendar year, or 110.7°F for any single day. The permit and these limits will not be changed for the EPU, therefore, the reviewed and approved heat load for Clinton Lake will not be changed.

The original monitoring program and subsequent decisions to stop monitoring and permit unrestricted recreational lake use were based on compliance with the NPDES permit and the very small risk this issue presented. Based on the above discussion, the NRC staff believes that the risk to the public associated with the microbial pathogen N. fowleri in the reservoir will not increase significantly and no use restrictions or additional monitoring are necessary due to power uprate operation.

Transmission Facility Impacts

Environmental impacts, such as the installation of additional transmission line equipment, or increased exposure

to electromagnetic fields (EMF) and electrical shock, could result from an EPU. The licensee stated that there are no changes in operating transmission or power line right of way needed to support the EPU. An increase in main transformer capacity will be necessary to deliver the additional power to the grid but design safety margins are more than adequate to handle this increased electrical power. No new equipment or modifications will be necessary for the offsite power system to maintain grid stability.

The probability of shock from primary or secondary current systems does not increase from an EPU. Transmission lines and facilities are designed in accordance with the applicable shock prevention provisions of the National Electric Safety Code, and engineered safety margins are deemed adequate to protect against potential electric shock. The increased generator output at CPS will cause a proportional increase in the intensity of EMFs in the vicinity of the near plant transmission lines. There is no scientific consensus regarding the health effects, in any, of exposure to electromagnetic fields. No known effects from EMF on terrestrial biota have been demonstrated. Exposure to EMFs from offsite transmission system power level increases would not be expected to increase significantly, and no health or environmental impacts have been shown to result from EMF exposure. Thus no significant environmental impacts from changes in the transmission design and equipment are expected, and the conclusions in the FES remain valid.

Social and Economic Effects

The NRC staff received information provided by the licensee regarding socioeconomic impacts from the planned EPU, including potential impacts on the CPS workforce and the local economy. The licensee does not anticipate that the EPU will affect the size of the CPS permanent workforce, and does not expect any need to expand the labor force required for future outages. CPS contributions to the local, state and school tax bases are of significant value to the local economy. Some fraction of the plant modification costs to accommodate the EPU will accrue to the economy. Increased revenue from sale of additional power output will expand the local tax revenue, benefitting the community directly.

Benefits to the local community are dependent in part on the success of the EPU, and the extend to which the EPU will permit AmerGen to remain competitive in the energy market. To the extent that the EPU will extend the operating lifetime of CPS by enhancing its economic performance, the long term benefits to the local economy will be extended. The staff expects that the conclusions in the FES regarding social and economic impacts will apply to EPU operating conditions.

In summary, the proposed EPU at CPS is not expected to cause a significant change in non-radiological impacts on land use, water use, waste discharges, noise, terrestrial and aquatic biota, transmission facilities or social and economic factors, and would have no non-radiological environmental impacts in addition to those evaluated in the FES. Table 1 summarizes the non-radiological environmental effects of the EPU at CPS.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT CPS

Impacts	Impacts of the EPU at CPS
Land Use Impacts	No changes required to current land use.
Water Use Impacts	Minimal increase in consumptive water use expected.
Discharge Impacts	Any increases in fog formation or icing are expected to be insignificant and well within the acceptable levels determined by the FES. No significant increases in ambient noise levels are expected. No plans to increase cooling water flow. Discharge temperature will remain within NPDES limits. Lake water temperature changes both during normal operations and after unplanned shutdown will remain within accepted levels.
Terrestrial Biota Impacts	No wildlife habitat in the area will be affected because all construction will be done inside existing facilities. Known endangered species in the area will continue to be monitored.
Aquatic Biota Impacts	Temperature change in Lake Clinton is expected to remain within NPDES limits. Risk to the public from known microbial pathogens will not increase significantly.
Transmission Facilities Impacts	No changes in operating transmission voltages, onsite transmission equipment, or power line rights-of-way. Transformer capacity will increase but design safety margins considered adequate. EMF will increase proportionate to the EPU but no changes in exposure rate is expected
Social and Economic Impacts	No change in CPS permanent or part-time work force is expected. EPU may expand tax base and enhance longevity of plant operation.

Radiological Impacts From EPU at CPS

The NRC staff evaluated radiological environmental impacts on waste streams, dose, accident analysis, and fuel cycle and transportation factors. The following is a general discussion of these issues and an evaluation of their environmental impacts.

Radioactive Waste Stream Impacts

CPS uses waste treatment systems that must be designed to collect, process and dispose of radioactive gaseous, liquid and solid waste in a controlled and safe manner, and in accordance with the requirements of 10 CFR part 20 and Appendix I to part 50. The design bases for the CPS systems during normal operation limit discharges well within the limits specified in 10 CFR part 20, ''Standards for Protection Against Radiation,'' and satisfy the design objectives of Appendix I to 10 CFR part 50, ''Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion, ''As Low as is Reasonably Achievable'' for Radioactive Material in Light-Water Cooled Nuclear Power Reactor Effluents.'' Licensee analysis shows that these limits and objectives will continue to be met under EPU operating conditions.

Modifications planned to effect EPU operation do not include nor require any changes in the operation or design of facilities or equipment in the solid,

liquid or gaseous waste handling systems. The safety and reliability of these systems are designed with sufficient margin so as to be unaffected by operating conditions associated with EPU. Neither the environmental monitoring procedures for these waste streams, nor any radiological monitoring requirements of the CPS Technical Specifications and/or Offsite Dose Calculation Manual will be reduced or changed in any way by the EPU.

The EPU will not introduce any new or different radiological release pathways. Probability of operator error or equipment malfunction that might result in an uncontrolled radioactive release are estimated to remain at current levels under EPU conditions. The specific effects of EPU on each of the radioactive waste systems are discussed below.

Solid Waste

Solid radioactive wastes include solids recovered from the reactor process system, solids in contact with the reactor process system liquids or gasses, and solids used in reactor process system operation. The largest volume of solid radioactive waste at CPS is low-level radioactive waste (LLRW). Sources of LLRW at CPS include resins, filter sludge, dry active waste, metals and oils.

The annual environmental impact of low- and high-level solid wastes related to uranium fuel cycle activities was generically evaluated by the NRC staff for a 1000 MWe reference reactor. The estimated activity content of these wastes is given in Table S–3 in 10 CFR 51.51 and would continue to be bounding for CPS at EPU operating conditions.

CPS maintains records of the volume of solid waste generated and has a documented volume reduction program with the objective to continually identify and implement volume reduction techniques. The low-level solid waste volume generated at CPS in calendar year 2000 was reported to be 111.7 cubic meters. For calendar year 2001, CPS is projecting 115 cubic meters of low-level solid waste. With volume reduction programs in effect, CPS is estimating far less than a 20 percent increase in solid waste volume due to the planned EPU.

The largest volume source of radioactive solid waste is spent resins from process wastes. Other major contributors at CPS are equipment wastes from operational and maintenance procedures, and chemical and reactor system wastes. The EPU is not projected by the licensee to significantly change the amount or type of equipment and chemical wastes generated.

CPS projects an increase in the process wastes generated from operation of the reactor water cleanup (RWCU) filter/demineralizers, and the condensate demineralizers that could be approximately proportional to the power uprate. More frequent system backwashes will occur due to an increase in the flow rate through the RWCU and condensate demineralizer systems.

The licensee estimates the increased frequency of backwashes to be less than 20 percent of current value. The purity of the coolant and filter performance will not change. The licensee projects only a small increase in solid waste volumes from these processes.

Another important source of solid waste is spent fuel. CPS reported that 188 fresh fuel bundles were loaded in the recent refueling outage, to accommodate operation under EPU conditions. The number of irradiated fuel assemblies moved to storage during future refueling outages is not expected to increase as a result of EPU because of planned and approved extended burnup and increased U–235 enrichment of the fuel used. The amount of these wastes, therefore, is not expected to increase. The spent fuel is currently stored in spent fuel facilities onsite and is not shipped offsite.

The volume and activity of waste predicted by the licensee to be generated from spent control blades and in-core ion chambers may increase slightly as a result of higher neutron flux conditions associated with EPU conditions. The NRC staff does not expect this increase to be significant and believes that it can be accommodated within existing onsite storage facilities. Therefore, the NRC staff concludes that there will not be a significant increase in the amounts, or change in the types, of solid wastes produced by the plant as a result of EPU.

Liquid Radwaste

The liquid radwaste system at CPS is designed to process and recycle the liquid waste collected so that annual radiation doses to individuals are maintained will below the guidelines in 10 CFR part 20 and 10 CFR part 50, Appendix I. CPS has operated since 1992 as a zero radioactive liquid release plant, choosing to recycle all liquid wastes. CPS does not intend to change this policy as a result of EPU. Filter backwashing will increase input to the liquid radwaste system due to the 20 percent EPU, but this small increase will be recycled rather than discharged, and thus will have no effect on the environment.

CPS does not expect the EPU to result in any significant increase in the volume of liquid wastes from other sources into the liquid radwaste system. The reactor will continue to operate within present fluid pressure control bands under EPU conditions so that leakage should not increase. No changes in reactor recirculation pump flow rates are needed to accommodate the EPU. Equipment drains, floor drains or chemical waste systems will not be changed as a result of the EPU because the operating conditions of these facilities are independent of power levels.

Gaseous Radwastes

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environment, including small quantities of activated gases and noble gases, so that routine offsite releases are below the limits of 10 CFR part 20 and Appendix I to part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190).

The major sources of gaseous radioactive releases at CPS are the common station heating, ventilation and air conditioning (HVAC) stack and the standby gas treatment system (SGTS) vent. Normal gaseous releases are through the common station HVAC stack. The radioactive gaseous effluents include small quantities of noble gases, halogens, particulates and tritium. Based on conservative assumptions of non-negligible fuel leakage due to defects, it is probable that gaseous radioactive release rate from the common station HVAC stack would increase in proportion to the 20 percent EPU. Current release quantities are very small and the projected radioactive gaseous effluents under EPU condition would remain within Appendix I limits.

The licensee is required to continually monitor radioactive releases in this pathway to assure that doses to members of the public are maintained within federal limits. The stack effluent alarm setpoint for the stack monitoring system is set conservatively at a level required to maintain the 10 CFR part 20 limits as specified by CPS Technical Specifications. The setpoint is 3.8 E–04 μ Ci/sec. Continuous releases at this level would result in offsite doses well below 10 CFR part 20 limits.

The FES for CPS predicted 6600 curie (ci)/yr noble gas and a 0.46 Ci/yr Iodine -131 release rates. The actual release quantities measured and reported by the licensee for the year 2000 were 5.44E -03 Ci of noble gases and 1.73 E–04 Ci

Iodine -131. Assuming a proportional increase of 20 percent in these rates due to the EPU, the new actual release rates would still be well below those previously evaluated by the FES.

Particulate and tritium release rates evaluated for environmental impact in the FES were 1.75 Ci/yr and 57 Ci/yr, respectively. The actual release quantities measured and reported by CPS for the year 2000 were 3.32 E -03 Ci and 41.64 Ci respectively. The FES quantities are calculated to contribute insignificantly to public dose. Assuming a 20 percent proportional increase due to the EPU, the resulting particulate and tritium release rates will continue to be within the quantities evaluated in the FES as contributing little environmental impact.

The staff concludes that, based on information provided by the licensee and on evaluations performed in the FES, the gaseous effluent levels at EPU operating conditions will remain negligible, and in compliance with release limits of 10 CFR part 20 and the guidelines of Appendix I of 10 CFR part 50.

In summary, the NRC staff concludes that the increases projected in solid and gaseous radioactive wastes that are released offsite will comply with federal guidelines and will be well within the FES evaluations.

Radiation Levels and Dose Impacts

The NRC staff evaluated licensee projected in-plant and offsite radiation doses as a part of the review of environmental impacts of the proposed EPU at CPS.

In-Plant Radiation Impacts

On-site radiation levels and associated occupational doses are controlled by the licensee's program to maintain doses as low as reasonably achievable (ALARA) as required in 10 CFR part 20. The CPS ALARA program manages occupational dose by minimizing the time workers spend in radiation areas, maximizing distance between workers and sources, and using shielding to reduce radiation levels in work areas whenever practical. The licensee has determined that current shielding designs are adequate to compensate for any increases in dose levels as a result of the EPU.

Data provided by CPS shows that occupational dose to workers decreased significantly over the past 10 years. Based on a rolling three year average, the 2001 dose is projected to be 32 percent less than the 1990 dose. Although the EPU will potentially increase radiation levels in some parts of the work area, these increases will be compensated by continued ALARA program improvements and a continuing downward trend in occupational doses is projected by CPS.

CPS shielding design was conservative with respect to projected radiation source levels. In the original shielding analysis, concentrations of fission and corrosion products in reactor coolant water were assumed to be 2.5 μ Ci/g and 0.062 μ Ci/g, respectively. The actual measured combined concentration is approximately 0.016 μ Ci/g. Assuming a proportional increase of 20 percent in operating radioactivity levels, the shielding design will remain bounding with a significant margin at EPU conditions. On the basis of this information, the NRC staff concludes that the expected in-plant radiation doses at CPS following the proposed EPU will be well below regulatory criteria and will not have a significant impact.

Offsite Dose Impacts

As previously discussed under Gaseous Radiological Wastes, CPS expects that the small increase in normal operational gaseous activity levels under EPU conditions will not appreciably impact the large margin between 10 CFR part 20 limits and actual measured and reported releases. Doses from liquid effluents are currently zero and the EPU will not result in any changes in liquid radiological waste releases.

The CPS Technical Specifications implement the release guidelines of 10 CFR part 50, Appendix I, which are well within 10 CFR part 20 limits. The licensee provided the following table of doses calculated under current conditions compared to projected values under the planned EPU and to Appendix I dose limits. It is apparent that the offsite doses do not change greatly and remain well within the conservative Technical Specification dose limits.

TABLE 2.—RADIOLOGICAL EFFLUENT DOSES

	Nominal values (year 2000)	EPU values (estimated)	10 CFR 50 Appendix I limit
Noble Gas Gamma Air Dose (mrad)	1.59 E–07	1.91 E–07	10
Noble Gas Beta Air Dose (mrad)	2.04 E–07	2.45 E–07	20
Particulate, Iodine and Tritium (Thyroid) (mrem)	2.93 E–03	3.52 E–03	15

The planned EPU at CPS should not result in any significant increases in offsite doses from gaseous effluents, nor does the planned EPU envision the creation of any new sources of offsite dose. Radioactive liquid effluents are not routinely discharged from CPS. The annual dose contribution from skyshine is based on design basis activities. These doses are considered bounding for EPU and are a small fraction of the 40 CFR part 190 limit of 25 mrem. The NRC staff concludes that offsite doses will remain well within regulatory limits under operating conditions associated with the EPU.

Accident Analysis Impacts

The NRC staff reviewed the assumptions, impacts and methods used by CPS to assess the radiological impacts of potential accidents when operating under EPU conditions. In Section 5 of the CPS FES, three classes of postulated accidents were evaluated to determine the associated environmental impact. The licensee provided the following information regarding the impact of EPU on the assumptions and conclusions for the three environmental accident classes evaluated in the FES.

—*Class 1:* Incidents of Moderate Frequency.

This class is also referred to as anticipated operational occurrences. The FES concluded that any incident of this type would cause releases commensurate with the limits on routine effluents. Because of facility improvements and maintenance, the actual activity concentrations of reactor coolant are considerably less than predicted by the FES. Assuming a 20 percent increase as a result of EPU activity, concentration levels would still be far below FES predictions.

—*Class 2:* Infrequent Accidents

There are events that might occur once during the lifetime of the plant. The licensee asserts reasonably that the planned EPU does not increase the probability of occurrence or severity of these type events.

The licensee further evaluated the impact of EPU operating conditions on several typical postulated accidents in these two classes. These were off-gas system failure, radwaste storage tank release, small-break loss-of-coolant accident (LOCA), and fuel handling accident. All of these postulated events under EPU conditions were shown to result in doses that were insignificant and well within the bounding conditions of the FES, or to be so unlikely under present or EPU conditions that they do not contribute significantly to environmental impacts.

—*Class 3:* Limiting Faults

This class of accidents includes large-break LOCA, main steam-line break, and control rod drop accident (CRDA). The licensee modeled and analyzed these design basis accidents under EPU conditions for comparison to regulatory limits. Radiological consequences of these worst case scenarios are limited by 10 CFR part 100 for offsite doses. These accidents were conservatively analyzed by the licensee assuming an initial power level of 3039 MWt for the LOCA and 2952 MWt for CRDA. Postulated power levels in the analysis were 105 percent and 102 percent respectively of the FES bounding analytical power level of 2894 MWt. The licensee provided the results of these calculations in the following tables. Following a large break LOCA, the SGTS at CPS establishes and maintains a negative pressure in the secondary containment area. Any primary containment leak will be contained within the secondary containment and will be released to the outside only after passing through SGTS, which filters and treats the effluent. All releases from the SGTS are via the SGTS vent.

TABLE 3.—LOSS OF COOLANT ACCIDENT

Location	Current power level dose (rem)	EPU dose (rem)	Regulatory limit (rem)
EAB Whole Body	11	13.5	25
EAB Thyroid	225	267	300
LPZ Whole Body	3.5	4.5	25
LPZ Thyroid	86	102	300

TABLE 4.—ROD DROP ACCIDENT

Location	Current power level dose (rem)	EPU dose (rem)	Regulatory limit (rem)
EAB Whole Body	1.8E–02	2.34E–02	6.25
EAB Thyroid	1.6E–01	1.92E–01	75
LPZ Whole Body	5.6E–03	7.28E–03	6.25
LPZ Thyroid	1.8E–01	2.16E–01	75

The results of these analyses indicate that the EPU will not cause off-site accident projected doses to exceed regulatory limits. The NRC staff agrees that the assumptions used in the licensee's analysis are conservative with respect to EPU operating conditions, shielding and dose. Thus, the staff concludes that the radiological consequences of a design-basis accident under EPU conditions are within the acceptance criteria of 10 CFR part 100 and do not involve any significant impact to the human environment.

Fuel Cycle and Transportation Impacts

The environmental impact of the uranium fuel cycle has been generically evaluated by the NRC staff for a 1000 MWe reference reactor and is discussed in Table S–3 of 10 CFR 51.51. Under EPU conditions CPS will be rated at approximately 1100 MWe. Information provided by the licensee includes the following. The data presented in tables 5–12 (10 CFR 51.51 Table S–3) and 5.5 (10 CFR 51.52 Table S–4) of the FES are based on an average burnup assumption 33,000 MWd/MtU and a U–235 enrichment assumption of 4 wt.%. Under EPU conditions, fuel consumption is expected to increase such that the batch average burnup of the fuel assemblies will be in excess of 33,000 MWd/MtU but less than 62,000 MWd/MtU. To support extended burnup, the U–235 enrichment levels will also increase, but will still be less than 4 wt.%. The NRC has previously evaluated the impact of increased burnup to 62,000 MWd/MtU with U–235 fuel enrichment to 5 wt.% on the conclusions of Table S–3. Although some radionuclide inventory levels and activity levels are projected to increase, the NRC noted that little or no increase in the amount of radionuclides released to the environment during normal operation was expected. The NRC staff determined that the incremental environmental effects of increased enrichment and burnup on transportation of fuel, spent fuel and waste would not be significant. In addition the NRC staff analysis noted environmental benefits of extended burnup such as reduced occupational dose, reduced public dose, reduced fuel requirements per unit electricity, and reduced shipments. The NRC concluded that the environmental impacts described by Table S–3 would be bounding for an increased burnup rate above that planned for the CPS EPU.

Because the fuel enrichment for the CPS EPU will not exceed 5 weight percent uranium-235 and the rod average discharge exposure will be under the 62,000 MWd/MtU burnup rate previously analyzed by the NRC, the environmental impacts of the planned EPU at CPS will continue to be bounded by their conclusions and would not be significant.

Summary

Based on NRC staff review of licensee submittals and the FES, it is concluded that the proposed CPS EPU would not significantly increase the probability or consequences of accidents, would not introduce new radiological release pathways, would not result in a significant increase in occupational or

public radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. The following table summarizes the radiological environmental impacts of the EPU at CPS.

TABLE 5.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACT OF THE EPU AT CPS

Impact	Staff conclusion regarding impact
Radiological Waste Stream Impacts	The increases projected in solid, liquid, or gaseus radioactive wastes are either recycled (liquid), fully contained on site (solid), or are released (gaseous) at levels that comply with Federal guidelines and that are well within the FES evaluation.
Dose Impacts	Both on-site occupational doses and off-site doses will remain well within regulatory guidance and will continue to be bounded by evaluations performed in the FES.
Accident Analysis Impacts	No significant increase in probability or consequences of accidents is expected.
Fuel Cycle and Transportation Impacts	No significant increase is expected. Impacts remain within the guidelines of Table S–3 and Table S–4 of 10 CFR part 51.

Alternatives

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., ''the no-action'' alternative). Denial of the application would result in no change in current environmental impacts; however, in the CPS vicinity other generating facilities using nuclear or other alternative energy sources, such as coal or gas, would be built in order to supply generating capacity and power needs. Construction and operation of a coal plant would create impacts to air quality, land use and waste management. Construction and operation of a gas plant would also impact air quality and land use. Implementation of the EPU would have less of an impact on the environment than the construction and operation of a new generating facility and does not involve new environmental impacts that are significantly different from those presented in the FES. Therefore, the staff concludes that increasing CPS capacity is an acceptable option for increasing power supply. Furthermore, unlike fossil fuel plants, CPS does not routinely emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that may contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any resources different than those previously considered in the CPS FES, dated May 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on January 28, 2002, prior to issuance of this environmental assessment, the staff consulted with the Illinois State official, Frank Nizidlek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the application for amendment dated June 18, 2001, as supplemented by letters dated September 7 and 28, October 17, 23, 26, and 31, November 8 (2 letters), 20, 21, 29, and 30, and December 5, 6, 7, 13 (2 letters), 20, 21, and 26, 2001, and January 8, 15, 16, and 24, 2002, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Senior Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3505 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–339]

Virginia Electric and Power Company; North Anna Power Station, Unit 2, Environmental Assessment and Findings of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License (FOL) No. NPF–7, issued to Virginia Electric and Power Company (the licensee), for operation of the North Anna Power Station, Unit 2, located in Louisa County, Virginia. As required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the FOL to remove expired license conditions, make editorial changes, relocate license conditions, and remove license conditions associated with completed modifications.

The proposed action is in accordance with the licensee's application dated January 9, 2001.

The Need for the Proposed Action

The proposed action is needed because some requirements in the North Anna, Unit 2, FOL have become obsolete. In addition, the need for editorial changes has been identified.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed license amendment is administrative in nature and has no effect on plant equipment or plant operation.

The proposed action will not significantly increase the probability or

consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the North Anna Power Station, Unit 2, dated April 1973.

Agencies and Persons Consulted

On January 15, 2002, the staff consulted with the Virginia State official, Mr. Les Foldesi of the Virginia Department of Health, Bureau of Radiological Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 9, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

Stephen R. Monarque,

Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3504 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–U

NUCLEAR REGULATORY COMMISSION

Correction to Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

On January 22, 2002 (67 FR 2917), the **Federal Register** published the Biweekly Notice of Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations. On page 2923, top of column 3, the notice entitled ''Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick (JAF) Nuclear Power Plant, Oswego County, New York,'' the Date of amendment request should be January 9, 2002, instead of November 2, 2001.

Dated at Rockville, Maryland, this 7th day of February 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–3506 Filed 2–12–02; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Plan for Secure Postage Meter Technology

AGENCY: Postal Service.

ACTION: Clarification of final plan.

SUMMARY: The Postal Service published the final plan for phases III and IV of the Postal Service's Plan for Secure Postage Meter Technology in the **Federal Register** on November 15, 2001 (Vol. 66, No. 221, pages 57492–57494). This notice clarifies the definition of phase III and IV meters in the previous notice and details the requirements for each meter manufacturer to notify all customers of the retirement plan for any affected meters.

DATES: This clarification pertains to the final plan that was effective November 15, 2001.

FOR FURTHER INFORMATION CONTACT: Wayne Wilkerson by fax at (703) 292–4073.

SUPPLEMENTARY INFORMATION: In 1995, the Postal Service, in cooperation with all authorized postage meter manufacturers, began a phaseout of all mechanical postage meters because of identified cases of indiscernible tampering and misuse. Postal Service revenues were proven to be at serious risk. The completion of this effort, which resulted in the withdrawal of 776,000 mechanical meters from service, completed phase I of the Plan for Secure Postage Meter Technology. Phase II of the plan, the retirement of electronic meters that are manually set by Postal Service employees, is now being implemented. The plan for phases III and IV, describing the retirement of meters with nondigitally printed indicia, was published for comment in the **Federal Register**, August 21, 2000 (Vol. 65, No. 163, pages 50723–50724). Comments on the proposed plan were due by October 5, 2000. Responses to the comments and the final plan were published in the **Federal Register** on November 15, 2001. This notice clarifies the definition of the meters affected and the requirements for each manufacturer to notify customers of the plan.

Clarification of the Final Postal Service Plan for the Retirement of Letterpress Postage Meters

(Changes are shown in italicized text.)

Phases III and IV of the Postal Service proposed Plan for Secure Postage Meter Technology affect *non-digitally printing* meters that are remotely reset under the Computerized Meter Resetting System (CMRS). *The affected meters are those meters that print indicia using older letterpress technology rather than digital printing, even if they have a digital display.* If such a meter has *an additional* feature that automatically disables the meter if it is not reset within a specified time period or when certain preprogrammed criteria are met, it is called an enhanced meter. Phase III of the proposed plan *required* that the users of nonenhanced CMRS letterpress meters *be* notified of the schedule for the retirement of their meters by December 31, 2001. The placement of nonenhanced CMRS letterpress meters

must cease by December 31, 2002, and these meters must be off the market *and withdrawn from service* by December 31, 2006. *Prior to the signing of a contract for the new placement of any nonenhanced CMRS non-digitally printing meter, the manufacturer placing the meter must notify the customer that the meter must be withdrawn from service by December 31, 2006.* Phase IV of the proposed plan requires that the customers of enhanced CMRS letterpress meters *must be* notified of the schedule for the retirement of their meters by June 30, 2003. The placement of enhanced CMRS letterpress meters must cease by June 30, 2004, and these meters must be off the market *and withdrawn from service* by December 31, 2008. *Prior to the signing of a contract for the new placement of any enhanced CMRS non-digitally printing meter, the manufacturer placing the meter must notify the customer that the meter must be withdrawn from service by December 31, 2008.*

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–3411 Filed 2–12–02; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Privacy Act of 1974, Systems of Records

AGENCY: Postal Service.

ACTION: Advance notice of amendment to an existing system of records with the deletion of two general routine uses, and the addition of two new routine uses.

SUMMARY: The Postal Service proposes to amend Postal Service Privacy Act System of Records, 140.020, Postage—Postage Evidencing System Records. The proposed amendments reflect the collection and use of data to authorize and process the purchase of postage by credit cards for certain postage evidencing systems. This notice amends the following sections to reflect the acceptance of credit cards: Categories of records in the system; routine uses of records maintained in the system, including categories of users and the purposes of such uses; safeguards; notification procedure and record source categories.

DATES: This proposal will become effective without further notice on March 15, 2002, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Mail or deliver written comments to the Records Office, U.S. Postal Service, Room 5846, 475 L'Enfant Plaza, SW, Washington, DC 20260–5846. You can view or make copies of all written comments between 8 a.m. and 4 p.m., Monday through Friday, at the same address.

FOR FURTHER INFORMATION CONTACT: Susie Travers, Records Office, 202–268–3362.

SUPPLEMENTARY INFORMATION: The Postal Service revised the Privacy Act system of records in USPS 140.020, Postage—Postage Evidencing System Records, in a notice published in the **Federal Register** on June 26, 2000, (65 FR 39446–39447). The revision further limited the categories of records covered. It was determined that only destinating five-digit ZIP Code information was needed to accomplish the system purpose.

The Postal Service is publishing this notice to expand the categories of records covered by the system to collect data for the acceptance of credit cards to include the credit card number, credit card expiration date, and credit card transaction number. The Postal Service is deleting general routine use (a), which is being replaced by new routine use 4, and routine use (m), because it is not necessary to share this information with the labor organizations. Routine use 3 is added to reflect how information may be disclosed for the purpose of authorizing and processing the purchase of postage by credit card. Routine use 4 permits disclosure for law enforcement purposes only pursuant to a Federal search warrant.

In addition to the protections imposed by the Privacy Act, the Postal Reorganization Act imposes restrictions on the disclosure of information of the type kept within system USPS 140.020. The Privacy Act prohibits the Postal Service from disclosing lists of postal customers or other persons.

For the above reasons, the Postal Service proposes to amend the following system:

USPS 140.020

SYSTEM NAME:

Postage—Postage Evidencing System Records, 140.020.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

[CHANGE TO READ]

Customer name and address, change of address information, corporate business customer information (CBCIS) number, business profile information, estimated annual postage and annual percentage of mail by type, type of usage (customer, postal, or government), post office where mail is entered, license number, date of issuance, ascending and descending register values, device identification number, device model number, certificate serial number, amount and date of postage purchases, credit card number, credit card expiration date, credit card transaction number, address verification service (AVS) response from credit card processor, credit card issuer authorization code, credit card billing address, amount of unused postage refunded, contact telephone number, date, destinating five-digit ZIP Code and rate category of each indicium created, and transaction documents.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

[CHANGE TO READ]

General routine use statements b, c, d, e, f, g, h, and j listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system. Other routine uses are as follows:

* * * * *

[ADD]

3. Records or information from this system may be disclosed to the Postal Service's designated credit card processor for the purpose of authorizing and processing the purchase of postage by credit card.

4. Information from this system may be disclosed for law enforcement purposes to a government agency, either Federal, State, local, or foreign, only pursuant to a federal warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure. See *Administrative Support Manual* (ASM) 274.6 for procedures relating to search warrants.

* * * * *

SAFEGUARDS:

[CHANGE TO READ]

Paper records and computer storage media are maintained in closed file cabinets in secured facilities; automated records are protected by computer password. Information obtained from users over the Internet is transmitted electronically to the Postal Service by authorized postage evidencing system providers via a virtual, private network.

* * * * *

NOTIFICATION PROCEDURE:

[CHANGE TO READ]

Individuals wanting to know whether information about them is maintained in this system of records must address inquiries in writing to: Manager, Postage

Technology Management, United States Postal Service, 1735 North Lynn Street, Room 5011, Arlington, VA 22209–6054. When making this request, an individual must supply the license number and his or her name as it appears on the postage evidencing system license.

* * * * *

RECORD SOURCE CATEGORIES:

[CHANGE TO READ]

License applications, licenses, postal officials administering postage evidencing systems, postage evidencing system activity reports, refund requests for unused postage, credit card transactions, postage evidencing system resetting reports, log file entries, and authorized service providers of postage evidencing systems.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–3412 Filed 2–12–02; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 101; SEC File No. 270–408; OMB Control No. 3235–0464
Rule 102; SEC File No. 270–409; OMB Control No. 3235–0467
Rule 103; SEC File No. 270–410; OMB Control No. 3235–0466
Rule 104; SEC File No. 270–411; OMB Control No. 3235–0465
Rule 17a–2; SEC File No. 270–189, OMB Control No. 3235–0201

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 101 (Activities by Distribution Participants) and Rule 102 (Activities by Issuers and Selling Security Holders During a Distribution)

Rules 101 and 102 prohibit distribution participants, issuers, and selling security holders from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by these rules may seek to use several applicable exceptions such as a calculation of the average daily trading volume of the securities in distribution, the maintenance of policies regarding information barriers between their affiliates, and the maintenance of a written policy regarding general compliance with Regulation M for de minimus transactions. The Commission estimates that 1,358 respondents collect information under Rule 101 and that approximately 31,079 hours in the aggregate are required annually for these collections. In addition, the Commission estimates that 669 respondents collect information under Rule 102 and that approximately 1,569 hours in the aggregate are required annually for these collections.

Rule 103 (Nasdaq Passive Market Making)

Rule 103 permits passive market making in Nasdaq securities during a distribution. A distribution participant that seeks use of this exception would be required to disclose to third parties its intention to engage in passive market making. The Commission estimates that 171 respondents collect information under Rule 103 and that approximately 171 hours in the aggregate are required annually for these collections.

Rule 104 (Stabilizing and Other Activities in Connection With an Offering)

Rule 104 permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (i.e., the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids and disclose such information to the SRO. The Commission estimates that 519 respondents collect information under Rule 104 and that approximately 51.9 hours in the aggregate are required annually for these collections.

Rule 17a–2 (Recordkeeping Requirements Relating to Stabilizing Activities)

Rule 17a–2 requires underwriters to maintain information regarding stabilizing activities, syndicate covering transactions, and penalty bids. The Commission estimates that 519 respondents collect information under Rule 17a–2 and that approximately 2,595 hours in the aggregate are required annually for these collections.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: February 6, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3490 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45418; File No. SR–Amex–2001–96]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC Relating to Amex Rule 933

February 7, 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 November 2, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 933 to provide that: (1) An Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 15 seconds between entry of each such order in an option issue; and (2) members and member organizations are responsible for establishing procedures to prevent orders in an option issue for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 15 seconds.

Below is the text of the proposed rule change. Proposed new language is *italicized;* proposed deleted language is [bracketed].

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Amex Rule 933, Automatic Execution of Options Orders

(a) No change.

(b) The Exchange shall determine the size parameters of orders eligible for entry into its Automatic Execution System (Auto-Ex). *An Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 15 seconds between entry of each such order in a call class and/or a put class for the same option issue. Members and member organizations are responsible for establishing procedures to prevent orders in a call class and/or a put class for the same option issue for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 15 seconds.* [No member or member organization which transmits non-broker/dealer customer orders to the Exchange for entry into the Auto-Ex system shall unbundle (split up) such orders to take advantage of such eligibility parameters.]

Commentary

.01 (a)–(g) No change

.02 No change.

[.03 If a member or member organization grants a non-member electronic access to the Exchange's order routing or execution systems through the member's or member organization's order routing systems, and if the non-member uses that access to violate Exchange rules or other applicable regulations, including, but not limited to, the Exchange's ''unbundling'' prohibition, the member or member organization is in violation of Exchange rules if it has either knowingly facilitated the violation or has failed to establish procedures reasonably designed to prevent access to the member or member organization's order routing systems from being used to effect such violation.]

* * * * *

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 Exchange represents that it established the Auto-Ex system to provide small customer orders with an immediate single price execution. In 1996, the Exchange adopted Rule 933 to prohibit the ''unbundling'' (*i.e.,* the splitting or dividing-up) of customer options orders to make them fit within the size parameters of the Exchange's Auto-Ex system.[3]

The Exchange is proposing to amend Rule 933 (''Automatic Execution of Options Orders'') to provide that an Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less that 15 seconds between the entry of each such order in a call class and/or put class for the same option issue. The Exchange believes that if persons were allowed to effectively increase the size of Auto-Ex eligible orders by entering more than one such order at intervals of less than 15 seconds, Amex specialists and Registered Options Traders would be unable to make markets with the same liquidity as if there were effective limits on the size and frequency of Auto-Ex eligible orders. Thus, the Exchange believes that the proposed rule change will ensure that Auto-Ex fulfills it intended purpose.

The proposed amendment to Rule 933 also provides that members and member organizations are responsible for establishing procedures to prevent orders in an option issue for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 15 seconds. The Exchange represents that this will clarify member compliance responsibilities and conform the Exchange's rules to those currently in place at other options exchanges.[4]

Finally, the Exchange proposes to delete Commentary .03 to Rule 933. Commentary .03 provides that ''[i]f a member or member organization grants a non-member electronic access to the Exchange's order routing or execution systems through the member or member organization's order routing systems, and if the non-member uses that access to violate Exchange rules or other applicable regulations, including, but not limited to, the Exchange's ''unbundling'' prohibition, the member or member organization is in violation of the Exchange's rules if it has either knowingly facilitated the violation or has failed to establish procedures reasonably designed to prevent access to the member or member organization's order routing systems from being used to effect such violation.''[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no 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

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex requests that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2)[8] of the Act. The Exchange believes that because the proposed rule change is similar to rules of other exchanges that the Commission has

[3] *See* Securities Exchange Act Release No. 37429 (July 12, 1996), 61 FR 37782 (July 19, 1996) (approving SR–Amex–96–26).

[4] *See, e.g.,* Chicago Board Options Exchange (''CBOE'') Rule 6.8(e)(iii).

[5] Commentary .03 was originally filed with the Commission as Commentary .01 (SR–Amex–00–47). Subsequently, the numbering changed as a result of two proposed rule changes filed by the Amex. *See* Securities Exchange Act Release No. 43516 (November 3, 2000), 65 FR 69079 (November 15, 2000); Securities Exchange Act Release No. 44013 (February 28, 2001), 66 FR 13816 (March 7, 2001). Also, the Commission is publishing in a separate release this Commentary to Rule 933, which was proposed in SR–Amex–00–47, but was not previously published for comment by the Commission. *See* Securities Exchange Act Release No. 45417 (February 7, 2002) (SR–Amex–00–47).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78(b)(2).

previously approved,[9] the proposed rule change does not present any regulatory issues that the Commission has not previously considered. Furthermore, the Exchange believes that early implementation of the proposed rule change would benefit the public interest and the interests of investors by clarifying member compliance responsibilities and conforming the Exchange's rules to those of other markets.

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 Amex. All submissions should refer to File No. SR–Amex–2001–96 and should be submitted by March 6, 2002.

V. Commission Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of section 6(b).[10] Specifically, the Commission finds that approval of the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

In its proposal, Amex proposes to amend section (b) of Amex Rule 933 (entitled ''Automatic Execution of Options Orders'') to limit entry of Auto-Ex eligible orders, in a call class and/or put class for the same option issue, for accounts in which the same person is directly or indirectly interested, to intervals of no less than 15 seconds. In addition, Amex proposes that members and member organizations be responsible for establishing procedures to prevent orders in a call class and/or put class for the same option issue from being entered at intervals of less than 15 seconds for any account in which the same person is directly or indirectly interested. Finally, Amex proposes to delete Commentary .03 to Rule 933.

The Commission finds that paragraph (b) makes explicit the responsibilities and requirements of Amex members and member organizations with respect to the entry of multiple orders by the same person within intervals of less than 15 seconds. The Commission recognizes that the Exchange's proposal will place an explicit prohibition against members or member organizations entering multiple orders in a call class and/or put class for the same option issue within any period of less than 15 seconds for an account in which the same person is directly or indirectly interested. The Commission finds that this prohibition is similar to, although not exactly identical to, provisions that it has already approved for other options exchanges.[11] The Commission also believes that the Exchange's establishment of a prohibition on members and member organizations entering multiple orders for an account in which the same person is directly or indirectly interested within a period of less than 15 seconds, in lieu of a presumption regarding the unbundling of such orders, will add certainty and consistency to the enforcement of the Rule and provide members and member organizations with clarity as to what conduct violates the Rule.[12] In addition, the Commission believes that it is appropriate for the Exchange to delete Commentary .03 to Rule 933. The Commission therefore finds that the proposed rule change is consistent with the provisions of the Act and rules thereunder.[13]

Furthermore, the Commission believes that accelerated approval of this proposal is appropriate to ensure that the Exchange's market makers are not placed at a competitive disadvantage to those market makers who are trading at an exchange where a substantially similar requirement is currently in place. For these reasons, the Commission finds good cause, consistent with section 19(b)(2) of the Act,[14] to approve the proposed rule change prior to the thirtieth day after publication in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–Amex–2001–96) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3491 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

[9] In this connection, the Amex cites Amex Rule 128A (Automatic Execution for Exchange-Traded Funds), CBOE Rule 6.8(e) (RAES Operations—Order Entry Firms), and New York Stock Exchange (''NYSE'') Rule 1005 (Automatic Execution—NYSE Direct+™).

[10] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] *See* Securities Exchange Act Release Nos. 43971 (February 15, 2001), 66 FR 11344 (February 23, 2001) (order partially approving File No. SR–PCX–00–05); 44017 (February 28, 2001), 66 FR 13820 (March 7, 2001) (order approving File No. SR–ISE–00–20); and 44104 (March 26, 2001), 66 FR 18127 (April 5, 2001) (order approving File No. SR–CBOE–00–47). The Commission approved proposals by the Pacific Exchange (''PCX''), the International Securities Exchange (''ISE''), and the Chicago Board Options Exchange (''CBOE'') that prohibit members from entering multiple orders for the same beneficial account within a 15-second period.

[12] The Commission notes that the Amex proposal allows the Exchange solely to prohibit conduct expressly set forth in Amex Rule 933(b). If in the future, the Exchange seeks to prohibit members from entering multiple orders for the same person outside of the time interval set by the rule, it must file such a revision as a proposed rule change with the Commission.

[13] In this regard, the Commission notes that the Exchange may not take punitive action against the customer of a particular Amex member in the event that the member violates Amex Rule 933(b).

[14] 15 U.S.C. 78s(b)(2).

[15] *Id.*

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45412; File No. SR–Amex–2001–68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC To Adopt Sanctioning Guidelines for the Exchange's Order Handling Rules

February 7, 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 September 4, 2001, the American Stock

Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adoopt sanctioning guidelines for violation of its options order handling rules. The text of the proposed rule change is available at the Amex's Office of the Secretary, 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 the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

The Exchange proposes to adopt sanction guidelines for violations of its options rules related to firm quotes (Exchange Rule 958A), limit order display (Exchange Rule 958A),[3] priority, parity, and precedence (Exchange Rules 111, 126, 155, 950, and 958),[4] and trade reporting (Exchange Rule 992).[5] The Exchange also proposes to adopt sanction guidelines for its rule regarding anti-competitive behavior and harassment (Exchange Rule 16).

The Exchange has developed the proposed sanctions guidelines for use by the various bodies adjudicating disciplinary matters in determining appropriate sanctions. These bodies include Disciplinary Panels, the Amex Adjudicatory Council and the Amex Board of Governors (''Adjudicators'').[6] The guidelines also may be used by parties to a disciplinary action in entering into a stipulation of facts and consent to penalty.

The proposed sanction guidelines contain an introductory section that explains the overall purpose of the guidelines and sets forth general principles that apply to all sanctions determinations. The introductory section also includes principal considerations for determining sanctions that may be considered as aggravating or mitigating factors. The proposed sanction guidelines contain Individual Guidelines that provide specific monetary and non-monetary sanctions generally applicable to the violations at issue and list additional principal considerations for the specific violations.

The Exchange believes that the proposed sanction guidelines would provide members of Disciplinary Panels, the Amex Adjudicatory Council, and the Board with guidance in determining appropriate remedial sanctions that may be applied flexibly. Because the guidelines do not prescribe fixed sanctions for particular misconduct, they encourage Adjudicators to exercise discretion while maintaining consistency and uniformity in the imposition of disciplinary sanctions.[7] For these reasons, the Exchange believes that the proposed sanction guidelines would enhance its disciplinary processes.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[8] of the Act, in general, and furthers the objectives of Section 6(b),[9] in particular, in that it provides that members and persons associated with members will be appropriately disciplined for violations of the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange states that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. by order approve such proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[3] The Exchange has an option limit order display rule filing pending with the Commission. *See* SR–Amex–00–27.

[4] According to the Exchange, it does not have an explicit definition of its members' obligation of ''best execution'' owed to its customer. The Exchange states that its rules regarding firm quotes, limit order display, priority, parity and precedence, however, collectively define the obligations of members with respect to orders and, therefore, embody the concept of best execution.

[5] The Exchange filed this proposed rule change pursuant to the provisions of Section IV.B.i of the Commission's September 11, 2000 Order Instituting Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange to adopt rules establishing, or modifying existing, sanctioning guidelines such that they are reasonably designed to effectively enforce compliance with options order handling rules. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282 (the ''Order'').

[6] The composition and function of Disciplinary Panels, the Amex Adjudicatory Council, and the Amex Board in disciplinary matters is set forth in the following rules of the Exchange: Article II, Section 6 of the Exchange Constitution (''Amex Adjudicatory Council''), Article V of the Exchange Constitution (''Discipline of Members''), Exchange Rule 345 (''Determinations Involving Employees and Prospective Employees''), and the Rules of Procedure Applicable to Exchange Disciplinary Proceedings. Disciplinary Panels, the Adjudicatory Council and the Amex Board (when it reviews disciplinary decisions) all function independently of the Exchange's regulatory staff. Adjudicators determine whether the aggregation of violations for purposes of determining sanctions is appropriate in any situation.

[7] The Exchange submitted to the Commission a letter, for which it requested confidential treatment, proposing how its regulatory staff would aggregate violations of the order handling rules, where the violations are identified through the Exchange's automated surveillance system. *See* letter from Richard T. Chase, Executive Vice President, Amex, to John McCarthy, Associate Director, Office of Compliance, Inspections and Examinations, Commission, dated December 24, 2001.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(6).

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 filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–2001–68 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3494 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45419; File No. SR–CBOE–2001–63]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Lead Market-Makers and Supplemental Market-Makers

February 7, 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 December 17, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Exchange filed an amendment to the proposed rule change on February 7, 2002.[3] 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 CBOE proposes to amend its CBOE Rule 8.15 to make clear that Lead Market-Makers and Supplemental Market-Makers may determine a formula for generating automatically updated market quotations during the trading day. The text of the proposed rule change is set forth below. Additions are in italics; deletions are in brackets.

* * * * *

Rule 8.15. Lead Market-Makers and Supplemental Market-Makers

The appropriate Market Performance Committee (the ''Committee'') may appoint one or more market-makers in good standing with an appointment in *an option class* [the S&P 100 options or in options on the DJIA] *for which a DPM has not been appointed* as Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') to participate in the modified opening rotation described in Interpretation .02 to Rule 24.13, including participating in opening rotations using the Exchange's Rapid Opening System., *and/or to determine a formula for generating automatically updated market quotations during the trading day as described in paragraph (d) below.*

(a) LMMs and SMMs shall be appointed on the first day following an expiration for a period of one month (''expiration month'') and shall be assigned to a zone with one or more LMMs or SMMs. The Committee shall select the series to be included in a zone.

1. Factors to be considered by the Committee in selecting LMMs and SMMs include: Adequacy of capital, experience in trading index options, presence in the [S&P] trading crowd, adherence to Exchange rules and ability to meet the obligations specified below. An individual may be appointed as an LMM in only one zone for an expiration month but may also be appointed as an SMM in other zones. An individual may be appointed to be an SMM in more than one zone. When individual members are associated with one or more other members, only one member may receive an LMM appointment.

2.–4. No change.

(b) The obligations of an LMM are as follows:

1.–3. No change.

4. to perform the above obligations for a period of one expiration month commencing on the first day following an expiration. Failure to perform such obligations for such time may result in suspension of up to three months from trading in all series of the [S&P 100] option *class* [or in options on the DJIA as appropriate].

(c) No change.

(d) Each LMM or SMM appointed in accordance with this Rule to determine a formula for generating automatically updated market quotations shall for the period in which its acts as LMM or SMM use the Exchange's AutoQuote system or a proprietary automated quotation updating system to update market quotations during the trading day. In addition, the LMM or SMM shall disclose the following components of the formula to the other members trading at the trading station at which the formula is used: option pricing calculation model, volatility, interest rate, dividend, and what is used to represent the price of the underlying. Notwithstanding the foregoing, the appropriate Market Performance Committee shall have the discretion to exempt LMMs and SMMs using proprietary automated quotation updating systems from having to disclose proprietary information concerning the formulas used by those systems.[4]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend CBOE Rule 8.15 to make explicit in the rule that the appropriate Market Performance Committee (''MPC'') may appoint Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') to determine a formula for generating automatically updated market quotations and to use the Exchange's Autoquote system or to provide a proprietary automated quotation updating system to monitor and automatically update market quotations

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Patrick Sexton, Assistant General Counsel, CBOE, to Deborah Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission (''Amendment No. 1''). Amendment No. 1 requests the Commission to designate the proposed rule change as having been filed pursuant to Section 19(b)(2) of the Act.

[4] The Exchange has agreed to submit an amendment adding a cross-reference to Interpretation and Policy .07 to CBOE Rule 8.7 to clarify that all of the requirements of Interpretation and Policy .07 apply to proposed CBOE Rule 8.15(d). Telephone call between Patrick Sexton, Assistant General Counsel, CBOE, and Deborah Flynn, Assistant Director, Division, Commission (February 6, 2002).

during the trading day in an options class for which a Designated Primary Market-Maker (''DPM'') has not been appointed. CBOE Rule 8.15 currently provides that the appropriate MPC may appoint LMMs and SMMs for a specified period of time to participate in opening rotations in S&P 100 options (''OEX'') and options on the Dow Jones Industrial Average (''DJX'') pursuant to the terms of Interpretation .02 to CBOE Rule 24.13,[5] including by employing the Exchange's Rapid Opening System (''ROS'').

Historically, one of the factors considered by the appropriate MPC in selecting LMMs and SMMs to participate in the OEX openings is the willingness of a market-maker or market-maker group to provide automatically updated quotations during the trading day in the options series traded by the OEX crowd.[6] In the early part of 2000, the Index Market Performance Committee (''IMPC'') introduced a proprietary automated quotation updating system (''Vendor Quote'') into the OEX trading crowd to replace the Exchange's Autoquote system.[7] In conjunction with the introduction of the Vendor Quote system in the OEX, the IMPC instituted a program in OEX whereby the IMPC will approve a certain number of market-makers or market-maker groups to act as LMMs and SMMs and also to provide an intra-day proprietary quote feed to the Vendor Quote system. The Exchange proposes to amend CBOE Rule 8.15 to codify the practice of the appropriate MPC appointing LMMs and SMMs to provide automatically updated quotations during the trading day.

The CBOE proposed to amend Paragraph (a) of CBOE Rule 8.15 to state that LMMs and SMMs may be appointed by the appropriate MPC to determine a formula for generating automatically updated market quotations during the trading day in their appointed classes, in addition to participating in the opening rotations. Proposed new paragraph (d) provides that LMMs and SMMs appointed pursuant to the CBOE Rule 8.15 to determine a formula for generating automatically updated market quotations must for the period in which its acts as LMM or SMM use the Exchange's AutoQuote system or a proprietary automated quotation updating system to update market quotations during the trading day. Proposed paragraph (d) requires LMMs to disclose to the trading crowd the variables of the formula for generating automatically updated market quotations unless exempted by the appropriate Market Performance Committee. This new language tracks the language of Exchange Rule 8.85(a)(x) regarding a DPM's obligation for generating and providing automatically updated market quotations, as well as disclosing to the trading crowd the variables of the formula.[8]

The Exchange also proposes to make an additional housekeeping change to CBOE Rule 8.15. Specifically, the Exchange proposes to eliminate the references to S&P 100 options and options on the DJIA from the rule so that the appropriate Market Performance Committee may appoint LMMs and SMMs in other options classes without having to file a rule change simply to identify the class. The Exchange proposes to revise paragraph (a) to permit the appropriate MPC to appoint as an LMM or SMM a market-maker in good standing with an appointment in an option class for which a DPM has not been appointed.[9]

2. Statutory Basis

By codifying the practice of the appropriate MPC appointing LMMs and SMMs to determine a formula for generating automatically updated market quotations during the trading day in their appointed options classes, thereby adding accountability for market quotations, the CBOE believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act[10] in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change, as amended, will impose a burden on competition that is not necessary or appropriate in furtherance of 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

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 CBOE 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, 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 filings will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No.

[5] The rules governing opening rotations in OEX were approved by the Commission on March 31, 1988. *See* Securities Exchange Act Release No. 25545 (March 31, 1988), 53 FR 11720 (April 8, 1988). The LMM system was put in place to allow for speedier openings in the OEX crowd and to add accountability to the openings in OEX by making particular market-makers responsible for opening quotes.

[6] Paragraph (a)(1) of CBOE Rule 8.15 describes the factors to be considered by the appropriate MPC in making its selections for LMMs and SMMs. These factors include: Adequacy of capital, experience in trading index options, presence in the S&P trading crowd, adherence to Exchange rules, and ability to meet the obligations specified in the rule. One of the obligations of an LMM specified in the Rule is to quote a two-sided market during the opening in all option series in the LMM's assigned zone.

[7] The Vendor Quote system accepts a quote stream from a firm's proprietary quote system and then sends this quote information to the Exchange's Trading Support System to be disseminated as market quotes.

[8] Since CBOE's establishment of the Modified Trading System pilot program in 1987 that allowed CBOE to assign DPMs to certain options classes, CBOE rules have provided that the DPM should determine and disclose to the trading crowd the elements of the formula for automatically updating quotations. *See* Securities Exchange Act Release No. 24934 (September 22, 1987), 52 FR 36122 (September 25, 1987).

[9] Currently, all equity options classes and the NDX, MNX, QQQ and RUT options classes are DPM trading crowds.

[10] 15 U.S.C. 78f(b)(5).

SR–CBOE–2001–63 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3496 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45410; File No. SR–CHX–2001–26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Automatic and Manual Execution Procedures

February 6, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on November 14, 2001, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article XX, Rule 37 of the CHX Rules, which governs, among other things, automatic execution of market and marketable limit orders. Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are [bracketed].

* * * * *

Chicago Stock Exchange Rules, Article XX

Guaranteed Execution System and Midwest Automated Execution System

RULE 37. (a) Guaranteed Executions. The Exchange's Guaranteed Execution System (the BEST System) shall be available, during the Primary Trading Session and the Post Primary Trading Session, to Exchange member firms and, where applicable, to members of a participating exchange who send orders to the Floor through a linkage pursuant to Rule 39 of this Article, in all issues in the specialist system which are traded in the Dual Trading System and NASDAQ/NM Securities. System orders shall be executed pursuant to the following requirements:

1–7. No change.

(b) Automated Executions. The Exchange's Midwest Automated Execution System (the MAX System) may be used to provide an automated delivery and execution facility for orders that are eligible for execution under the Exchange's BEST Rule (Article XX, Rule 37(a)) and certain other orders. In the event that an order that is subject to the BEST Rule is sent through MAX, it shall be executed in accordance with the parameters of the BEST Rule and the following. In the event that an order that is not subject to the BEST Rule is sent through MAX, it shall be executed in accordance with the parameters of the following:

(1) Size. The MAX System has two size parameters which must be designated by the specialist on a stock-by-stock basis. These parameters are the auto-execution threshold and the auto-acceptance threshold. For both Dual Trading System issues and NASDAQ/NM Securities, the auto-execution threshold must be set at *100* [300] shares or greater and the auto-acceptance threshold must be set at 1000 shares or greater. In no event may the auto-acceptance threshold be less than the auto-execution threshold. If the order sending firm sends an agency market order in a Dual Trading System issue through MAX, such order will be executed in accordance with paragraph (b)(6) of this Rule. If the order sending firm sends an agency market order in a Nasdaq/NM Security through MAX, such order shall be executed in accordance with paragraph (b)(7) of this Rule.

* * * * *

Interpretations and Policies:

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04. Ability to Switch MAX to Manual Execution. Effective April 4, 1994. Specialists have the ability to switch their MAX terminals off automatic execution at their respective posts. This new functionality is being implemented to allow specialists to timely switch to a manual execution mode when a certain analyst/reporter's report is broadcast on cable T.V., if market conditions in a particular stock warrant it. Specialists should switch to manual mode only when absolutely necessary and are required to return to the automatic execution functionality immediately when the primary market quotes accurately reflect market conditions. A specialist cannot remain in manual mode, under this paragraph, for more than *five* [10] minutes without securing the permission of two (2) floor officials.

In all other instances, when a specialist believes it is necessary to be in a manual execution mode, he or she must *secure the permission of his/her firm's floor supervisor (who, under normal circumstances should be located on the trading floor) before switching to manual, and the firm supervisor must immediately (but in no event more than three minutes after switching to manual mode)* [always] *notify and secure* [seek] the permission of *a* [two (2)] floor official[s] *to remain in manual mode* [before switching to manual]. This new functionality cannot be used merely because of a volatile market, but shall only be permitted when the primary market quotes are inaccurate due to market conditions. For example, this new functionality might be used if it became apparent that the NYSE invoked its unusual market conditions rule (pursuant to SEC Rule 11Ac1–1). *The f*[F]loor official[s] must be satisfied that the conditions which permit putting an issue on manual mode are present before granting a specialist's request to switch to the manual mode and *such permission shall only be in effect for five minutes. A firm's floor supervisor* shall monitor the conditions which formed the basis for the[ir] decision to ensure that specialists[′] return to the auto-execution feature when such conditions are no longer present. *Both the firm's floor supervisor and the* [S]specialist[s also] have the responsibility, and are required, to immediately reinstate MAX's automatic execution functionality when the primary market quotes accurately reflect market conditions. *If the specialist and the firm's floor supervisor believe it is necessary to continue in manual mode for longer than five minutes, then the firm supervisor must again secure the permission of the floor official who granted the initial permission, and if such floor official is not available, then from another floor official. Reasons for going to manual mode, the time spent in manual mode, the name of the firm supervisor who permitted the specialist to switch to manual mode and the name of the floor official who granted permission to go to manual mode must be documented and filed with the market regulation department before the next business day's opening.*

When operating in the manual mode. Specialists still have the responsibility to fill customer orders according to CHX Rules—including the BEST Rule. All

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

pricing executions will be reviewed for accuracy. This capability should only be utilized on an infrequent basis and only in unusual circumstances.

* * * * *

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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Article XX, Rule 37 of the CHX Rules, which governs, among other things, automatic execution of market and marketable limit orders. The proposed rule change is intended to clarify a specialist's obligations relating to the automatic execution of orders and to provide CHX specialists and floor officials with additional guidance regarding the ability of a CHX specialist to switch to manual execution mode. The two rule changes are summarized below.

a. Reduction of Minimum Auto Execution Threshold

The proposed change to Article XX, Rule 37(b), which governs automatic execution of eligible orders, would reduce the minimum auto execution threshold from 300 shares to 100 shares. This change is intended to reconcile a specialist's automatic execution obligation with the post-decimalization trading environment. The Exchange represents that, given the scattering of liquidity over multiple price points and resulting reduction in Best Bid or Offer (''BBO'') size,[3] many specialists desire to reduce their automatic execution exposure for certain issues to levels that are commensurate with reduced BBO size. In order to preserve consistency and avoid customer confusion, the proposed rule change would apply to both Dual Trading System and Nasdaq/NM issues. Specialists would remain free to increase their auto execution thresholds to larger sizes if they believe that business/marketing considerations so demand; in fact, the Exchange represents that a number of CHX specialists have indicated that they would reduce their auto execution threshold to 100 shares only in very limited instances.

b. Procedures for Floor Official Approval of Manual Execution Mode

The Exchange also proposes to amend Article XX, Rule 37, Interpretation and Policy .04, which governs the procedures by which specialists are to obtain permission to switch from automatic execution mode to manual execution mode.

The proposed amendment to the interpretation/policy would give greater responsibility to the specialist firm seeking to shift to manual execution mode. Specifically, the specialist firm's floor supervisor would be required to seek floor official approval and would be responsible for the documentation that must be filed with the Market Regulation Department following a shift to manual execution mode. Additionally, the amended language makes clear that floor official permission to operate in manual execution mode expires after a limited time period; after five minutes, the specialist firm and its floor supervisor must again seek permission to remain in manual execution mode. Finally, the proposed rule change would reduce from ten minutes to five minutes the maximum period in which the specialist may remain in manual mode when a certain analyst/reporter's report is broadcast on cable television, pursuant to the terms and conditions of Interpretation .04.

The Exchange anticipates that this proposed rule change will promote greater accountability and preclude reliance on manual execution mode in a manner that is potentially violative of CHX rules. The Exchange also believes that the proposed rule change will assist the Market Regulation Department in determining whether violations of the Exchange's rules regarding manual execution mode have occurred.

2. Statutory Basis

The CHX believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act. In particular, the Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or 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 Exchange consents, the Commission will:

(A) by order approve the 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 at the Commission's Public Reference

[3] The Exchange represents that average size at BBO price points has declined significantly following the transition to decimal pricing, with approximate size reductions of 67% in the case of Tape A issues (securities listed on the NYSE), 37% for Tape B issues (securities listed on the AMEX) and 44% for Tape O issues (securities listed on Nasdaq).

Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–2001–26 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3447 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45411; File No. SR–NASD–2001–88]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Computer to Computer Interface Fees

February 6, 2001.

I. Introduction

On December 7, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), 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 increase the fees charged to non-members that continue to use the x.25 Computer to Computer Interface (''CTCI'') to access Nasdaq services. On January 10, 2002, Nasdaq submitted Amendment No. 1 to the proposal.[3]

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on January 18, 2002.[4] The comment period was for 15 days and expired on February 2, 2002. No comments were received on the proposal, as amended. In this order, the Commission is approving the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposal

Nasdaq's CTCI network is a point-to-point dedicated circuit connection from the premises of brokerages and service providers to Nasdaq's Trumbull, Connecticut processing facilities. Through CTCI, firms are able to enter trade reports to Nasdaq's Automated Confirmation Transaction Service and orders to Nasdaq's Small Order Execution and SuperSOES systems. CTCI also processes SelectNet transaction confirmation reports.

In response to numerous requests from market participants that Nasdaq upgrade the speed and reliability of its CTCI data transmission environment, Nasdaq began the process last year of ''sunsetting'' its CTCI x.25/bisynch network in favor of a new network that provides greater capacity and a more efficient transmission protocol. The CTCI x.25/bisynch network can only transmit data up to 19.2 kilobits per second (''kb''). The new Transmission Control Protocol/Internet Protocol (''TCP/IP'') CTCI network operates over the Enterprise Wide Network II and provides connectivity over more powerful 56kb and T1 data lines. In order to take advantage of the new CTCI network, users are required to upgrade their current x.25/19.2kb lines to either 56kb or T1 lines. Although the conversion process has been underway since January of 2001, as of late November, 295 x.25 CTCI circuits held by 60 firms remained active.

Nasdaq represents that as more and more users convert to TCP/IP, Nasdaq's per circuit cost of continuing to offer the x.25 CTCI connections increases. Since the x.25 CTCI network is provisioned to support over 600 circuits, Nasdaq believes that it is appropriate to pass through the expense of that network to those firms that have failed to transition. According to Nasdaq, the fee increase, together with continued transition support from Nasdaq staff, will allow Nasdaq to ''sunset'' the x.25 CTCI network on March 31, 2002 (or sooner, if all x.25 CTCI subscribers have transitioned prior to that date).[5]

NASD proposes to increase the fee assessed on NASD non-members that continue to use the x.25 CTCI to access Nasdaq services rather than transitioning to TCP/IP. Nasdaq plans to assess the new fee during the months of February and March 2002 and to terminate remaining x.25 CTCI circuits at the end of March, although both the date for implementing the new fee and the date for terminating x.25 CTCI circuits are subject to adjustment.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[6] In particular, the Commission believes that the proposal, as amended, is consistent with the requirements of section 15A(b)(5) of the Act[7] because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls. The Commission notes that an identical proposed rule change for members became immediately effective upon filing on January 10, 2002.[8] Further, the Commission notes that Nasdaq has represented that as more and more users convert to TCP/IP, Nasdaq's per circuit cost of continuing to offer the x.25 CTCI connections increases. Nasdaq has stated that the proposed rule change, as amended, will permit it to pass through the expense of that network to those firms that have failed to transition.

Pursuant to section 19(b)(2) of the Act,[9] the Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that Nasdaq plans to assess the new fee during the months of February and March 2002 and to terminate remaining x.25 CTCI circuits at the end of March. The Commission also notes that members also will be assessed an identical fee in February and March 2002 and therefore, the proposed fee will be consistent with the fee charged to members. Further, Nasdaq has represented to the Commission that the new fee is necessary due to a decrease in the number of subscribers of x.25 CTCI circuits and is comparable to the fee assessed to subscribers of the TCP/IP CTCI circuits. Accordingly, the Commission finds that there is good cause, consistent with section 15A of

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated January 8, 2002 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 45266 (January 10, 2002), 67 FR 2714.

[5] Nasdaq has indicated that those members utilizing the remaining x.25 CTCI circuits will be unable to link to the CTCI system at the end of March. Nasdaq does not foresee any circumstances that would cause it to adjust the date of termination of the x.25 CTCI circuits at this time. January 3, 2002 telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and John Riedel, Staff Attorney, Division, Commission.

[6] In approving the proposed rule change, as amended, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78*o*–3.

[8] *See* Securities Exchange Act Release No. 45264 (January 10, 2002), 67 FR 2942 (January 22, 2002).

[9] 15 U.S.C. 78s(b)(2).

the Act,[10] to approve the proposal on an accelerated basis.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–2001–88), as amended, is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3497 Filed 2–12–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45416; File No. SR–PCX–2001–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Amending Exchange Rule 6.46 To Adopt New Sanctioning Guidelines for Enforcing Compliance With the Exchange's Options Order Handling Rules

February 7, 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 December 26, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new sanctioning guidelines that will assist in effectively enforcing compliance with the Exchange's options order handling rules. The text of the proposed rule change is available at the PCX's Office of the Secretary and at the Commission.

[10] 15 U.S.C. 78*o*–3.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

(1) Purpose

The Exchange believes that the proposed rule change will assist it in effectively enforcing compliance with its options order handling rules.[3] The Exchange represents that it has undertaken to address and will continue to address the importance of compliance with order handling rules such as Best Execution, Limit Order Display, Priority, Firm Quote and Trade Reporting. The proposed rule change sets forth sanctioning guidelines for each separate area of the order handling rules. Each of these areas are discussed in detail below.

The Exchange states that currently, violations of the Exchange Firm Quote, Limit Order Display, and Priority Rules are treated as formal disciplinary actions and outside the scope of the Exchange's Minor Rule Plan (''MRP'').[4] Violations of Trade Reporting and Best Execution obligations, however, are generally handled pursuant to the Exchange's MRP. While the MRP provides general guidance with respect to fine levels to be imposed for each distinct violation, nothing in the MRP prohibits the Exchange from removing a single violation of these obligations from the MRP and enforcing it as a formal disciplinary matter. The Exchange may also file a formal disciplinary action if it deems that a member or member organization's conduct amounts to a pattern or practice with respect to violations of the rules covered by its MRP.

The Exchange believes that the proposed guidelines set forth in this filing would serve to assist the Exchange's Regulatory Staff and the Ethics and Business Conduct Committee (''EBCC'') in determining appropriate remedial sanctions for violations of all Exchange rules. The Exchange further believes that the proposed guidelines would work to promote consistency and uniformity in the imposition of penalties.[5] With respect to the order handling rules, the guidelines provide both a range of fines as well as non-monetary sanctions that could be assessed against offending members. Fine amounts would differ depending on the number of disciplinary actions that have been brought by the Exchange against the particular member or member organization. The general principles that apply to all rule violations as well as the particular sanctions relating to the order handling rules are discussed in detail below.

A. General Principles Applicable to All Sanction Determinations

According to the Exchange, the proposed sanctioning guidelines would be used by various Exchange bodies that adjudicate disciplinary actions, including the EBCC, the PCX Board of Governors, the PCX Surveillance and Enforcement Departments, for in-house adjudications (collectively, ''Adjudicatory Bodies''), in determining appropriate remedial sanctions. The Exchange believes that it is important to note that the proposed guidelines do not prescribe fixed sanctions for particular violations. Rather, they assist Adjudicatory Bodies in imposing sanctions consistently and fairly. The Exchange believes that the proposed guidelines serve to promote consistency and uniformity in the imposition of penalties by applying the following general principles in connection with the imposition of sanctions in all cases.

(1) Disciplinary sanctions are remedial in nature. The proposed guidelines set forth that the sanctions imposed should be designed to prevent and deter future misconduct.

(2) Progressively escalating sanctions on recidivists. Repeated acts of

[3] The Exchange filed this proposed rule change in accordance with the provisions of Section IV.B.i of the Commission's September 11, 2000 Order Instituting Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange to adopt rules establishing, or modifying existing, sanctioning guidelines such that they are reasonably designed to effectively enforce compliance with options order handling rules. *See* Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282 (the ''Order'').

[4] *See* PCX Rule 10.13.

[5] The Exchange submitted to the Commission a letter, for which it requested confidential treatment, proposing how its regulatory staff would aggregate violations of the order handling rules, where the violations are identified through the Exchange's automated surveillance system. *See* letter from Hassan A. Abedi, Manager, Enforcement, PCX, to Nancy J. Sanow, Assistant Director, Commission, dated December 21, 2001.

misconduct call for increasingly serious sanctions.

(3) Sanctions should be tailored to address the misconduct at issue.

(4) Aggregation or ''batching'' of violations may be appropriate in certain instances for purposes of determining sanctions. The proposed guidelines would allow for aggregation of several acts of misconduct as one ''violation'' for purposes of determining sanctions if the misconduct meets certain objective parameters.

(5) Restitution should be ordered if necessary to remediate misconduct.

(6) The amount of ill-gotten gain may be considered when determining sanctions.

(7) Requiring requalification in any or all registered capacities or additional training may also be appropriate.

(8) The inability to pay in connection with the imposition of monetary sanctions may also be considered when determining sanctions.

The proposed guidelines also list several factors that should be considered in conjunction with the imposition of sanctions for specific violations.

B. Sanctions for Violation of Order Handling Rules

1. Firm Quotes—Specialist Options Transactions

The Commission recently amended Rule 11Ac1–1 of the Act,[6] the ''Quote Rule,'' so that it would apply to the options markets.[7] In response, the Exchange amended its rules in order to adopt various implementing provisions.[8] According to the Exchange, it complies with Rule 11Ac1–1 under the Act [9] by periodically publishing the quotation size for which each Responsible Broker or Dealer [10] on the Exchange is obligated to execute an order to buy or sell an option series that is a reported security at its published bid or offer. The Exchange currently requires that the minimum quotation size for customer orders will be 20 contracts for each option series and for broker-dealer orders will be one contract for each option series.[11]

The Exchange now proposes to establish specific sanctioning guidelines relating to disciplinary actions initiated as a result of violations of the PCX Firm Quote Rule 6.86. Along with the general principles enunciated above for determining sanctions, the Exchange proposes to adopt the additional factor of whether the wrongdoer remediated the failure to execute the transaction. The Exchange proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.86:

1st Disciplinary Action[12]—$500.00 to $5,000.00;

2nd Disciplinary Action—$1,000.00 to $10,000.00; and

Subsequent Disciplinary Actions—$3,000.00 to $50,000.00.

According to the Exchange, the proposed guidelines would also allow for non-monetary sanctions such as suspension, expulsion, or other sanctions in egregious cases. The Exchange believes that the proposed fine levels would help to deter violations of its Firm Quote Rule.

2. Limit Order Display—Specialist Options Transactions

The Exchange currently regulates for display of options bids and offers in its Public Limit Order Book (the ''book'') under PCX Rule 6.55.[13] According to the Exchange, PCX Rule 6.55 requires the Order Book Official (''OBO'') to continuously display, in a visible manner, the highest bid and lowest offer along with an indication of the number of options contracts bid for at the highest bid and offered at the lowest offer. The Exchange has filed a proposed rule change with the Commission to amend this rule.[14] As amended, the Exchange states that the rule would require an OBO to immediately and continuously display an options limit order. For the purpose of this rule, ''immediately'' means as soon as practicable after receipt, which under normal market conditions means no later than 30 seconds after receipt. In its filing to the Commission, the Exchange indicated that the vast majority of these orders are now entered electronically into the OBO's custody when a member firm sends it to the Pacific Options Exchange Trading Systems (''POETS'') via the Exchange's Member Firm Interface. The Exchange states that these electronic orders are immediately displayed on the overhead screens on the trading floor and disseminated to the public via OPRA. The Exchange also indicated in its filing that although the rule change would initially apply to Exchange staff only, the Exchange anticipated that in the future, all Exchange members may begin to operate limit order books on the options floor and the modified rule would apply to them. The Exchange states that currently, some Exchange members operate some limit order books; and therefore the amended rule does apply to them. The Exchange ensures that it holds the members responsible for ensuring that the obligations under this rule are met. The Exchange is currently awaiting Commission approval of the proposed amendment to this rule.

In addition, the Exchange proposes to adopt specific sanctioning guidelines relating to disciplinary actions brought for violations of PCX Rule 6.55. Along with the general principles enunciated above, for determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) Whether a customer limit order was executed during the period of non-compliance; (2) whether other transactions were executed at prices equal to or better than the customer limit order; (3) whether the misconduct had a significant adverse impact on market transparency and availability of price information; and (4) the amount of time beyond 30 seconds that elapsed before the limit order was displayed. The Exchange also proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.55:

1st Disciplinary Action[15]—$1,000.00 to $5,000.00;

2nd Disciplinary Action—$2,000.00 to $10,000.00; and

[6] 17 CFR 240.11Ac1–1.

[7] *See* Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000).

[8] *See* Securities Exchange Act Release No. 44145 (June 1, 2001), 66 FR 30959 (June 8, 2001) (SR-PCX–2001–18).

[9] 17 CFR 240.11Ac1–1.

[10] The Exchange defines ''Responsible Broker or Dealer'' as ''with respect to any bid or offer for any listed option made available by the Exchange to quotation vendors, the Lead Market Maker and any registered Market Makers constituting the trading crowd in such option series will collectively be the Responsible Broker or Dealer to the extent of the aggregate quotation size specified.'' *See* PCX Rule 6.86(a)(2).

[11] *See* PCX Rules 6.86(b) & (c).

[12] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors. For purposes of the proposed rule change, this two-year look-back provision would apply on a rolling basis. *See* telephone conversation between Hassan A. Abedi, Manager, Enforcement, PCX, and Sonia Patton, Staff Attorney, Commission, on February 6, 2002.

[13] The Exchange filed with the Commission a proposed rule change to amend PCX Rule 6.46 in order to assure that Floor Brokers promptly display limit orders that improve the market. *See* File No. SR–PCX–2001–40 (October 18, 2001).

[14] *See* Securities Exchange Act Release No. 43550 (November 13, 2000), 65 FR 69979 (November 21, 2000) (SR–PCX–00–15).

[15] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

Subsequent Disciplinary Actions—$5,000.00 to $50,000.00.

According to the Exchange, the proposed guidelines would also allow for non-monetary sanctions such as suspension, expulsion, or other sanctions in egregious cases. The Exchange believes that the proposed fine levels would help to deter violations of its Limit Order Display Rule.

3. Priority Rules—Obligations of Market Makers and Priority of Bids and Offers

According to the Exchange, PCX Rules 6.37 and 6.75 currently set forth the Obligations of Market Makers and the Priority of Bids, respectively. The Exchange states that it submitted a proposed rule change to amend these rules with the Commission pursuant to the requirements of the Order.[16] According to the Exchange, the purpose of this proposed amendment is to adopt new rules pertaining to the allocation of option orders on the trading floor, priority of bids and offers on the trading floor, and the spreads or options prices established by Market Makers. In that same submission, the Exchange states that it also seeks Commission approval of an Exchange Regulatory Bulletin that is intended to summarize and clarify the Exchange rules relating to priority of bids and offers on the options trading floor and the allocation of orders in response to bids and offers that have been accepted by other floor members.[17]

The Exchange now proposes to adopt specific sanctioning guidelines relating to disciplinary actions brought for violations of PCX Rules 6.37 and 6.75. Along with the general principles enunciated above to be considered when determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) Whether the misconduct involved violations of rules intended to provide protection to customer orders; (2) whether the misconduct resulted in the failure to execute a customer order; and (3) if so, whether the wrongdoer remediated the misconduct. The Exchange also proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rules 6.37 and 6.75:

1st Disciplinary Action [18]—$1,000.00 to $5,000.00;

2nd Disciplinary Action—$2,000.00 to $20,000.00; and

Subsequent Disciplinary Actions—$5,000.00 to $50,000.00.

According to the Exchange, the proposed guidelines would also allow for non-monetary sanctions such as suspension, bar, or other sanctions in egregious cases. The Exchange believes that the proposed fine levels will help to deter violations of its Priority Rules.

4. Best Execution—Floor Broker's Use of Due Diligence in Handling Orders

The Exchange currently sanctions members and member organizations for violations of its best execution rules under the Exchange's MRP. As previously discussed, although these violations are governed by the MRP, the Exchange states that it has authority to remove a specific violation from the MRP and treat it as a formal disciplinary action.

The Exchange states that it enforces the obligations of best execution, with respect to handling of orders, under PCX Rule 6.46, which requires a floor broker handling an order to use due diligence to execute the order at the best price or prices available. According to the Exchange, a floor broker's use of due diligence in executing an order includes ascertaining whether a better price than that being displayed at that time is being quoted by another floor broker or market maker. The floor broker must also make all persons in the trading crowd aware of his request for a quotation. Finally, the Exchange states that it requires all floor brokers to immediately and continuously represent market and marketable orders at the trading post and execute the order in a prompt manner.

As stated by the Exchange, violations of PCX Rule 6.46 are currently enforced under the Exchange's MRP.[19] The Exchange, in an effort to encourage compliance with and deter future violations of its MRP rules, filed with and received approval from the Commission to increase the fines that it imposes under its MRP.[20] The current fines being imposed by the Exchange for violations [21] of Rule 6.46 are listed below.

Minor Rule Plan

1st Violation—$1,000.00
2nd Violation—$2,500.00
3rd Violation—$3,500.00

In order to provide guidance to its Adjudicatory Bodies, the Exchange proposes to adopt specific sanctioning guidelines relating to formal disciplinary actions, outside of the MRP, brought for violations of PCX Rule 6.46. Along with the general principles enunciated above for determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) Whether the misconduct involved violations of rules intended to provide protection to customer orders; (2) whether a customer was disadvantaged because of the floor broker's failure to exercise due diligence; (3) whether the misconduct resulted in the failure to execute a customer order; (4) if so, whether the wrongdoer remediated the misconduct; and (5) whether the wrongdoer acted with intent to disadvantage a customer. In addition, the Exchange proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.46:

1st Disciplinary Action [22]—$1,000.00 to $5,000.00;

2nd Disciplinary Action—$3,000.00 to $10,000.00; and

Subsequent Disciplinary Actions—$10,000.00 to $25,000.00.

The Exchange believes that the increased focus of its regulatory staff in this area, combined with the increased fines in its MRP, as well as the proposed guidelines, which will also allow for non-monetary sanctions such as suspension, bar, or other sanctions in egregious cases will assist in reducing the number and deterring future violations of member and member organization best execution obligations.

5. Trade Reporting—PCX Rule 6.69 Reporting Duties

The Exchange currently sanctions members and member organizations for violations of its trade reporting rules under the PCX MRP. As previously discussed, although these violations are governed by the MRP, the Exchange has authority to remove a specific violation from the MRP and treat it as a formal disciplinary action.

As stated above, violations of PCX Rule 6.69 are currently enforced under the Exchange's MRP.[23] PCX Rule 6.69 sets forth the trade reporting duties of its members and member organizations.

[16] File No. SR-PCX–2001–50.

[17] *Id.*

[18] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

[19] *See* PCX Rule 10.13(k)(i)(1).

[20] *See* Securities Exchange Release Act No. 44010 (February 27, 2001), 66 FR 13618 (March 6, 2001) (SR–PCX–00–37).

[21] According to the Exchange, fines for multiple violations are calculated on a running two-year basis pursuant to its MRP.

[22] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

[23] *See* PCX Rule 10.13(k)(i)(38).

The Exchange recently amended PCX Rule 6.69 in order to clarify and reinforce the reporting obligations of its members and member organizations.[24] As amended, the PCX Rule 6.69(a) requires that all option transactions be immediately reported to the Exchange for dissemination to the Options Price Reporting Authority (''OPRA'').[25] PCX Rule 6.69(a) applies to all members and member organizations that are required to report trades either directly to OPRA or to another party who is responsible for reporting trades to OPRA. According to the Exchange, transactions not reported to OPRA within 90 seconds after execution are designated as ''late.'' The Exchange further states that under its MRP, members and member organizations who violate this rule are currently sanctioned in the following manner:

Minor Rule Plan

1st Violation—$100.00;
2nd Violation—$250.00; and
3rd Violation—$500.00.

The Exchange intends to amend its MRP in order to increase the sanctions for trade reporting violations. The increased sanctions will be similar to those submitted by the Exchange in the previous amendment to the MRP.[26] The Exchange believes that the increased fines will assist in deterring future violations of its trade reporting rule.

On November 19, 2001, the Commission approved a rule change by the Exchange that requires all Exchange member organizations to synchronize their business clocks.[27] In sum, this rule requires Exchange members to ensure that the business clocks they use at the Exchange are accurate to within three seconds of the National Institute of Standards and Technology Atomic Clock in Boulder, Colorado, or the United States Naval Observatory Master Clock in Washington, DC The Exchange states that this rule allows the Exchange members to generate more accurate automated reports and should assist members in reducing the number of reporting violations that might occur if their business clocks were not synchronized.

The Exchange states that in order to provide guidance to its Adjudicatory Bodies, it proposes to adopt specific sanctioning guidelines relating to formal disciplinary actions, outside of the MRP, brought for violations of PCX Rule 6.96. Along with the general principles enunciated above, for determining sanctions, the Exchange proposes to adopt additional factors for consideration. These factors include: (1) The extent of the abuse (*i.e.*, whether a pattern of abuse exists, and the number of transactions involved); (2) presence of intent, recklessness, or negligence; (3) the nature of trade-reporting violation; (4) whether the violative conduct affected discovery of information regarding market price; (5) the amount of time beyond 90 seconds that elapsed before trade was reported; and (6) whether the wrongdoer remediated the misconduct. In addition, the Exchange proposes the following monetary sanctions for disciplinary actions brought for violations of PCX Rule 6.69:

1st Disciplinary Action [28]—$1,000.00 to $5,000.00;
2nd Disciplinary Action—$3,000.00 to $10,000.00; and
Subsequent Disciplinary Actions—$10,000.00 to $50,000.00.

The Exchange believes that these undertakings would help to prevent fraudulent and manipulative acts and practices as well as to promote just and equitable principles of trade. The Exchange also believes that these tools would enable the Exchange to provide timely trade information to investors more efficiently. Finally, the enhanced transparency associated with timely trade reporting should facilitate price discovery for investors and assist the Exchange's surveillance of its members' trading in listed options.

(2) Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b) of the Act,[29] in general, and furthers the objectives of Section 6(b)(5),[30] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principals of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–2001–23 and should be submitted by March 6, 2002.

[24] *See* Securities Exchange Release Act No. 43975 (February 15, 2001), 66 FR 11624 (February 26, 2001) (SR–PCX–00–27).

[25] According to the Exchange, OPRA disseminates the options exchanges' best bid and offering price, but does not disseminate the sizes of those markets. However, the size of the best bid and offer in the book is displayed on the overhead screens on the floor. *See* PCX Rule 6.55.

[26] *See* Securities Exchange Release Act No. 44010 (February 27, 2001), 66 FR 13618 (March 6, 2001) (SR–PCX–00–37).

[27] *See* Securities Exchange Release Act No. 45080 (November 19, 2001), 66 FR 59281 (November 27, 2001) (SR–PCX–2001–24).

[28] When determining whether an action is the first disciplinary action, the Adjudicatory body would consider disciplinary actions with respect to violative conduct that occurred within the two years prior to the misconduct at issue. Recent acts of similar misconduct may be considered to be aggravating factors.

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3493 Filed 2–12–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45415; File No. SR–Phlx–2001–60]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Adopting Sanctioning Guidelines for the Exchange's Order Handling Rules

February 7, 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 May 31, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 18, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.[3] 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 adopt sanctioning guidelines (''Guide'') to assist the various individuals involved in the Exchange's enforcement process, including the Exchange's Business Conduct Committee (''BCC''), by recommending ranges of monetary sanctions to be applied to violations of certain Exchange rules and Option Floor Procedure Advices (''OFPAs''). The Guide covers certain offenses related to the trading of options on the Exchange trading floor, with particular emphasis on options order handling rules.[4] The text of the proposed rule change is available at the Phlx's Office of the Secretary 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 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

According to the Exchange, the Guide is proposed as an internal document to be used by the BCC, hearing panels, and the Board of Governors in determining appropriate sanctions to be imposed in formal disciplinary proceedings. The Exchange states that its enforcement staff may also refer to the Guide in negotiating settlements. The Exchange believes that the criteria outlined in the Guide are designed to promote consistency in sanctions, and to effectively enforce compliance with the Exchange's option order handling rules.[5]

The Exchange has drafted the Guide with an introduction and matrices. The introduction explains the purpose and intent of the Guide and presents an overview of the Exchange's enforcement program, including a description of factors to be considered when sanctioning misconduct in disciplinary proceedings. The matrices cover the Exchange's options order handling rules. Each matrix outlines recommended monetary sanction ranges and specific factors for consideration when a particular options order handling rule has been violated. The matrices are also arranged by subject matter and trading floor participant (floor broker, registered options trader, specialist).[6]

The Exchange states that the Guide would cover only matters brought before its BCC, which has jurisdiction over disciplinary actions pursuant to Exchange By-law Article X, Sec. 10–11 and Exchange Rule 960.1. According to the Exchange, the Guide would not apply to violations charged under its minor rule violation enforcement and reporting plan, which consists of Exchange Rule 970 and the corresponding OFPA.[7]

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[8] in general, and furthers the objectives of section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect the investors and the public interest, because it should provide an appropriate form of deterrence for violation of Exchange rules, particularly the options order handling rules.

In addition, the Exchange believes that the proposed rule change is

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Linda S. Christie, Counsel, Phlx, to Deborah Lassman Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 17, 2001 (''Amendment No. 1''). In Amendment No. 1, the Exchange amended Phlx Rule 960.10(a) to incorporate the Exchange's Enforcement Sanction Guide by reference into the Exchange's rules. The proposed new language requires the Exchange's BCC to refer to the Enforcement Sanction Guide for factors to be considered and appropriate sanctions when imposing disciplinary sanctions for violations of the Exchange's option order handling rules.

[4] The Exchange filed this proposed rule change in accordance with the provisions of Section IV.B.i of the Commission's September 11, 2000 Order Instituting Administrative Proceedings Pursuant to Section 19(h)(1) of the Act, which required the Exchange to adopt rules establishing, or modifying existing, sanctioning guidelines such that they are reasonably designed to effectively enforce compliance with options order handling rules. See Securities Exchange Act Release No. 43268 (September 11, 2000), Administrative Proceeding File No. 3–10282 (the ''Order''). In addition to filing this Guide, the Exchange has submitted another proposed rule change (SR–Phlx–2001–114) to adopt guidelines to be used in determining when it is appropriate to aggregate violations of the Exchange's options order handling rules.

[5] The Exchange submitted to the Commission a letter, for which it requested confidential treatment, proposing how its regulatory staff would aggregate violations of the order handling rules, where the violations are identified through the Exchange's automated surveillance system. *See* letter from Anne Exline Starr, First Vice President Regulatory Group, Phlx, to John McCarthy, Associate Director, Office of Compliance, Inspections and Examinations, Commission, and Deborah Lassman Flynn, Assistant Director, Division, Commission, dated January 30, 2002.

[6] Although the Guide is being filed as a proposed rule change pursuant to the Order, the Exchange does not intend to file amendments to the Guide with the Commission as proposed rule changes hereafter, because the Guide is a document for internal use only and proposes guidelines that are not binding.

[7] According to the Exchange, the OFPAs contain fine schedules to be applied when minor violations are detected. The Exchange states that the fine schedules associated with the OFPAs are administered pursuant to Exchange Rule 970, which codifies the Exchange's minor rule violation enforcement and reporting plan. Exchange Rule 19d–1(c)(1) requires the prompt reporting with the Commission of any final disciplinary action. However, the Exchange believes that minor rule violations not exceeding $2,500 are not deemed final and therefore not subject to the same reporting requirements.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

consistent with Section 6(b)(6)[10] of the Act, which requires that the rules of an exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder. In this regard, the Exchange states that it has developed an enforcement program by which members, member organizations and associated persons are appropriately disciplined for violations of the Exchange rules and the federal securities laws. According to the Exchange, the proposed Guide will serve as an additional tool to effect the equitable administration of disciplinary proceedings. Therefore, the Exchange believes that the proposal should facilitate prompt, appropriate and effective discipline for violations of Exchange rules, particularly the options order handling rules.

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

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 Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, 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 Exchange. All submissions should refer to File No. SR–Phlx–2001–60 and should be submitted by March 6, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–3492 Filed 2–12–02; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78f(b)(6).

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–10]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Sandy Buchanan-Sumter (202) 267–7271, Denise Emrick (202) 267–5174, Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C., on February 8, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–8744.
Petitioner: Evergreen International Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit Evergreen Air Venture Museum to operate its Boeing B–17G for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/ 2002, Exemption No. 6632C*

Docket No.: FAA–2001–11089.
Petitioner: The Collings Foundation.
Section of 14 CFR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit the Collings Foundation to operate its Boeing B–17, which is certificated in the limited category, and its Consolidated B–24, which is certificated in the experimental category, for the purpose of carrying passengers on local flights for compensation or hire. *Grant, 01/25/2002, Exemption No. 6540E*

Docket No.: FAA–2001–10384.
Petitioner: Weary Warriors Squadron.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit Weary Warriors Squadron to operate its North American B–25 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 6786C*

Docket No.: FAA–2001–10876.
Petitioner: Experimental Aircraft Association, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/ Disposition: To permit EAA to operate its Boeing B–17 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/ 2002, Exemption No. 6541D*

Docket No.: FAA–2000–8468.
Petitioner: Yankee Air Force, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Yankee Air Force to operate its Boeing B–17 for the purpose of carrying passengers for

compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 6631C*

Docket No.: FAA–2000–8462.
Petitioner: National Warplane Museum.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g) and 119.21(a)
Description of Relief Sought/Disposition: To permit National Warplane Museum to operate its Boeing B–17 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 7474A*

Docket No.: FAA–2002–11286.
Petitioner: Vintage Flying Museum.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a)
Description of Relief Sought/Disposition: To permit Vintage Flying Museum to operate its Boeing B–17G for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 7411A*

Docket No.: FAA–2001–11190.
Petitioner: Mr. Roger Thompson.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendixes I and J to part 121.
Description of Relief Sought/Disposition: To permit Mr. Roger Thompson to conduct local sightseeing flights at Capital Airport in Springfield, Illinois, for the Charlie Wells Memorial Aviation Scholarship on April 27, and 28, 2002, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 01/18/2002, Exemption No. 7702*

Docket No.: FAA–2002–11300.
Petitioner: Lt. Colonel Leslie E. Smith.
Section of 14 CFR Affected: 14 CFR 121.383(c).
Description of Relief Sought/Disposition: To permit Lt. Colonel Smith to act as a pilot in operations conducted under part 121 after turning age 60. *Denial, 01/25/2002, Exemption No. 7700*

Docket No.: FAA–2002–11297.
Petitioner: Roessel Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Roessel Aviation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 01/18/2002, Exemption No. 7701*

Docket No.: FAA–2002–11432.
Petitioner: Aviation Ventures, Inc., dba Vision Air.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/Disposition: To permit Vision Air to operate up to 10 Dornier 228 airplanes under part 135 without those airplanes being equipped with the required digital flight data recorder. *Grant, 01/30/2002, Exemption No. 7009B*

Docket No.: FAA–2002–10357.
Petitioner: Executive Aviation Logistics.
Section of 14 CFR Affected: 14 CFR 135.152.
Description of Relief Sought/Disposition: To permit EAL to operate its 1975 Gulfstream G–1159 (G–1159; previously referred to as the Gulfstream American Gulfstream II) airplane (serial No. 173) under part 135 without the airplane being equipped with an approved digital flight data recorder. *Grant, 01/25/2002, Exemption No. 7643A*

Docket No.: FAA–2002–11056.
Petitioner: Era Aviation.
Section of 14 CFR Affected: 14 CFR 121.356(b).
Description of Relief Sought/Disposition: To permit Era to operate two Douglas DC–3 airplanes under part 121 passenger-carrying operations without those airplanes being equipped with a Traffic Alert and Collision Avoidance System. *Grant, 01/25/2002, Exemption No. 6765A*

Docket No.: FAA–2002–11284.
Petitioner: Tulsa Air & Space Center Airshows, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.2(a).
Description of Relief Sought/Disposition: To permit Tulsa Air & Space to operate its North American B–25 for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 7126A*

Docket No.: FAA–2002–11285.
Petitioner: Commemorative Air Force, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 91.319(a), 119.5(g), and 119.21(a).
Description of Relief Sought/Disposition: To permit Commemorative Air Force to operate its fleet of former U.S. military airplanes (those listed in Condition No. 24) for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes. *Grant, 01/25/2002, Exemption No. 6802B*

[FR Doc. 02–3531 Filed 2–12–02; 8:45 am]
BILLING CODE 4910–31–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held March 5, 2002, starting at 9 am.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street NW., Suite 850, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

- March 5:
  - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)
- Publication Consideration/Approval:
  - Final Draft, Change 2, DO–186A, Minimum Operational Performance Standards for Airborne Radio Communications Equipment Operating within the Radio Frequency Range 117.975–137.000 MHz; RTCA Paper No. 025–02/PMC–197, prepared by SC–172
  - Final Draft, User Requirements for Terrain and Obstacle Data; RTCA Paper No. 023–02/PMC–195, prepared by SC–193/WG–44
  - Final Draft, Minimum Aviation System Performance Standards (MASPS) for the High Frequency Data Link Operating in the Aeronautical Mobile (Route) Service (AM(R)(S); RTCA Paper No. 024–02/PMC–196, prepared by SC–188
  - Final Draft, Guidelines for Communication, Navigation, Surveillance, and Air Traffic Management (CNS/ATM) Systems Software Integrity Assurance; RTCA Paper No. 026–02/PMC–198, prepared by SC–190/WG–52
  - Final Draft, Next Generation Air/Ground Communications (NEXCOM) Principles of Operations VDL Mode 3; prepared by SC–198
- Discussion:
  - Special Committee 186, ADS–B; Update to Terms of Reference.
  - Special Committee Chairman's Reports.
- Action Item Review:
  - Action Item 06–01, Modular Avionics Special Committee; Status and Recommendations
  - Action Item 08–01, DO–181C Revision; Status
  - Action Item, 10–01, Portable Electronic Device Request; Status and Recommendations.
- Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability.

With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 5, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 02–3551 Filed 2–12–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34079]

San Jacinto Rail Limited—Construction Exemption—and The Burlington Northern and Santa Fe Railway Company—Operation Exemption—Build-Out to the Bayport Loop Near Houston, Harris County, TX

AGENCY: Surface Transportation Board, DOT.

ACTION: Thirty day extension on comment period of the scope of the Environmental Impact Statement.

SUMMARY: Comments on the scope of the Environmental Impact Statement (EIS) to be prepared by the Surface Transportation Board's Section of Environmental Analysis (SEA) in this proceeding were due on February 1, 2002. In response to written requests for an extension of the comment period, SEA is advising all interested persons that the comment period will be extended for a period of 30 days. Comments are now due on March 14, 2002.

SEA believes the extension is appropriate to provide the public sufficient opportunity to raise issues pertinent to scoping. Specifically, comments stated that an extension of the comment period is needed for potentially affected community members to explore alternatives to the proposed route. SEA recognizes that the examination of alternatives is a central consideration of the EIS, and the identification of alternatives is an important part of the scoping process. Thus, a 30-day extension of the comment period furthers the goals of the EIS process without introducing needless delay into the agency's environmental review.

SEA strongly encourages that comments be submitted in writing. However, for parties in circumstances where submission of written comments may be impractical, parties may also submit oral comments to the toll-free number for this project at 1–888–229–7857. Persons submitting oral comments are invited to make their comments in Spanish, as well as English.

DATES: The time for filing comments on the scope of the EIS has been extended to March 14, 2002.

FILING ENVIRONMENTAL COMMENTS: Interested persons and agencies are invited to participate in the EIS scoping process. A signed original and 10 copies of comments should be submitted to: Office of the Secretary, Case Control Unit, STB Finance Docket No. 34079, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001.

To ensure proper handling of your comments, you must mark your submission: Attention: Dana White, Section of Environmental Analysis, Environmental Filing.

FOR FURTHER INFORMATION CONTACT: Ms. Dana White, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001, or SEA's toll-free number for this project at 1–888–229–7857 (TDD for the hearing impaired 1–800–877–8339). The website for the Surface Transportation Board is *www.stb.dot.gov.*

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 02–3508 Filed 2–12–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Certification/Exemption of Label/Bottle Approval Under the Federal Alcohol Administration Act.

DATES: Written comments should be received on or before April 15, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Bill Moore, Alcohol Labeling and Formulation Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8450.

SUPPLEMENTARY INFORMATION:

Title: Application for Certification/Exemption of Label/Bottle Approval Under the Federal Alcohol Administration Act.

OMB Number: 1512–0092.

Form Number: ATF 5100.31.

Abstract: ATF administers the Federal Alcohol Administration Act and its implementing regulations. The law and regulations provide, in part, standards and guidelines for the labeling of alcohol beverages. Under the law and regulations, U.S. bottlers and importers cannot bottle or import alcohol beverages without a certificate of label approval. To obtain approval, U.S. bottlers and importers must complete ATF F 5100.31.

Current Actions: ATF F 5100.31 has been revised in part to accommodate future electronic filing of applications for Certificates of Label Approval. The front of the form has been changed to include item 1. REP. ID. NO., item 8. E-MAIL ADDRESS, item 13. WINE APPELLATION IF ON LABEL, and item 17d. (formerly item 16.) RESUBMISSION AFTER REJECTION. One of the more significant changes to the front of the form is the elimination of the vendor code. The back of the form was completely changed. Following plain language guidelines, the instructions for completing the form and conditions of approval were reformatted. The conditions under which approved labels may be modified were changed to allow the deletion of any nonmandatory label information without submission of a new application for certificate of label approval. There is an increase in burden hours due to an increase in respondents. The recordkeeping requirements for this information collection is 3 years.

Type of Review: Revision.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 9,300.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 41,200.

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.

Dated: February 7, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–3498 Filed 2–12–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Firearms Transaction Record, Part 1, Over-the-Counter.

DATES: Written comments should be received on or before April 15, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Lawrence G. White, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8475.

SUPPLEMENTARY INFORMATION:

Title: Firearms Transaction Record, Part 1, Over-the-Counter.

OMB Number: 1512–0129.

Form Number: ATF F 4473 (5300.9) Part 1.

Abstract: ATF F 4473 (5300.9) Part 1 is used to determine the eligibility (under the Gun Control Act) of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is also used in law enforcement investigations/inspections to trace firearms.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 10,225,000.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 3,408,333.

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.

Dated: February 7, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–3499 Filed 2–12–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Specific and Continuing Transportation Bond, Distilled Spirits and/or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse, Class Six.

DATES: Written comments should be received on or before April 15, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Joyce Drake, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8206.

SUPPLEMENTARY INFORMATION: Title: Specific and Continuing Transportation Bond, Distilled Spirits and/or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse, Class Six OMB Number: 1512–0144.

Form Number: ATF F 2736 (5100.12), ATF F 2737 (5110.67).

Abstract: ATF F 2736 (5100.12) and ATF F 2737 (5110.67) are specific bonds which protect the tax liability on distilled spirits and wine while in transit from one type of bonded facility to another. The bonds identify the shipment, the parties, the date, and the amount of bond coverage. The record

retention requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 1.

Estimated Total Annual Burden Hours: 1.

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.

Dated: February 7, 2002.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 02–3500 Filed 2–12–02; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209121–89]

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–209121–89 (TD 8802), Certain Asset Transfers to a Tax Exempt Entity (Section 1.337(d)–4).

DATES: Written comments should be received on or before April 15, 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 this regulation should be directed to Allan Hopkins, (202) 622–6665, or through the Internet (AllanHopkins@irs.gov) Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Certain Asset Transfers to a Tax-Exempt Entity.

OMB Number: 1545–1633.

Regulation Project Number: REG–209121–89.

Abstract: The written representation requested from a tax-exempt entity in regulations section 1.337(d)–4(b)(1)(A) concerns its plans to use assets received from a taxable corporation in a taxable unrelated trade or business. The taxable corporation is not taxable on gain if the assets are used in a taxable unrelated trade or business.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions, business or other for-profit organizations.

Estimated Number of Respondents: 25.

Estimated Time Per Respondent: 5 hrs.

Estimated Total Annual Burden Hours: 125.

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 6, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3525 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 4070, 4070A, 4070PR, and 4070A–PR

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

DATES: Written comments should be received on or before April 15, 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 forms and instructions 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: Form 4070, Employee's Report of Tips to Employer, Form 4070A, Employee's Daily Record of Tips; Forma 4070PR, Informe al Patrono de Propinas Recibidas por el Empleado; Forma 4070A–PR, Registro Diario de Propinas del Empleado.

OMB Number: 1545–0065.

Form Number: Forms 4070, 4070A, 4070PR, and 4070A–PR.

Abstract: Employees who receive at least $20 per month in tips must report the tips to their employers monthly for purposes of withholding of employment taxes. Forms 4070 and 4070PR (Puerto Rico only) are used for this purpose. Employees must keep a daily record of tips they receive. Forms 4070A and 4070A–PR (Puerto Rico only) are used for this purpose.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 615,000.

Estimated Time Per Respondent: 63 hours, 50 minutes (Forms 4070 and 4070A); 64 hours, 5 minutes (Forms 4070PR and 4070A–PR).

Estimated Total Annual Burden Hours: 39,265,200.

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 7, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3526 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–14–81]

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 notice of proposed rulemaking, EE–14–81, Deductions and Reductions In Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations (§§ 1.404A–5, 1.404A–6 and 1.404A–7).

DATES: Written comments should be received on or before April 15, 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 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: Deductions and Reductions In Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations.

OMB Number: 1545–1393.

Regulation Project Number: EE–14–81.

Abstract: The regulation provides guidance regarding the limitations on deductions and adjustments to earnings and profits (or accumulated profits) for certain foreign deferred compensation plans. The information required by the regulation will be used by the IRS to administer section 404A of the Internal Revenue Code and to accurately determine the correct deductions and reductions in earnings and profits attributable to deferred compensation plans maintained by foreign subsidiaries and foreign branches of domestic corporations.

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: 1,250.

Estimated Time Per Respondent: 508 hours.

Estimated Total Annual Burden Hours: 634,450.

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 7, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3527 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–34–95]

Agency Information Collection Activities: Proposed Collection; Comment Request

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 EE–34–95 (TD 8795), Notice of Significant Reduction in the Rate of Future Benefit Accrual (§ 1.411(d)–6).

DATES: Written comments should be received on or before April 15, 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 this regulation 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 AvenueNW, Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Notice of Significant Reduction in the Rate of Future Benefit Accrual.

OMB Number: 1545–1477.

Notice Number: EE–34–95.

Abstract: This regulation provides guidance on the requirements of section 204(h) of the Employee Retirement Income Security Act of 1974, as amended. The regulation requires that a plan administrator provide a written notice to participants and certain other parties if certain pension plans are amended to provide for a significant reduction in the rate of future benefit accrual. The purpose of the notice is to assure the rights of plan participants are protected.

Current Actions: There are no changes being made 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: 3,000.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 1,500.

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 4, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3528 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–5–92]

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, IA–5–92, (TD 8537), Carryover of Passive Activity Losses and Credits and At-Risk Losses to Bankruptcy Estates of Individuals (§§ 1.1398–1 and 1.1398–2).

DATES: Written comments should be received on or before April 15, 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 this regulation 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 Ave., NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Carryover of Passive Activity Losses and Credits and At Risk Losses to Bankruptcy Estates for Individuals.

OMB Number: 1545–1375.

Regulation Project Number: IA–54–92.

Abstract: These regulations provide rules for the carryover of a debtor's passive activity loss and credit under section 469 and any ''at risk'' losses under section 465 to the bankruptcy estate. The regulations apply to cases under chapter 7 or chapter 11 of title 11 of the United States Code.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 600,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 600,000.

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 4, 2002.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 02–3529 Filed 2–12–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation (VACOR); Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Veterans' Advisory Committee on Rehabilitation (VACOR), authorized by Public Law 96–466, Subsection 1521, will be held on February 19 through 21, 2002. The meeting will be held at VA Central Office, 810 Vermont Avenue NW, Washington, DC 20006.

The meeting schedule is as follows:

Date	Room#	Time
February 19	630	9 am to 4 pm.
February 20	530	9 am to 4 pm.
February 21	530	9 am to 12 pm.

The purpose of the meeting is to review the quality of the services that the VA provides to disabled veterans who participate in VA sponsored programs of rehabilitation. In addition, VACOR will focus on a review of past activities and the development of future initiatives.

On February 19, the meeting will begin with opening remarks and an overview by Mr. Richard K. Pimentel, VACOR Committee Chairman, During the morning session, the Committee will receive a briefing on current initiatives, accomplishments, and challenges in the Vocational Rehabilitation and Employment Service and a report on research activities of the VA National Rehabilitation Special Events Management Group. The afternoon session will be devoted to reporting on the progress VA has made in compliance with Executive Order 13163 and a presentation will be given on the proposed Veterans Health Administration pilot ''An Individualized Approach to Spinal Cord Injury.''

On the morning of February 20, the Committee will hear a presentation on Corporate WINRS, Vocational Rehabilitation's recently deployed national case management system. The afternoon session will include a briefing on the strategies VA is taking to address employment opportunities for disabled veterans in current times of shifts in the economy and fluctuating labor markets. In addition, the Committee will hear an overview of recent innovations in the Rehabilitation Research and Development Service.

On February 21, the meeting will include a review of past unfinished business, recommendations for program changes, and a discussion of future meeting sites and future agenda topics.

The meeting is open to the public. Members of the general public may join in discussions, subject to the instructions of the Chair. If additional information is needed, please contact Sharon L. Ford, Program Analyst, Department of Veterans Affairs, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, phone (202) 273–7430.

By direction of the Secretary.

Dated: February 7, 2002.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02–3457 Filed 2–12–02; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 67, No. 30

Wednesday, February 13, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 160

Privacy of Consumer Financial Information

Correction

In correction document C1–10398 beginning on page 24183 in the issue of Friday, May 11, 2001, make the following correction:

§160.18 [Corrected]

On page 24183, in the second column, §160.18(a) lines six and seven, ''March 31, 2001'' should read ''March 31, 2002''.

[FR Doc. C1–10398 Filed 2–12–02; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTARTION

41 CFR Part 302–11

RIN 3090–AH55

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables

Correction

In rule document 02–2431 beginning on page 4923 in the issue of Friday, February 1, 2002, make the following corrections:

PART 302–11 [CORRECTED]

1. On page 4923, in the third column, the part head is corrected to read as follows:

PART 302–11 RELOCATION INCOME TAX (RIT) ALLOWNACE

Appendix B to Part 302 [Corrected]

2. On the same page, in the third column, in appendix B, fifth line from the bottom, ''§301–11.8(e)(2)'' should read, ''§302–11.8(e)(2)''.

3. On page 4924, in the table, first column, under ''California'' ''If single status[4]'' should read, ''If single status[3]''.

4. On the same page, in the table, second column, ''$20,000–$24,999'', under ''Minnesota'' ''5.36'' should read ''5.35''.

5. On the same page, in the table, fourth column''$50,000–$74,999'' under ''Minnesota'' ''7.05'' should read ''7.85''.

[FR Doc. C2–2431 Filed 2–12–02; 8:45 am]

BILLING CODE 1505–01–D

Corrections

Federal Register

Vol. 67, No. 30

Wednesday, February 13, 2002

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 160

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[FR Doc. C1–10398 Filed 2–12–02; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTARTION

41 CFR Part 302–11

RIN 3090–AH55

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Appendix B to Part 302 [Corrected]

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[FR Doc. C2–2431 Filed 2–12–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
February 13, 2002

Part II

Environmental Protection Agency

40 CFR Part 63 et al.

NESHAP: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule); Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63, 264, 265, 266, 270, and 271

[FRL–7143–3]

RIN 2050–AE79

NESHAP: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 30, 1999, EPA promulgated standards to control emissions of hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns that burn hazardous wastes. A number of parties sought judicial review of the rule. On July 24, 2001, the United States Court of Appeals for the District of Columbia Circuit (the Court) granted the Sierra Club's petition for review and vacated the challenged portions of the rule. In its decision, the Court invited EPA or any of the parties that challenged the regulations to file a motion with the Court to request either that the current standards remain in place, or that EPA be allowed time to develop interim standards, pending further time in which EPA develops standards complying with the Court's opinion. On October 19, 2001, EPA, together with all other petitioners, jointly moved the Court to stay the issuance of its mandate for four months to allow EPA time to develop interim standards. The motion contemplates that EPA will issue final standards by June 14, 2005. The joint motion also details other actions EPA intends to take. These actions include promulgating, by February 14, 2002, a rule with amended interim emission standards and several compliance and implementation amendments to the rule which EPA proposed on July 3, 2001. The Court has granted this motion and stayed issuance of its mandate until February 14, 2002.

Today's rule amends the September 1999 emission standards, with certain provisions amended as set out in the parties' joint motion. The rule also adopts the compliance and implementation amendments described in that motion. Although this Interim Standards Rule results in emission reductions that are less stringent than those of the September 1999 rule, we believe it achieves most of the emission gains of that rule. Promulgation of the rule now, before the Court issues its mandate, also avoids the severe problems relating to developing the Maximum Achievable Control Technology (MACT) on a source-by-source basis pursuant to section 112(j)(2) of the Clean Air Act, which applies if there are no national standards in place. We believe that adopting this Interim Standards Rule now best fulfills the statutory requirement to have national emission standards in place by a specified time, while avoiding unnecessary disruption and burden to regulated industry and affected state and federal administrative agencies.

DATES: Effective Date: This final rule is effective on February 13, 2002.

Compliance Date: You are required to comply with these promulgated standards by September 30, 2003.

ADDRESSES: You may view the docket to this rulemaking in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket number is F–2002–RC7F–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday-Friday, 9 am to 4 pm, Eastern Standard Time. For more information, contact Frank Behan at 703–308–8476, *behan.frank@epa.gov,* or Michael Galbraith at 703–605–0567, *galbraith.michael@epa.gov,* or write to them at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Acronyms Used in the Rule

APCD—Air pollution control device
ASME—American Society of Mechanical Engineers
CAA—Clean Air Act
CEMS—Continuous emissions monitors/monitoring system
COMS—Continuous opacity monitoring system
CFR—Code of Federal Regulations
DOC—Documentation of Compliance
DRE—Destruction and removal efficiency dscf—Dry standard cubic feet dscm—Dry standard cubic meter
EPA/USEPA—United States Environmental Protection Agency gr—Grains
HAP—Hazardous air pollutant
HWC—Hazardous waste combustor
MACT—Maximum Achievable Control Technology
NESHAP—National Emission Standards for HAPs ng—Nanograms
NIC—Notice of Intent to Comply
NOC—Notification of compliance
OPL—Operating parameter limit
PM—Particulate matter
POHC—Principal organic hazardous constituent ppmv—Parts per million by volume
RCRA—Resource Conservation and Recovery Act
TEQ—Toxicity equivalence

Official Record. The official record is the paper record maintained at the address in **ADDRESSES** above.

Supporting Materials Availability on the Internet. Supporting materials are available on the Internet. To access the information electronically from the World Wide Web, type *http://www.epa.gov/epaoswer/hazwaste/combust.*

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Part One—What Events Led Up to This Rule?

I. What Is the Background?

A. What Is the Phase I Rule?

Today's notice finalizes specific changes to the NESHAP: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I) rule, published September 30, 1999 (64 FR 52828). In the Phase I final rule, we adopted National Emissions Standards for Hazardous Air Pollutants, pursuant to section 112(d) of the Clean Air Act (CAA) to control toxic emissions from the burning of hazardous waste in incinerators, cement kilns, and lightweight aggregate kilns. These emission standards created a technology-based national cap for hazardous air pollutant emissions from the combustion of hazardous waste in these devices. Additional risk-based conditions necessary to protect human health and the environment may be imposed presently (assuming a proper, site-specific justification) under section 3005(c)(3) of the Resource Conservation and Recovery Act (RCRA) (and may ultimately be imposed under section 112(f) of the Clean Air Act as well).

Section 112(d) of the CAA requires emissions standards for hazardous air pollutants to be based on the performance of the Maximum Achievable Control Technology (MACT). These standards apply to the three major categories of hazardous waste burners—incinerators, cement kilns, and lightweight aggregate kilns. For purposes of today's rule, we refer to these three categories collectively as hazardous waste combustors (HWC).

B. How Did the Court's Opinion To Vacate Challenged Portions of the Rule and the Parties' Joint Motion To Stay the Mandate Affect Phase I and Today's Rule?

A number of parties, representing interests of both industrial sources and of the environmental community, sought judicial review of the Phase I rule. On July 24, 2001, the United States Court of Appeals for the District of Columbia Circuit (the Court) granted the Sierra Club's petition for review and vacated the challenged portions of the rule. *Cement Kiln Recycling Coalition v. EPA,* 255 F. 3d 855 (D.C. Cir. 2001). The Court held that EPA had not demonstrated that the standards met the statutory requirement of being no less stringent than (1) the average emission limitation achieved by the best performing 12 percent of existing sources and (2) the emission control achieved in practice by the best controlled similar source for new sources. 255 F.3d at 861, 865–66. As a remedy, the Court, after declining to rule on most of the issues presented in the Industry petitions for review, vacated the ''challenged regulations,'' stating that: ''[W]e have chosen not to reach the bulk of industry petitioners'' claims, and leaving the regulations in place during remand would ignore petitioners' potentially meritorious challenges.'' *Id.* at 872. Examples of the specific challenges the Court indicated might have merit were provisions relating to compliance during start up/shut down and malfunction events, including emergency safety vent openings, the dioxin standard for lightweight aggregate kilns, and the semi-volatile metal standard for cement kilns. *Id.* However, the Court stated, ''[b]ecause this decision leaves EPA without standards regulating [hazardous waste combustor] emissions, EPA (or any of the parties to this proceeding) may file a motion to delay issuance of the mandate to request either that the current standards remain in place or that EPA be allowed reasonable time to develop interim standards.'' *Id.*

Acting on this invitation, all parties moved the Court jointly to stay the issuance of its mandate for four months to allow EPA time to develop interim standards. The interim standards will replace the vacated standards temporarily, until final standards are promulgated.

The motion indicates that EPA would issue final standards which fully comply with the Court's opinion by June 14, 2005, and it indicates that EPA and Petitioner Sierra Club intend to enter into a settlement agreement requiring us to promulgate final rules by that date, and that date be judicially enforceable. The joint motion also details other actions we agreed to take, including issuing a one-year extension to the September 30, 2002 compliance date (66 FR 63313, December 6, 2001), and promulgating by February 14, 2002 several of the compliance and implementation amendments to the rule which we proposed on July 3, 2001 (66 FR 35126). These final amendments will be published in tomorrow's **Federal Register**. The joint motion can be viewed and downloaded from EPA's Hazardous Waste Combustion Website: *http://www.epa.gov/epaoswer/hazwaste/combust/preamble.htm.*

We believe that implementation of today's interim standards will be beneficial to the regulated community, the state implementing programs, and the environment. Compliance with these interim standards will result in emissions reductions sooner than if the hazardous waste combustion standards were vacated. It also provides a more orderly transition to final standards than if the current rules were vacated without replacement standards being in place due to the operation of the so-called hammer provisions of section 112(j)(2) and 112(g)(2) of the CAA. These hammer provisions are discussed in the next section.

II. Good Cause for Issuing the Rule

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.[1] EPA so finds here.[2]

First, the regulated community and environmental community have had actual notice of the contents of this rule, and opportunity to comment upon it, due to the exhaustive negotiations leading to filing of the joint motion on October 19, 2001, which motion recited the projected contents of this Interim Standards Rule. It is well-settled that actual notice satisfies all obligations to provide notice and opportunity for comment as to those persons. *Small Refiner Lead Phase-Down Task Force* v. *EPA,* 705 F. 2d 506, 548 (D.C. Cir. 1983).

Second, with respect to entities that were not part of this negotiating process, EPA finds that there is good cause to issue the rule without prior proposal in order to avoid the consequences of not having a standard in place. The consequence of vacating the present rule before EPA promulgates a replacement rule is that the statutory ''hammer'' provisions would operate with respect to major sources, and that there would be no CAA standards for area sources.[3] Congress required that EPA promulgate national standards to control emissions of hazardous air pollutants by designated dates. Congress also added the hammer provisions to create a strong incentive to assure that those standards are adopted and go into force. Section 112(j)(2) of the Act thus provides that ''[i]n the event that the Administrator fails to promulgate a standard for a category * * * of major sources by the date established pursuant to subsection (e)(1) and (3) of this section,'' prescribed consequences occur. 42 U.S.C. 7412(j)(2). The first of these is that ''18 months after such date, the owner or operator of any major source in such category * * * shall submit a permit application.'' *Id.* Permit writers (either federal or state) must then establish emission limitations for each major source which they ''determin[e], on a case-by-case basis, to be equivalent to the limitation that would apply to such source if an emission standard had been promulgated in a timely manner under subsection (d).'' *Id.* 42 U.S.C. 7412(j)(5). These site-specific permit limitations can be superseded by subsequently promulgated national standards. Should such a standard be promulgated, the permitting authority ''shall revise such permit upon the next renewal to reflect the standard * * * providing such a reasonable time to comply, but no longer than 8 years after such standard is promulgated or 8 years after the date on which the source is first required to comply with the [site-specific emission standard], whichever is earlier.'' *Id.* § 7412(j)(6). Thus there could be considerable delay before sources are subject to a national CAA section 112(d) standard once a section 112(j)(5) permit is issued.

There are significant adverse consequences of vacating the existing rule and allowing the section 112(j) hammer to operate:

A. Failure To Control Area Sources

The hammer requirement applies only to major sources of hazardous air pollutants. We determined, pursuant to CAA section 112(c)(3), however, that regulation of all hazardous waste combustor area sources (*i.e.,* sources below the major source threshold) is necessary because of the threat of potential adverse effects to human health or the environment posed by these sources. 64 FR at 52837–52838. If this Interim Standards Rule is not adopted now, before the mandate issues, these area sources would not be subject to any CAA standards for hazardous air pollutants until the compliance date for the projected 2005 rule.

B. No National Standards for Major Sources for a Long Period

If this Interim Standards Rule is not issued now, major hazardous waste combustor sources would not be subject to national CAA MACT standards for a prolonged period. Even if the case-by-case permitting process goes smoothly, permitting authorities have up to 18 months to issue such permits after a complete application is filed. See 40 CFR 70.4(b)(6). The permitting authority could then allow up to a 3-year compliance date (42 U.S.C. 7412(j)(5)), so that sources may not be subject to emission standards until 2006. Yet these sources were to have been subject to national standards no later than November 2003. CAA sections 112(e)(1) and (i)(3).

C. Case-by-Case Permit Standards Delaying Compliance With More Stringent National Standards

Case-by-case permit limitations do not have to be modified to reflect more stringent subsequent national standards until the permit is renewed or until 8 years from the date the national standard is promulgated or 8 years from the time the permit is issued, whichever is earlier. CAA section 112(j)(6). A scenario thus could result where major sources receive case-by-case permits in 2004 before EPA issues a national rule, and then might not have to comply with a national standard until 2012. This result is again far later than the expected 2003 date for compliance with national section 112(d) standards.

D. Inconsistent Permit Standards

The case-by-case permitting process, with its hundreds of separate determinations, necessarily raises the prospect of potentially inconsistent determinations. The general statutory scheme, however, is that sources in a category or subcategory will be subject to a common standard. Such inconsistency could also lessen the degree of emission reduction Congress contemplated in requiring that sources be subject to national technology-based standards developed pursuant to section 112(d).

E. Adverse Consequences to Regulated Sources

The case-by-case permitting process also poses adverse consequences for regulated sources. The immediate burden is to submit permit applications to federal or state permit-writing authorities. Some industry sources may also face the possibility that individual permit limits could be so inconsistent with later national standards that the source will have to develop a new strategy for achieving emission reductions (with consequent loss of investment in the equipment needed to comply with the case-by-case permit), and the prospect of continuing to comply with Resource Conservation and

[1] Section 553 of the Administrative Procedure Act does apply here, even though issues of rulemaking procedure under the Clean Air Act are normally controlled by CAA section 307(d). See CAA section 307(d)(1) final sentence, indicating that the CAA provisions do not apply to rules covered by section 553(b)(B) of the Administrative Procedure Act.

[2] EPA notes as well that certain of the provisions adopted today (those dealing with the revised standards and compliance provisions) are the subject of prior notice and opportunity for comment, so that no good cause finding is required for such provisions. In addition, for all of the provisions of the rule which we are repromulgating in existing form, notice and opportunity for comment is unnecessary since these provisions have already been the subject of exhaustive notice and comment rulemaking.

[3] EPA's interpretation that the hammer provisions apply is based on the statutory language and evident Congressional purpose to create a default mechanism whenever there are no national Clean Air Act section 112(d) standards in place on or after the hammer date. See also *Steel Mfr's Ass'n* v. *EPA,* 27 F. 3d 642, 647–48 (D.C. Cir. 1994) holding that EPA reasonably construed analogous hammer provisions of the Resource Conservation and Recovery Act to apply if a rule is issued but vacated so as not to be in place on the hammer date.

Recovery Act (RCRA) permit conditions for air emissions.

F. Administrative Burdens

The administrative burdens on EPA and on States administering CAA permit programs likewise will be significant if a case-by-case permitting process is triggered if this rule is not promulgated by the mandate issuance date. Processing many permit applications from hazardous waste combustors, and trying to develop standards equivalent to maximum achievable control technology on a case-by-case basis, can only further complicate an already exceedingly difficult permit-issuance task.

EPA notes further that in the scarce time between the Court issuing an order staying its mandate and the present, we have used best efforts to provide notice of this projected Interim Standards Rule. We posted the joint motion and appendices on websites, and also solicited comment on these documents in the section 112(g) settlement notice published in the **Federal Register** on November 16, 2001. 66 FR 57715. We have responded to all of the comments received on that notice. However, it has proved impossible to provide further notice and opportunity for comment given the lack of time before issuance of the mandate, and the need for EPA to focus on development of the 2005 final standards, which will implement MACT for these sources.

Therefore, in light of the fact that Congress intended for national standards to already be in place for hazardous waste combustors, and that a case-by-case permitting regime for those combustors could have adverse consequences for regulated sources, state and federal permitting authorities, and for the environment, we believe that there is good cause for this rule to issue without additional notice and opportunity for comment. *Small Refiner Lead Phase-Down Task Force,* 705 F.2d at 545–46 (inviting EPA to issue an interim standards rule to avoid a regulatory gap and noting that there probably exists ''good cause'' under 5 U.S.C. 553(b)(B) to issue the rule without prior notice and opportunity for comment). EPA also finds that good cause exists under U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register**.

III. What Is Included in This Rule?

In this rulemaking, we are retaining the existing Part 63, Subpart EEE, regulations, except for the following changes:

- We are revising certain emission standards as follows: (a) The semi-volatile metals standard for new incinerators; (b) the semi-volatile metals standard for existing cement kilns; (c) the mercury standard for new cement kilns; (d) the dioxin standard for new and existing lightweight aggregate kilns; (e) the mercury standard for new and existing lightweight aggregate kilns; (f) the hydrochloric acid/chlorine gas standard for new and existing lightweight aggregate kilns.
- We are providing an alternative means for lightweight aggregate kilns and cement kilns to comply with the mercury standard to allow sources to comply with a hazardous waste mercury feedrate limit in lieu of complying with an emission standard. Sources electing to comply with this option will be required to notify the RCRA permitting authority that they are complying with this option.
- We are revising the startup, shutdown and malfunction (''SSM'') provisions to provide that emission standards and operating requirements set forth in the rule apply at all times except during periods of startup, shutdown and malfunction. The revised rule subjects hazardous waste combustors to the same general MACT SSM provisions that apply to most sources, except that revised automatic waste feed cutoff requirements continue to apply during most SSM events, and sources must determine whether the SSM plan should be revised if excessive exceedances of operating requirements when hazardous waste is in the system occur during these events. Such exceedances will not constitute violations of the operating requirements. In addition, owners and operators of hazardous waste combustors must select either RCRA option or a CAA option to control emissions from startup, shutdown, and malfunctions. Under the RCRA options, operating conditions in the RCRA permit will minimize emissions during these events. Under the CAA option, the SSM plan must be proactive in minimizing emissions from these events, and must be submitted to the delegated CAA authority for review and approval. Finally, we are revising the emergency safety vent (''AESV'') opening provisions to provide that if there is hazardous waste in the combustion chamber, and there is an ESV opening that is not a malfunction, the source must document whether it remains in compliance with applicable standards, and file a report if there is noncompliance.

In addition, we are making the following regulatory revisions to compensate for the possibility that sources may be required to comply with permanent replacement emission standards (i.e., the final standards that comply with the Court's opinion and that must be promulgated by June 14, 2005) that are significantly different than the Interim Standards in today's rulemaking. Such an outcome could result in loss of capital investment. As a result, we believe these provisions are appropriate since they could lessen this potentially negative financial impact.

- Amending the performance testing requirements of 40 CFR 63.1207 to allow previously collected data, regardless of age, to serve as documentation of compliance with the interim emission standards provided that these data meet quality assurance requirements and are sufficient to establish operating parameter limits;
- Amending the performance testing provisions such that all subsequent comprehensive performance tests (that is, those after the initial comprehensive performance test) for the interim standards are automatically waived; and,
- Amending the confirmatory performance testing provisions to eliminate the requirement to conduct confirmatory performance testing during the period that the interim standards are in effect.

Part Two—What Revisions Are We Making in This Rule?

I. What Are the Interim Standards?

In today's rulemaking, we are replacing the vacated emission standards temporarily until final standards are promulgated by June 14, 2005.[4] EPA notes that this Interim Standards Rule does not respond to the Court's mandate regarding the need to demonstrate that EPA's methodology reasonably predicts the performance of the average of the best performing twelve percent of sources (or best-performing source). EPA intends to address those issues in a subsequent rule, which will necessarily require a longer time to develop, propose, and finalize. However, some type of Interim Standards Rule is needed now, for the reasons explained in Part One, Section II above. These standards, to some degree, represent negotiated interim levels agreed to by the parties to the Joint Motion (both industry and environmental, as well as EPA). In EPA's view, these standards preserve critical parts of the September 30, 1999

[4] In a final rule published on December 6, 2001, we extended for one year the compliance date requirement of § 63.1206(a) for the interim emission standards until September 30, 2003. See 66 FR 63313.

rule unchanged, and achieve approximately 93 percent of the emissions reductions for existing sources which the original rule would have attained. Given the need to expeditiously adopt an Interim Standards Rule to avoid outright vacature (with the attendant adverse consequences described in the previous section), and the fact that the Court indicated that some of the industry challenges had potential merit (so that repromulgating all of the September 30,1999 rule was not a realistic possibility), EPA believes that this rule represents a reasonable interim measure. The numerical values of most existing emission standards are being retained except for the changes outlined above and discussed below. Given that the emission standards will be vacated when the Court issues an order called a mandate (expected on or after February 14, 2002), we are repromulgating the emissions standards of §§ 63.1203 through 63.1205, not just those standards that are being revised.

A. New and Existing Incinerators

The interim emission standards for new and existing hazardous waste incinerators are identical to the standards promulgated on September 30, 1999, except that the semivolatile metals standard for new incinerators is revised to 120 μg/dscm. We are revising § 63.1203(b)(3) and repromulgating § 63.1203 accordingly.

We are also correcting two typographic errors in § 63.1203(c)(2). In the second sentence of this paragraph, we are replacing the word ''tetro-'' with the word ''tetra-.'' We are also inserting the word ''to'' before the word ''calculate'' in the third sentence of the paragraph.

The interim emission standards are summarized below.

INTERIM STANDARDS FOR EXISTING AND NEW INCINERATORS

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Dioxin/Furan	0.20 ng TEQ [2] dscm; or 0.40 ng TEQ/dscm and temperature at inlet to the initial particulate matter control device ≤400° F.	0.20 ng TEQ/dscm.
Mercury	130 μg/dscm	45 μg/dscm.
Particulate Matter	34mg/dscm (0.015gr/dscf)	34mg/dscm (0.015gr/dscf).
Semivolatile Metals	240 μg/dscm	120 μg/dscm.
Low Volatile Metals	97 μg/dscm	97 μg/dscm.
Hydrochloric Acid/Chlorine Gas	77 ppmv	21 ppmv.
Hydrocarbons [3] [4]	10 ppmv (or 100 ppmv carbon monoxide)	10 ppmv (or 100 ppmv carbon monoxide).
Destruction and Removal Efficiency	For existing and new sources, 99.99% for each principal organic hazardous constituent (POHC) designated. For sources burning hazardous wastes F020, F021, F022, F023, F026, or F027, 99.9999% for each POHC designated.	Same as for existing incinerators.

[1] All emission levels are corrected to 7 percent oxygen.
[2] Toxicity equivalent quotient, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8–TCDD.
[3] Hourly rolling average. Hydrocarbons are reported as propane.
[4] Incinerators that elect to continuously comply with the carbon monoxide standard must demonstrate compliance with the hydrocarbon standard of 10 ppmv during the comprehensive performance test.

B. New and Existing Cement Kilns

The interim emission standards for new and existing hazardous waste burning cement kilns are identical to the standards promulgated on September 30, 1999, with two exceptions. The semivolatile metals standard for existing cement kilns and the mercury standard for new cement kilns are revised to 330 μg/dscm and 120 μg/dscm, respectively. In today's rule, we are revising §§ 63.1204(a)(3) and (b)(2) and repromulgating § 63.1204 accordingly.

We are also correcting two typographic errors in § 63.1204(c)(2). In the second sentence of this paragraph, we are replacing the word ''tetro-'' with the word ''tetra-.'' We are also inserting the word ''to'' before the word ''calculate'' in the third sentence of the paragraph.

Finally, we are providing an alternative means for new and existing cement kilns to comply with the interim mercury standard. Under this alternative, new and existing cement kilns are allowed to comply with a hazardous waste maximum theoretical emissions concentration [5] of mercury of 120 μg/dscm. This new operating requirement for mercury from cement kilns is conceptually similar to the alternative mercury standard provisions that we promulgated in the September 30, 1999 rule. See § 63.1206(b)(10) (alternative standard where source demonstrates that it cannot meet emission standard as a result of mercury levels in raw material feedstocks). The feedrate operating requirement alternative ensures that the hazardous waste mercury contribution to emissions—MACT control for cement kilns as promulgated in the final rule—will always be below the mercury standard.

The alternative to the interim mercury standard is based on the combined hazardous waste feedstreams to the kiln and may be expressed either as a maximum theoretical emissions concentration or as a restriction on maximum hazardous waste mercury mass feedrate and minimum gas flow rate. Sources must account for each hazardous waste feedstream when determining compliance with the maximum theoretical emissions concentration limit. In addition, sources are not required to monitor for mercury in their raw material for compliance purposes. Sources are also required to notify the RCRA permitting authority that they are electing to comply with this option. See § 63.1206(b)(15). The RCRA permitting authority may determine on a case-by-case basis under § 270.32(b)(2) that additional operating requirements may be needed to ensure protection of human health and the environment.

The interim emission standards are summarized below.

[5] Maximum theoretical emissions concentration or MTEC is a term to compare metals and chlorine feedrates across sources of different sizes. MTEC is defined as the metals or chlorine feedrate divided by the gas flow rate and is expressed in units of μg/dscm.

INTERIM STANDARDS FOR EXISTING AND NEW CEMENT KILNS

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Dioxin and Furan	0.20 ng TEQ/dscm; or 0.40 ng TEQ/dscm and control of flue gas temperature not to exceed 400°F at the inlet to the particulate matter control device.	0.20 ng TEQ/dscm; or 0.40 ng TEQ/dscm and control of flue gas temperature not to exceed 400°F at the inlet to the particulate matter control device.
Mercury	120 μg/dscm	120 μg/dscm.
Particulate Matter [2]	0.15 kg/Mg dry feed and 20% opacity	0.15 kg/Mg dry feed and 20% opacity.
Semivolatile Metals	330 μg/dscm	180 μg/dscm.
Low Volatile Metals	56 μg/dscm	54 μg/dscm.
Hydrochloric Acid and Chlorine Gas	130 ppmv	86 ppmv.
Hydrocarbons: Kilns without By-pass [3 6]	20 ppmv (or 100 ppmv carbon monoxide) [3]	Greenfield kilns: 20 ppmv (or 100 ppmv carbon monoxide and 50 ppmv [5] hydrocarbons). All others: 20 ppmv (or 100 ppmv carbon monoxide) [3].
Hydrocarbons: Kilns with By-pass; Main Stack. [4 6]	No main stack standard	50 ppmv [5].
Hydrocarbons: Kilns with By-pass; By-pass Duct and Stack. [3 4 6]	10 ppmv (or 100 ppmv carbon monoxide)	10 ppmv (or 100 ppmv carbon monoxide).
Destruction and Removal Efficiency	For existing and new sources, 99.99% for each principal organic hazardous constituent (POHC) designated. For sources burning hazardous wastes F020, F021, F022, F023, F026, or F027, 99.9999% for each POHC designated.	

[1] All emission levels are corrected to 7% O_2, dry basis.
[2] If there is an alkali by-pass stack associated with the kiln or in-line kiln raw mill, the combined particulate matter emissions from the kiln or in-line kiln raw mill and the alkali by-pass must be less than the particulate matter emissions standard.
[3] Cement kilns that elect to comply with the carbon monoxide standard must demonstrate compliance with the hydrocarbon standard during the comprehensive performance test.
[4] Measurement made in the by-pass sampling system of any kiln (e.g., alkali by-pass of a preheater and/or precalciner kiln; midkiln sampling system of a long kiln).
[5] Applicable only to newly-constructed cement kilns at greenfield sites (see discussion in Part Four, Section VII.D.9). The 50 ppmv standard is a 30-day block average limit. Hydrocarbons are reported as propane.
[6] Hourly rolling average. Hydrocarbons are reported as propane.

C. New and Existing Lightweight Aggregate Kilns

The interim emission standards for new and existing hazardous waste burning lightweight aggregate kilns are identical to the standards promulgated on September 30, 1999, with the following exceptions. The dioxin and furan standard for both new and existing lightweight aggregate kilns is revised to 0.20 ng TEQ/dscm or rapid quench of the combustion gas temperature at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) to 400°F or lower. This interim emission standard for dioxin and furans preserves the intent of the standard promulgated on September 30, 1999. That is, the temperature limitation of 400°F ensures that each lightweight aggregate kiln will be operating, at a minimum, consistent with sound operational practices for controlling dioxin and furan emissions. Accordingly, we are revising §§ 63.1205(a)(1) and (b)(1). We are also revising the mercury standard for new and existing sources of §§ 63.1205(a)(2) and (b)(2) to 120 μg/dscm. Finally, we are revising the hydrochloric acid/chlorine gas standard for new and existing lightweight aggregate kilns to 600 ppmv. See revised §§ 63.1205(a)(6) and (b)(6).

We are also correcting two typographic errors in § 63.1205(c)(2). In the second sentence of this paragraph, we are replacing the word ''tetro-'' with the word ''tetra-.'' We are also inserting the word ''to'' before the word ''calculate'' in the third sentence of the paragraph.

Finally, we are providing the same alternative means for new and existing lightweight aggregate kilns to comply with the interim mercury standard as finalized in today's rule for cement kilns (discussed above). Under this alternative, new and existing lightweight aggregate kilns are allowed to comply with a hazardous waste maximum theoretical emissions concentration of mercury of 120 μg/dscm. See § 63.1206(b)(15).

We are today repromulgating § 63.1205 with these changes, as summarized below.

INTERIM STANDARDS FOR EXISTING AND NEW LIGHTWEIGHT AGGREGATE KILNS

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Dioxin/Furan	0.20 ng TEQ/dscm; or rapid quench of the flue gas at the exit of the kiln to less than 400°F.	0.20 ng TEQ/dscm; or rapid quench of the flue gas at the exit of the kiln to less than 400°F.
Mercury	120 μg/dscm	120 μg/dscm.
Particulate Matter	57 mg/dscm (0.025 gr/dscf)	57 mg/dscm (0.025 gr/dscf).
Semivolatile Metals [2]	250 μg/dscm	43 μg/dscm.
Low Volatile Metals [3]	110 μg/dscm	110 μg/dscm.
Hydrochloric Acid/Chlorine Gas	600 ppmv	600 ppmv.
Hydrocarbons [2 3]	20 ppmv (or 100 ppmv carbon monoxide)	20 ppmv (or 100 ppmv carbon monoxide).

INTERIM STANDARDS FOR EXISTING AND NEW LIGHTWEIGHT AGGREGATE KILNS—Continued

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Destruction and Removal Efficiency	For existing and new sources, 99.99% for each principal organic hazardous constituent (POHC) designated. For sources burning hazardous wastes F020, F021, F022, F023, F026, or F027, 99.9999% for each POHC designated.	

[1] All emission levels are corrected to 7% O_2, dry basis.
[2] Hourly rolling average. Hydrocarbons are reported as propane.
[3] Lightweight aggregate kilns that elect to continuously comply with the carbon monoxide standard must demonstrate compliance with the hydrocarbon standard of 20 ppmv during the comprehensive performance test.

II. What Are the Revisions to the Startup, Shutdown, and Malfunction Requirements?

The September 1999 final rule requires compliance with the emission standards and operating requirements at all times that hazardous waste is in the combustion system (i.e., before the hazardous waste residence time has transpired), including during startup, shutdown, and malfunctions. See § 63.1206(b)(1)(i). This requirement was intended to create an incentive to minimize exceedances when burning hazardous waste during startup, shutdown, and malfunctions. For example, to minimize the frequency and severity of exceedances during malfunctions, you could take various measures including providing for spare parts and redundant systems.

Industry stakeholders note that requiring compliance with emission standards and operating requirements during startup, shutdown, and malfunctions is inconsistent with the General Provisions of Subpart A, Part 63, that apply to MACT sources.[6] Although requirements for particular source categories can be more or less stringent than the General Provisions (which provisions serve as a default), stakeholders state that requiring compliance with emission standards and operating requirements during malfunctions is not appropriate. The purpose of the startup, shutdown, and malfunction plan required under § 63.1206(c)(2), and by reference § 63.6(e)(3), is: (1) To ensure that the combustor, including emission control equipment, is operated and maintained in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by the standards; (2) to ensure that owners and operators are prepared to correct malfunctions as soon as practicable; and (3) to minimize the reporting burden associated with excess emissions. Stakeholders conclude that it is inappropriate to penalize a source for exceeding emission standards and operating requirements during malfunctions because some exceedances are unavoidable and they are already required to take the corrective measures prescribed in the startup, shutdown, and malfunction plan to minimize emissions.

In response to stakeholder concerns, today's rule: (1) Exempts you from the Subpart EEE emission standards and operating requirements during startup, shutdown, and malfunctions; (2) continues to subject sources to RCRA requirements during malfunctions, unless they comply with alternative MACT requirements including expanding the startup, shutdown, and malfunction plan to minimize the frequency and severity of malfunctions, and submit the plan to the delegated CAA authority for review and approval; (3) continues to subject sources that burn hazardous waste during startup and shutdown to RCRA requirements for startup and shutdown, unless they comply with alternative MACT requirements, and requires them to include waste feed restrictions and operating conditions and limits in the startup, shutdown, and malfunction plan; (4) requires sources to include in the startup, shutdown, and malfunction plan a requirement to comply with the automatic hazardous waste feed cutoff system during startup, shutdown, and malfunctions; and (5) makes conforming revisions to the emergency safety vent opening requirements.

A. What Are the Revised Requirements for Malfunctions?

We agree with stakeholders that the startup, shutdown, and malfunction plan should minimize emissions during malfunctions and are revising the rule to conform with the General Provisions. The revised rule exempts you from the MACT emission standards and operating requirements during startup, shutdown, and malfunctions, even if hazardous waste is in the combustion system during such events. See revised § 63.1206(b)(1)(i).

We are concerned, however, that even though following the corrective measures in response to malfunctions that you prescribe in the startup, shutdown, and malfunction plan should minimize emissions during these events, the plan may not minimize the frequency and severity[7] of exceedances, and thus may not minimize emissions from these events. In other words, the startup, shutdown, and malfunction plan is largely reactive to malfunctions rather than proactive. Thus, we are concerned that our RCRA mandate to ensure protection of human health and the environment may not be achieved without additional controls. In fact, existing RCRA regulations require compliance with emission standards and operating requirements at all times that hazardous waste is in the combustion chamber (see § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns), and EPA has found that this provision is necessary to protect human health and the environment.[8] Thus, any replacement to the existing standards must (at a minimum) provide an equivalent degree of protection to satisfy RCRA requirements. Accordingly, today's rule gives you the option of complying with RCRA requirements or CAA requirements that achieve the equivalent objective of minimizing emissions during malfunctions.

We discuss below how these options work for various RCRA permitting situations.

1. Facilities With Existing RCRA Permits

When a source with a RCRA permit for the combustion unit documents

[6] Joint Brief of Industry Petitioners, US Court of Appeals for the District of Columbia Circuit, No. 99–1457 et al, *Cement Kiln Recycling Coalition, et al.,* v. *USEPA,* Aug. 16, 2000, p. 86.

[7] The duration and magnitude of excess emissions from a particular type of malfunction can be minimized by proactive as well as reactive measures.

[8] Specific hazardous wastes under specific conditions may be exempt from the emission standards and operating requirements, however. See § 264.340(c) for incinerators, and §§ 266.108 and 266.109 for cement and lightweight aggregate kilns.

compliance with the MACT standards and requests that duplicative permit conditions be removed from the permit, the source must comply with one of the following options to minimize emissions during malfunctions: (1) The requirements of § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns; or (2) revised RCRA permit conditions that minimize emissions from malfunctions; or (3) the procedures you prescribe in a startup, shutdown, and malfunction plan that is expanded to be proactive as well as reactive to minimize emissions from malfunctions,[9] and that is subject to review and approval by the delegated CAA authority. See new § 270.235(a)(1). We have also made conforming revisions to §§ 264.340(b)(1), 265.340(b)(1), 266.100(b)(2)(i), 270.19(e), 270.22 (introductory text), 270.62 (introductory text), and 270.66 (introductory text) to require compliance with §§ 264.345(a) and 266.102(e)(1) only during malfunctions and only if you elect the option that requires compliance with those provisions (i.e., § 270.235(a)(1)(i)).

Similarly, the rule requires sources that are being reissued a RCRA permit for the combustion unit (and that have documented compliance with the MACT standards) to comply with options that parallel those discussed above to minimize emissions during malfunctions. See new §§ 270.235(a)(2).

a. How Does the RCRA Option Work to Minimize Emissions during Malfunctions? Under the RCRA option to minimize emissions during malfunctions, a source with a RCRA permit (and that has documented compliance with the MACT standards) and that is requesting that duplicative RCRA permit conditions be removed from the permit must either: (1) Remain subject to the RCRA permit conditions implementing § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns during malfunctions[10] while hazardous waste is in the combustion chamber; or (2) request that the current RCRA permit conditions be revised to provide alternative means of ensuring that emissions from malfunctions are minimized.[11] [12] See new §§ 270.235(a)(1)(i) and (a)(1)(ii).

The rule allows you to revise the current RCRA permit conditions to control emissions during malfunctions because, for example, you may want to request to comply with a subset of your existing permit conditions, or you may want to request to comply with a limit on the number of exceedances during malfunctions when hazardous waste is in the combustion chamber in lieu of complying with all of the RCRA emission standards and associated operating limits during malfunctions.

Under this option when you request to revise your RCRA permit conditions, the permit writer will consider information including whether your startup, shutdown, and malfunction plan is both proactive and reactive, and the source's design and operating history. Because the permit writer's decision to revise your permit conditions addressing emissions from malfunctions is based, in part, on review of the startup, shutdown, and malfunction plan and the design of the source, the rule also requires that you notify the delegated RCRA authority in writing within 5 days of making a change to the plan or design of the source that may significantly increase emissions of toxic compounds[13] from malfunctions. In addition, you must recommend revisions to permit conditions necessary as a result of the change to minimize emissions of toxic compounds from malfunctions. The delegated RCRA authority may revise the permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized from malfunctions upon permit renewal, or if warranted, by modifying the permit under §§ 270.41(a) or 270.42.

A source that is being reissued a permit for the combustor (and that has documented compliance with the MACT standards) must address RCRA permit conditions to control emissions during malfunctions under any of three options that parallel those discussed above for a permitted source that is requesting that duplicative RCRA permit conditions be removed from the permit. See new § 270.235(a)(2). Under ''RCRA Option A,'' the delegated RCRA authority will include in the (reissued) permit conditions that ensure compliance with § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns during malfunctions. See § 270.235(a)(2)(i). Under ''RCRA Option B,'' the delegated RCRA authority will include in the permit conditions that ensure emissions of toxic compounds are minimized from malfunctions. These permit conditions could be a subset of the permit conditions that would be required to comply with §§ 264.345(a) or 266.102 (e)(1). Because permit officials will consider information including the startup, shutdown, and malfunction plan, you must notify the delegated RCRA authority of changes to the plan that may significantly increase emissions of toxic compounds from malfunctions. The notification procedures and consideration of permit revisions as a result of changes to the plan are identical to those discussed above. See § 270.235(a)(2)(ii).

b. How Does the CAA Option Work to Minimize Emissions during Malfunctions? Under the CAA option, you must develop a proactive startup, shutdown, and malfunction plan and submit the plan to the delegated CAA authority for review and approval. Because the plan is both proactive and reactive, it is equivalent to the incentive provided by the RCRA options discussed above (i.e., exceedances of RCRA emission standards or associated operating limits while hazardous waste is in the combustion chamber is a violation) to minimize emissions of hazardous air pollutants from malfunctions when hazardous waste is in the combustion chamber.[14] Accordingly, for a source with a RCRA permit (and that has documented compliance with the MACT standards) that selects this option to address emissions during malfunctions, the delegated RCRA authority will remove relevant permit conditions addressing malfunctions when the source requests that duplicative RCRA permit conditions be removed from the permit. See § 270.235(a)(1)(iii). Similarly, for a source that is in a permit reissuance

[9] That is, the plan must identify actions you are taking to minimize the frequency and severity of malfunctions as well as the corrective measures you will take during a malfunction.

[10] When using the term ''malfunction'' with respect to RCRA requirements, we mean the definition of malfunction provided by § 63.2.

[11] Please note a change to the design or operation of the combustor that could increase emissions of toxic compounds from burning hazardous waste during malfunctions must be approved through a permit modification under §§ 270.41(a) or 270.42. Under the permit modification, RCRA permit officials will determine whether the permit conditions relevant to controlling emissions from malfunction must be revised.

[12] When retaining or revising RCRA permit conditions to control emissions during malfunctions, the delegated RCRA authority will ensure that the permit contains only those conditions relevant to controlling emissions during malfunctions. For example, under the option where RCRA permit conditions are revised, the permit could retain a subset of the RCRA emission standards and operating limits necessary to comply with §§ 264.345(a) and 266.102(e)(1) during malfunctions. But, permit officials could also consider whether the RCRA monitoring, recordkeeping and reporting requirements should be revised to be more consistent with the MACT requirements.

[14] Please note RCRA permit writers also generally require owners and operators to take proactive measures to minimize emissions from malfunctions.

proceeding (and that has documented compliance with the MACT standards) and that selects this option to address emissions during malfunctions, the delegated RCRA authority will omit from the permit conditions addressing malfunctions upon permit reissuance. See § 270.235(a)(2)(iii).

To implement this option, you include in the startup, shutdown, and malfunction plan a description of potential causes of malfunctions and actions you are taking to minimize the frequency and severity of malfunctions. See revised § 63.1206(c)(2)(ii). You may develop a fault tree analysis, for example, to identify malfunctions and develop measures to minimize the frequency and severity of those malfunctions. Examples of measures would be providing spare parts and redundant systems.

In addition, you must submit the startup, shutdown, and malfunction plan to the delegated CAA authority for review and approval to ensure that it is complete and both proactive and reactive to minimize emissions of hazardous air pollutants from malfunctions. The delegated CAA authority also will ensure that the potential malfunctions identified in the plan are bona fide malfunctions. Malfunctions are events that are a sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless or improper operation (including improper or inadequate characterization of feedstreams) are not malfunctions.[15] See definition of malfunction in § 63.2.

The procedures for approving the startup, shutdown, and malfunction plan provide you the opportunity to revise the plan if the delegated CAA authority intends to disapprove the plan. The delegated CAA authority will notify you of approval or intention to deny approval within 90 calendar days after receipt of the approval request, and within 60 calendar days after receipt of any supplemental information that you submit. Before disapproving the plan, the delegated CAA authority will notify you of the intention to disapprove the plan together with the basis for intending to disapprove the plan and notice of opportunity for you to present additional information before final action on disapproval of the plan.

Further, if you change the plan in a manner that may significantly increase emissions of hazardous air pollutants from malfunctions, you must request approval from the delegated CAA authority within 5 days after making the change, under the same procedures described above for initial approval of the plan.

2. Interim Status Facilities

Sources operating under the interim status standards of Part 265, Subpart O, or § 266.103 must comply with either of the following options to minimize emissions during malfunctions after they document compliance with the MACT standards by conducting a comprehensive performance test and submitting a Notification of Compliance: (1) A RCRA option where the source continues to comply with the interim status emission standards and operating requirements relevant to control of emissions from malfunctions and where those standards and requirements apply only during malfunctions; or (2) a CAA option where the owner or operator is exempt from the interim status standards relevant to control of emissions of toxic compounds during malfunctions upon submittal of written notification and documentation to the delegated RCRA authority that the startup, shutdown, and malfunction plan has been approved by the Administrator. See new § 270.235(b)(1). These options parallel the options discussed above and work as discussed above.

When a source operating under the interim status standards of Part 265, Subpart O, or § 266.103 (and that has documented compliance with the MACT standards) submits a RCRA permit application, the source must comply with one of the three options provided for sources that are being reissued a RCRA permit, as discussed above. See new § 270.235(b)(2). These situations are analogous because the source is being issued a new permit in both cases.

B. Why Does the Revised Rule Require You To Include the Automatic Waste Feed Cutoff Requirements in the Startup, Shutdown, and Malfunction Plan?

We are revising the rule to require compliance with the automatic waste feed cutoff requirements during malfunctions. You must include the automatic waste feed cutoff requirements in the startup, shutdown, and malfunction plan by reference. This requirement applies irrespective of whether you choose the RCRA or CAA approach under § 270.235 to minimize emissions from malfunctions, as discussed above.

We conclude that compliance with the automatic waste feed cutoff requirements is necessary to comply with § 63.6(e)(3)(i)(A) which requires you to operate in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards. Good operating practices during a malfunction includes cutting off the hazardous waste feed.

An exceedance of a Subpart EEE emission standard or operating requirement during a malfunction identified in your startup, shutdown, and malfunction plan would not be a violation, however, provided that you followed the corrective measures prescribed in a plan that meets the requirements of § 63.6(e)(3).

In addition, today's rule requires you to reevaluate your startup, shutdown, and malfunction plan if you experience 10 exceedances of a Subpart EEE emission standard or operating parameter limit during malfunctions in a 60-day block period while hazardous waste remains in the combustion chamber (i.e., when the hazardous waste residence time has not transpired). You must complete, within 45 days of the 10th exceedance, an investigation of the cause of each exceedance and evaluation of approaches to minimize the frequency, duration, and severity of each exceedance, and revise the startup, shutdown, and malfunction plan as warranted by the evaluation. Finally, you must record the results of the investigation and evaluation in the operating record and include a summary of the findings, and any changes to the startup, shutdown, and malfunction plan, in the excess emissions report required under § 63.10(e)(3).

C. What Are the Revised Requirements for Burning Hazardous Waste During Startup and Shutdown?

As discussed above, the revised rule exempts you from the MACT emission standards and operating requirements during startup, shutdown and malfunctions. See revised § 63.1206(b)(1)(i). We are concerned, however, that burning hazardous waste during startup and shutdown can be problematic. During startup and shutdown, a combustor is not operating under steady-state conditions. For example, the combustion chamber temperature fluctuates during startup and shutdown and at times will be lower than required to achieve good combustion and minimize emissions of

[15] Operations during a failure that are not malfunctions are subject to the applicable emission standards and operating requirements of Subpart EEE. See § 63.1206(b)(1)(i). Thus, an exceedance of an applicable emission standard or operating limit as a result of a failure that is not a malfunction is a violation irrespective of whether hazardous waste is in the combustion chamber.

organic hazardous pollutants. Because hazardous waste combustors can burn fuels that are not hazardous wastes (e.g., fossil fuel) during startup and shutdown, it generally is not appropriate to burn hazardous waste at these times. Accordingly, RCRA regulations require compliance with the RCRA emission standards and operating limits during startup and shutdown (which, as a practical matter, prohibits burning hazardous waste at these times), except for only one or two narrow exemptions. See § 264.345(c) for incinerators and § 266.102(e)(2)(iii) for cement and lightweight aggregate kilns.

By exempting you from the MACT emission standards and operating requirements during startup and shutdown (and malfunctions), today's revised rule allows you to continue burning those specific hazardous wastes that are currently allowed under RCRA to be burned during startup and shutdown. This is reasonable because there may be situations where burning hazardous wastes containing low levels of toxic compounds during startup and shutdown may result in equivalent or lower emissions of hazardous air pollutants than burning fossil fuels. For example, hazardous spent solvents may combust more completely during startup and shutdown than coal or No. 6 fuel oil which is the alternative fuel for many combustors. In these situations, you may be able to burn hazardous waste during startup and shutdown while meeting the requirements of § 63.6(e)(3)(i)(A) (which requires you to operate at all times in a manner consistent with good air pollution control practices for minimizing emissions at least to levels required by all relevant standards).

Given that today's rule exempts you from the MACT emission standards and operating requirements during startup and shutdown, the rule provides the following alternative requirements for sources that burn hazardous waste during startup and shutdown. When a source with a RCRA permit for the combustion unit documents compliance with the MACT standards and requests that duplicative permit conditions be removed from the permit, the source must comply with one of the following options to minimize emissions during startup and shutdown: (1) the requirements of § 264.345(c) for incinerators and § 266.102(e)(2)(iii) for cement and lightweight aggregate kilns restricting the types of hazardous waste that can be burned during startup and shutdown; or (2) revised RCRA permit conditions that meet the objective of those provisions (i.e., to minimize emissions during startup and shutdown); or (3) the waste feed restrictions (e.g., type and quantity) and other operating conditions and limits that you include in the startup, shutdown, and malfunction plan, which is subject to review and approval by the delegated CAA authority. See new § 270.235(a)(1).[16] We have made conforming revisions to §§ 264.340(b)(1), 265.340(b)(1), 266.100(b)(2)(i), 270.19(e), 270.22 (introductory text), 270.62 (introductory text), and 270.66 (introductory text) to require compliance with §§ 265.345(c) and 266.102(e)(1) only during startup and shutdown and only if you elect the option that requires compliance with those provisions (i.e., § 270.235(a)(1)(i)).

Thus, similar to the requirements for malfunctions, today's rule gives you the option of using either a RCRA or CAA approach to ensure that you minimize emissions from startup and shutdown. These options work as discussed above for malfunctions. You may retain or revise your RCRA permit requirements that control emissions during startup and shutdown, or, under the CAA option, you may request that the RCRA permit requirements be deleted.

The rule also requires you to comply with the automatic waste feed cutoff system to minimize emissions during startup and shutdown. See § 63.1206(c)(2)(v)(B). You must interlock operating limits you establish to minimize emissions during startup and shutdown with the automatic waste feed cutoff system. To implement this requirement, you must include the waste feed restrictions (e.g., type and quantity) and other operating conditions and limits that are necessary to minimize emissions while feeding waste during startup and shutdown. See § 63.1206(c)(2)(v)(B)(*1*).

Finally, the rule allows sources in other RCRA permitting situations to comply with RCRA options or a CAA option to minimize emissions during startup and shutdown after they document compliance with the MACT standards. These situations are: (1) Permit reissuance; (2) complying with MACT while operating under RCRA interim status; and (3) interim status sources submitting a RCRA permit application. The RCRA and CAA options for these situations are identical to those discussed above to control emissions during malfunctions.

D. What Are the Conforming Revisions to the Emergency Safety Vent Opening Requirements?

Emergency safety vents are designed to allow combustion gases to bypass the emission control system during emergencies to preclude catastrophic consequences such as explosions or fires in the emission control equipment. We are revising the emergency safety vent opening requirements under § 63.1206(c)(4) to conform to the revisions to the startup, shutdown, and malfunction plan requirements. Under today's revision, the MACT emission standards and operating requirements do not apply to openings that occur as a result of a malfunction. See revised § 63.1206(b)(1)(i).

In addition, we are revising the rule to no longer presume that an emergency safety vent opening under operations other than a malfunction defined in the startup, shutdown, and malfunction plan (i.e., when the emission standards and operating requirements continue to apply) is evidence of failure to comply with an emission standard. See revised § 63.1206(c)(4)(i). For example, if feedrates of metals and chlorine were well below their limits when the safety vent opened under operations other than a malfunction, the metals and chlorine emission standards may not be exceeded. Rather, the revised rule places the burden on you to document in the operating record whether you remain in compliance with the emission standards when the emergency safety vent opens. In addition, as required by the current rule, you must submit to the delegated CAA authority a written report within 5 days of an ESV opening that results in failure to meet the emission standard documenting the result of the investigation of the cause of the opening and corrective measures taken. See §§ 62.1206(c)(4)(iii) and (iv).

III. What Changes Are We Making to the Performance Testing Requirements for the Interim Standards Rule?

We are amending three performance test provisions in today's rule. First, we are revising the ''data in lieu of the initial comprehensive performance test'' provision to allow you to submit test data irrespective of when the test was conducted. Second, we are amending the comprehensive performance testing frequency provisions such that you will only be required to conduct one comprehensive performance test for the interim standards. Third, we are not requiring you to conduct dioxin/furan

[16] Please note § 63.1206(c)(2)(v)(B) requires sources that feed hazardous waste during startup or shutdown to include waste feed restrictions and other appropriate operating conditions and limits in the startup, shutdown, and malfunction plan irrespective of which option the source selects to minimize emissions during those events. Under the RCRA options for controlling emissions during startup and shutdown, however, you are not required to submit the startup, shutdown, and malfunction plan to the delegated CAA authority for review and approval.

confirmatory tests for the interim standards. See revised § 63.1207(c) and (d).

A. Why Are We Revising the Data in Lieu Provisions?

The September 1999 final rule allows you to request that previous emissions test data serve as documentation of conformance with the emission standards provided that the previous testing was initiated after March 30, 1998 and provided the data is sufficient to establish appropriate operating parameter limits. This date was subsequently changed to March 30, 1999 as a result of extending the compliance date one year. See 66 FR 63313. Today we are amending this requirement to allow you to submit test data even though the testing was initiated prior to March 30, 1999, i.e., prior to four years and eight months before the compliance date.

Stakeholders indicated that some sources have emissions data that were collected before March 30, 1999 that could be used to demonstrate compliance with the MACT standards and establish appropriate operating limits. Stakeholders reason that the age restriction on data-in-lieu emissions tests should be waived for the initial test in order to counter the additional costs associated with having to comply with two potentially different sets of emission standards at different times. We agree, noting that these sources were in compliance with the MACT standards well before the compliance date. However, we emphasize that, consistent with the existing requirements, these data must: (1) meet the appropriate quality assurance objectives; (2) originate from testing conditions that satisfy the operating condition requirements of § 63.1207(g)(1); and (3) be sufficient to establish all appropriate operating parameter limits required pursuant to § 63.1209.

B. Why Are We Waiving Periodic Comprehensive Performance Testing Under the Interim Standards?

The September 1999 final rule requires you to begin subsequent comprehensive testing no later than 61 months after the date of commencing the initial comprehensive performance test. Today we are waiving the requirement to conduct periodic comprehensive performance testing for the interim standards. You are required to conduct only one comprehensive performance test for the duration of the interim standards. See new § 63.1207(d)(4)(i).

Pursuant to the settlement agreement with the Sierra Club (see 66 FR 57715, November 16, 2001), EPA must promulgate permanent standards that replace today's interim standards no later than June 14, 2005. Following this schedule, your new compliance date for the replacement standards could be approximately June of 2008, in which case you would have to conduct your test to demonstrate compliance with these replacement standards no later than June of 2009.[17] This would roughly coincide with the deadline for conducting your second comprehensive performance test under today's interim standards, absent today's revision.

We conclude that a second interim standards comprehensive test would not be needed given that, by that time, the interim standards will have already been replaced with the permanent replacement standards. It would not be appropriate to require you to prepare (e.g., submit a performance test plan a year in advance of the scheduled test date) to conduct a second compliance test under today's interim standards that no longer apply while also requiring you to prepare to conduct the initial compliance test for the replacement standards shortly thereafter. We conclude this amendment is necessary to assure a smooth transition between the interim standards and the permanent replacement standards.

C. Why Are We Waiving the Dioxin/Furan Confirmatory Test Under the Interim Standards?

The September 1999 final rule requires you to begin your initial dioxin/furan confirmatory test no later than 31 months after the date of commencing your initial comprehensive performance test. Today we are waiving the dioxin/furan confirmatory performance testing requirement under the interim standards. See new § 63.1207(d)(4)(ii). You are not required to conduct a confirmatory compliance test while the interim standards are in effect.

Absent this amendment, you would have to commence your first confirmatory compliance test under the interim standards no later than October of 2006. As discussed above, we project that the compliance date for the standards that will replace today's interim standards could be about June of 2008. Some sources may be in process of upgrading their facility in October of 2006 to comply with the permanent replacement standards. We conclude that it would be problematic to require sources to simultaneously upgrade their facility and conduct a dioxin/furan confirmatory compliance test under the interim standards. Thus, to conclude that exempting sources from the confirmatory compliance test requirements while the interim standards are in effect is reasonable and appropriate.

IV. Why Are We Deleting the Minimum Power Requirement for Ionizing Wet Scrubbers?

Today's rule deletes the limit on minimum total power to an ionizing wet scrubber. See § 63.1209(m)(1)(i)(D). Until we promulgate compliance assurance procedures for ionizing wet scrubbers, sources and permitting officials should use the alternative monitoring provisions of § 63.1209(g) to identify appropriate controls on a site-specific basis.

On May 14, 2001, we issued a final rule implementing, among other things, a court order to vacate operating parameter limits for electrostatic precipitators and baghouses. 66 FR at 24272. The Agency voluntarily requested that the Court vacate the operating parameter limits at §§ 63.1209(m)(1)(ii) and (m)(1)(iii) because the Agency inadvertently did not provide opportunity for public comment on revisions to the proposed operating parameter limits.

One of the vacated operating parameter limits was a limit on minimum secondary power to each field of an electrostatic precipitator. We had proposed a minimum limit on only total secondary power to the precipitator in May 1996. But, we determined after review of comments and further investigation that a limit on minimum total power will not ensure that collection efficiency of a multistage electrostatic precipitator is maintained. Rather, we concluded that a limit on minimum secondary power to each field of the precipitator is needed. Consequently, we declined to replace the vacated minimum limit on power to each field of the precipitator with a limit on total power to the precipitator, as originally proposed. Subsequently, in July 2001, we proposed to reinstate the limit on minimum secondary power to each field of the precipitator, but also discussed other compliance assurance alternatives that may provide equivalent or better compliance assurance, and requested comment on those alternatives. 66 FR at 35143–35144.

In the July 3, 2001 proposal regarding compliance assurance approaches for electrostatic precipitators, we

[17] This assumes sources will be allowed to conduct the comprehensive performance test not later than one year after the compliance date for the permanent replacement standards.

inadvertently neglected to propose to delete the minimum total power operating parameter limit for ionizing wet scrubbers at § 63.1209(m)(1)(i)(D) and propose those same compliance assurance alternatives for ionizing wet scrubbers. An ionizing wet scrubber is essentially an electrostatic precipitator integrated with a packed bed scrubber where particulate matter is collected on both the plates of the precipitator and the bed packing material.

Today's final rule simply deletes the requirement to establish an operating limit on minimum total power to an ionizing wet scrubber at § 63.1209(m)(1)(i)(D). We are not replacing the total power limit with a limit on minimum power to each field of the ionizing wet scrubber, as we proposed on July 3, 2001 for electrostatic precipitators, because we need additional time to review and evaluate comments received on the compliance assurance alternatives we discussed in that proposal. Until we promulgate compliance assurance requirements for ionizing wet scrubbers and electrostatic precipitators, sources and regulatory officials should use the alternative monitoring provisions under § 63.1209(g) to establish appropriate compliance requirements on a site-specific basis.

V. What Are the Monitoring Requirements for Carbon Beds?

We are deleting the requirement to establish a limit on the useful life of a carbon bed or bed segment and associated requirements to verify compliance with the dioxin/furan (and mercury) emission standard prior to the end of the life of the bed. See (deleted) § 63.1209(k)(7)(i). In lieu of that requirement, the revised rule requires you to monitor performance of the bed according to manufacturer's specifications to ensure that the bed has not reached the end of its useful life.

The existing rule allowed you to use the manufacturer's specification to establish the limit on carbon bed age rather than the actual age of the bed during the performance test when demonstrating compliance with the dioxin/furan (and mercury) emission standard during the initial comprehensive performance test. If you used the manufacturer's specification for bed age, you were required to recommend in the initial comprehensive performance test plan a schedule for subsequent dioxin/furan emissions testing to demonstrate that the initial limit on maximum bed age ensures compliance with the dioxin/furan (and mercury) emission standard.

In response to stakeholders' concerns with the existing rule, we proposed amendments to these provisions to clarify our intent regarding confirmatory testing to verify compliance with the dioxin/furan emission standard prior to the end of the bed's life. See 66 FR at 35141–35142 (July 3, 2001).

Several commenters state that the proposed requirement to perform confirmatory testing to verify that the source is in compliance with emission standards at the manufacturer's recommended bed age may be burdensome and unnecessary. Emissions testing to confirm bed age may either require testing in addition to periodic comprehensive performance testing and dioxin/furan confirmatory testing or that a source replace the bed on the anniversary of the comprehensive performance test or the dioxin/furan confirmatory test, even though the manufacturer may recommend a longer bed life.

In addition, one commenter is concerned that infrequent (e.g., once every several years) emissions testing to confirm compliance with the dioxin/furan and mercury emissions standards does not ensure the carbon bed is operated and maintained ''in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards,'' as required by § 63.6(e)(3)(i)(A). The commenter recommends use of manufacturer's specifications and recommendations for periodic, frequent monitoring to ensure the bed is performing as designed.

We agree with commenters and are deleting the requirement to establish a limit on maximum bed life and the associated requirement to conduct emissions testing to confirm compliance with the dioxin/furan and mercury standards.[18] Instead, we are substituting the following requirements consistent with the comments we received. You must: (1) Monitor performance of the carbon bed consistent with manufacturer's specifications to ensure the carbon bed (or bed segment for beds with multiple segments) has not reached the end of its useful life to minimize dioxin/furan and mercury emissions at least to the levels required by the emission standards; (2) document the monitoring procedures in the operation and maintenance plan; (3) record results of the performance monitoring in the operating record; and (4) replace the bed or bed segment before it has reached the end of its useful life. See revised § 63.1209(k)(7)(i) and conforming revisions to § 63.1209(l)(4).

VI. Can a Source Be Granted an Extension of Compliance for the Interim Standards?

As a result of the uncertainty created by the Court's opinion, we previously determined that it was not appropriate to require sources to comply with the regulatory schedule promulgated in the September 30, 1999 rule. Accordingly, we recently extended the compliance date requirement of § 63.1206(a) for one year until September 30, 2003. See 66 FR 63313 (December 6, 2001). We are clarifying today that the recent change to the compliance date requirements of § 63.1206(a) do not preclude a source from requesting an extension of compliance with the emission standards as provided in §§ 63.6(i) and 63.1213. See § 63.1206(b)(4). Sections 63.6(i) and 63.1213 allow the Administrator or State with an approved title V program to grant an extension of compliance of up to one year for a source that cannot complete system retrofits or pollution prevention and waste minimization measures by the compliance date despite a good faith effort to do so.

VII. Why Are We Repromulgating the Hourly Rolling Average Temperature Limit at a Dry Particulate Matter Control Device To Control Dioxin/Furan Emissions?

The provision finalized in the September 1999 rule that requires you to maintain compliance with the dioxin/furan emission standard by operating under a maximum temperature limit at the inlet to the dry particulate matter control device based on a one-hour rolling average was challenged and briefed by Industry in the *Cement Kiln Recycling Coalition* litigation.[19] Given that the challenged provisions will be vacated when the Court issues its mandate, we are repromulgating this compliance provision, consistent with our approach of repromulgating the challenged emissions standards that were not revised. See § 63.1209(k)(1) and preamble discussion in Part Two, Section I.

As we explained in detail in the record to the September 1999 rule, this

[18] Note that this amendment does not alter the requirement to demonstrate compliance with all emission standards every five years (i.e., comprehensive performance testing), and the requirement to confirm compliance with the dioxin/furan emission standard midway between comprehensive performance tests (i.e., confirmatory performance testing). The amendment simply deletes the potentially additional dioxin/furan (and mercury) emission test prior to the end of the manufacturer's recommended life of the carbon bed to verify compliance with those emission standards.

[19] Joint Brief of Industry Petitioners, US Court of Appeals for the District of Columbia Circuit, No. 99–1457 et al, Cement Kiln Recycling Coalition, et al., v. USEPA, Aug. 16, 2000.

monitoring requirement is needed to assure that the emission standard is not exceeded. It is well-established that the relationship between dioxin/furan formation and temperature at the inlet to a dry particulate matter control device (e.g., fabric filter, electrostatic precipitator) is non-linear and exponential; that is, dioxin formation increases at a faster rate than temperature. Thus, an increase in temperature above the site-specific limit will increase formation of dioxin more than an equal reduction below the limit will reduce dioxin formation (and consequently emissions at lowered temperature will not balance out those emitted at the higher temperature). See generally Technical Support Document Vol. 4 chapters 2 and 3.[20] We consequently view the monitoring requirement as a form of enhanced monitoring required by section 114 (a)(3) of the Act to ''provide a reasonable assurance of compliance with emission standards.'' *NRDC* v. *EPA,* 194 F. 3d 130, 136 (D.C. Cir. 1999).

We noted in the July 3, 2001 proposed rule that we do not view the temperature monitoring requirement as being an amendment to the standard. See 66 FR at 35138 n. 20. One commenter, however, reiterated claims briefed in the *Cement Kiln Recycling Coalition* litigation maintaining that requiring sources to establish a limit on maximum temperature at the inlet to a dry particulate matter control device to control dioxin/furan emissions on an hourly rolling average effectively amends the standard. We disagree.

Compliance with dioxin/furan emission standard is demonstrated by stack emissions testing. Neither the standard nor the stack test method prescribes any particular averaging time, or other monitoring regime, for achieving a temperature level. Therefore, using a one-hour averaging time does not amend the standard.

However, even if (against our view) the requirement to monitor temperature on an hourly rolling average is considered a change to the emission standard, it can be justified as a beyond the floor standard under CAA section 112 (d) (2). First, the standard is readily achievable technically. Spray quenching, the means of control, merely requires turning of a control valve to allow quenching. 4 TSD at 2–16. Operators can readily determine when quenching is needed, since thermocouples report instantaneous temperature changes, allowing immediate reaction to temperature changes. 4 TSD at 2–10. Second, we have already considered this cost (i.e., the cost of spray quenching) in determining the standards for HWCs. We do not believe that there would be any incremental cost associated with the one-hour averaging requirement, because it is based on the same spray quenching technology which is the basis for the standards already adopted. We also included the cost of controlling spray quenching to meet the one-hour monitoring requirement in assessing costs of the September 1999 rule, and regard these costs as reasonable. See generally Technical Support Document Volumes III, IV, and V. See also 64 FR at 52892 (finding that the cost of spray quenching technology for lightweight aggregate kilns is reasonable, in adopting the beyond-the-floor standard for dioxin). In addition, as explained above, the one-hour averaging requirement is needed to prevent exceedances of the emission standard itself, see 4 TSD at 2–8 to 2–9 and 3–8 to 3–9. Given dioxin/furan's extreme toxicity, costs are justified to assure that the emission limit is not exceeded. Finally, we do not believe there are any adverse non-air or energy impacts associated with the averaging requirement (and again, we have already assessed energy impacts and waste generation impacts of the standard when promulgating the standard in the first place). See generally Technical Support Document Vol. 5, ''Emissions Estimates and Engineering Costs'' (RC2F–S0011) chapter 10.

Part Three—What Are the Analytical and Regulatory Requirements?

I. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, EPA must determine whether a regulatory action is significant and, therefore, subject to comprehensive review by the Office of Management and Budget (OMB), and the other provisions of the Executive Order. A significant regulatory action is defined by the Order as one that may:

—Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
—Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
—Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or recipients thereof; or
—Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because it raises novel legal or policy issues. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

The aggregate annualized social costs for this final rule are less than $100 million. Furthermore, this rule is not expected to adversely effect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The benefits to human health and the environment resulting from today's final action have not been fully monetized but are believed to be less than $100 million per year. Overall, the costs and benefits associated with this final Interim Standards Rule are essentially the same as those estimated for the September 30, 1999 rule. These impacts are discussed below in more detail.

II. What Are the Potential Costs and Benefits of Today's Final Rule?

The value of any regulatory action is traditionally measured by the net change in social welfare that it generates. This assumes full monetization of all relevant components. All other factors being equal, a rule that generates positive net welfare would be advantageous to society and should be promulgated, while a rule that results in negative net welfare to society should be avoided. In this Part we discuss the estimated costs and benefits of the interim standards.

Today's rule revises some emission standards and various other requirements promulgated in the September 30, 1999 rule. As discussed in Part Two, Section I of this action, while some of the emission standards are revised; most are retained as promulgated in that rule. In addition to modification of some standards, this rule provides cement and lightweight aggregate kiln sources the alternative to comply with the mercury standard by limiting the mercury content in the

[20] In light of this documented non-linear increase in CDD emissions, RCRA permit writers are cautioned to take this phenomenon into account in making risk determinations pursuant to the RCRA omnibus permitting provision. Cf. 64 FR at 52839–843 (description of the site specific risk assessment policy which implements the RCRA omnibus permitting provision, and its relationship to sources subject to the Hazardous Waste Combustor NESHAP).

hazardous waste to a certain level. Today's rule also includes revisions intended to reduce the potential for forfeited capital investments. This could occur if the future standards (i.e., the standards that will replace the interim standards) are substantially different (more stringent) than those established by this Interim Standards Rule. These changes include eliminating the requirement for confirmatory testing for dioxin and furans during the period that the interim standards are in effect; allowing the use of previously collected data to serve as documentation of compliance with the interim standards; and waiving all subsequent comprehensive performance tests (i.e., those after the initial comprehensive performance test) for the period that the interim standards are in effect. Finally, we are revising the startup, shutdown, and malfunction (SSM) provisions and emergency safety vent opening provisions.

In support of today's final rule we have developed preliminary cost and benefit estimates for the interim standards. These estimates, as presented below, are generalized quantified projections based on our findings as presented in the July 1999 *Assessment*[21], and the July 23 1999 *Addendum*[22]. We have not quantified impacts potentially associated with the other aspects of today's rule. Impacts associated with today's final rule will be fully characterized, modeled in detail, and incorporated as the baseline scenario in our analysis for the upcoming rule that will establish final standards.

Cost impacts (savings and increases) of the emission standards vary by source category. The interim standards for existing incinerators are identical to the standards promulgated in the September 30, 1999 rule. As a result, estimated impacts to existing incinerators are equivalent to the impacts presented in the *Addendum* to the September 30, 1999 rule. The interim emission standards for existing cement kilns are equivalent to the September 30, 1999 rule standards, except for semivolatile metals. The semivolatile metals emission standard in this Interim Standards Rule is increased from 240 μg/dscm to 330 μg/dscm. This change is estimated to result in a 5 percent decrease in total annual compliance costs for this source, as compared to costs presented in the *Addendum.* The interim emission standards for existing hazardous waste burning lightweight aggregate kilns are modified from the final rule standards for dioxin and furan, mercury, and hydrochloric acid/chlorine gas. Projected from the 1999 final rule baseline, these changes are estimated to reduce per system and aggregate annual compliance costs by about one-third for this source category.

The aggregate annualized social cost impacts associated with the interim standards reflect only a marginal reduction from the impacts associated with the September 30, 1999 rule. The total annualized social costs resulting from today's interim standards are estimated to range from $47 million to $60 million, with a high-end estimate of $74 million. The annualized social cost impacts of the September 30, 1999 rule were estimated to range from $50 to $61 million, with a high-end estimate of $75 million (See *Addendum* tables ADD–6, ADD–7, and ADD–8). All benefits associated with today's final rule have not been monetized. The *Addendum* estimated average monetized human health benefits of approximately $20 million per year[23] for selected primary pollutants. Approximately 90 percent of this total was derived from reductions in particulate matter emission levels. Since the particulate matter emission standard for each source category for the interim standards is unchanged, these estimated average monetized human health benefits are retained. Although not monetized, reduced lead exposure to children was another projected benefit. Ecological and waste minimization benefits were also anticipated as a result of the September 30, 1999 final rule[24]. While full monetization of all benefits (human health, ecological, waste minimization) is not feasible, we believe that these benefits justify the aggregate social costs. Overall, when projected from the September 30, 1999 baseline, aggregate annualized social costs for all sources are projected to decline by no more than 6 percent, while annual monetized plus non-monetized benefits may be only marginally reduced[25].

These findings are presented in more detail in the economic support document: *Preliminary Impacts Assessment—Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.* This document is available in the docket established for today's action.

III. What Consideration Was Given to Small Entities Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et. seq.?

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's final rule on small entities, a small entity is defined either by the number of employees or by the annual dollar amount of sales/revenues. The level at which an entity is considered small is determined for each NAICS code by the Small Business Administration (SBA).

The Agency has examined the potential effects today's final rule may have on small entities, as required by the RFA/SBREFA. We have determined that this action will not have a significant economic impact on a substantial number of small entities. This is evidenced by the fact that the small entity analysis conducted in support of the September 30, 1999 final rule[26] concluded that significant impacts would not occur on a substantial number of potentially impacted small entities. Today's action results in marginally reduced cost

[21] U.S. EPA, Office of Solid Waste, ''Assessment of the Potential Costs, Benefits, & Other Impacts of the Hazardous Waste Combustion MACT Standards: Final Rule'', July 1999.

[22] U.S. EPA, Office of Solid Waste, ''Addendum to the Assessment of the Potential Costs, Benefits, & Other Impacts of the Hazardous Waste Combustion MACT Standards: Final Rule,'' July 23, 1999.

[23] Undiscounted estimate for future cases avoided.

[24] See the July 1999 ''*Assessment*'' for a full discussion of these benefits.

[25] The majority of the cancer risk reductions were linked to the consumption of dioxin-contaminated agricultural products. The dioxin and furan standards in the Interim Standards Rule remain the same for incinerators and cement kilns and are modified slightly for lightweight aggregate kilns. Because baseline emissions of dioxin and furans from incinerators and cement kilns represent approximately 95 percent of the emissions from the three source categories combined, we estimate that most benefits discussed in the 1999 Assessment are retained.

Semivolatile metals are comprised of lead and cadmium. Lead exposure above certain levels has been linked to childhood IQ reductions and high blood pressure in adults. Potential benefits from reduced lead exposure were discussed but not monetized in the Addendum. Because approximately 70 percent of total semivolatile metals reductions (from all three source categories) were from incinerators, we estimate the semivolatile standard in today's Interim Standards Rule may correlate to marginally reduced lead benefits for children and/or adults.

[26] U.S. EPA, Office of Solid Waste, *Assessment of the Potential Costs, Benefits, & Other Impacts of the Hazardous Waste Combustion MACT Standards: Final Rule*, July 1999. Appendix G.

impacts, as measured from the September 30, 1999 findings. As such, it is logical to presume that impacts to small entities subject to rule requirements may be equivalent to the final rule impacts, or marginally reduced. After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

IV. Was the Unfunded Mandates Reform Act Considered in This Final Rule?

Executive Order 12875, ''Enhancing the Intergovernmental Partnership'' (October 26, 1993), calls on federal agencies to provide a statement supporting the need to issue any regulation containing an unfunded federal mandate and describing prior consultation with representatives of affected state, local, and tribal governments. Signed into law on March 22, 1995, the Unfunded Mandates Reform Act (UMRA) supersedes Executive Order 12875, reiterating the previously established directives while also imposing additional requirements for federal agencies issuing any regulation containing an unfunded mandate.

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any single year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final action is not subject to the relevant requirements of UMRA. This rule will not result in $100 million or more in expenditures. Applying the pre final rule baseline, total social costs for today's final action are estimated to range from $47 million to $60 million per year. Furthermore, today's rule is not subject to the requirements of section 203 of UMRA. Section 203 requires agencies to develop a small government Agency plan before establishing any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments. We have determined that this rule will not significantly or uniquely affect small governments.

V. Were Equity Issues and Children's Health Considered in This Final Rule?

By applicable executive order, we are required to consider the impacts of today's rule with regard to environmental justice and children's health.

(1) Executive Order 13045: ''Protection of Children From Environmental Health Risks and Safety Risks''

''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. Today's final rule is not subject to the Executive Order (EO) because it is not economically significant, as defined by EO 12866.

(2) Executive Order 12898: Environmental Justice

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population'' (February 11, 1994), is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. In response to Executive Order 12898, and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). We have no data indicating that today's final action would result in disproportionately negative impacts on minority or low income communities.

VI. What Consideration Was Given to Tribal Governments in This Final Rule?

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.''

Today's 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 the Order. Today's rule will not significantly or uniquely affect the communities of Indian tribal

governments, nor impose substantial direct compliance costs on them.

VII. Were Federalism Implications Considered in Today's Final Rule?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are 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.''

Today's final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this rule.

VIII. Were Energy Impacts Considered?

Executive Order 13211, ''Actions Concerning Regulations That Affect Energy Supply, Distribution, or Use'' (May 18, 2001), addresses the need for regulatory actions to more fully consider the potential energy impacts of the proposed rule and resulting actions. Under the Order, agencies are required to prepare a Statement of Energy Effects when a regulatory action may have significant adverse effects on energy supply, distribution, or use, including impacts on price and foreign supplies. Additionally, the requirements obligate agencies to consider reasonable alternatives to regulatory actions with adverse affects and the impacts the alternatives might have upon energy supply, distribution, or use.

Today's final rule is not likely to have any significant adverse impact on factors affecting the national energy supply. We believe that Executive Order 13211 is not relevant to this action.

IX. Paperwork Reduction Act

We have prepared an Information Collection Request (ICR) document (ICR No. 1773.06) listing the information collection requirements of this final rule, and have submitted it for approval to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* OMB has assigned a control number 2050–0171 for this ICR. A copy of this ICR may be obtained from Sandy Farmer, OPIA Regulatory Information Division, U.S. Environmental Protection Agency (2137), 1200 Pennsylvania Avenue, NW., Washington DC 20460, or by calling (202) 260–2740.

The public burden associated with this final rule (which is under the Clean Air Act) is projected to affect approximately 171 HWC units and is estimated to average 4.3 hours per respondent annually. The reporting and recordkeeping cost burden is estimated to average $252 per respondent annually. Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. That includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

X. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not require the implementation of new technical standards; 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.

XI. Is Today's Rule Subject to Congressional Review?

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of February 13, 2002. 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Part Four—What Are the State Authorization and Delegation Implications?

I. What Is the Authority for the Interim Standards Rule?

This rule revises the promulgated standards located at 40 CFR part 63, subpart EEE. As in the September 30, 1999 Final HWC NESHAP, we encourage State, Local, and Tribal (S/L/T) agencies to apply for delegation under CAA section 112. Additionally, this rule adds a new section (40 CFR 270.235) to the RCRA regulations to provide options for minimizing hazardous waste combustion emissions during startup, shutdown, and malfunction events.

II. How Is This Rule Delegated Under the CAA?

Section 112(l) of the CAA allows us to delegate authority to S/L/T programs to implement and enforce emission standards for pollutants subject to section 112 regulations. Thus, a S/L/T agency that receives 112(l) delegation can implement and enforce the revised emission standards and other revisions being made today. A S/L/T agency also can implement the revisions for Title V major sources (40 CFR 70.2) via their Title V authority because it is independent of their delegation status. By having an approved Title V program, the S/L/T agency has demonstrated that it has the legal authority, resources, and expertise to implement and enforce standards for section 112 pollutants.

As before, we encourage S/L/T agencies to apply for and receive 112(l) delegation for this rule. The key advantages afforded to S/L/T agencies who receive delegation are that they become the primary enforcement authority and can exercise delegable provision authorities. Additionally, it ensures clear and consistent requirements for affected sources and regulators. For example, a source need only report compliance assurance monitoring to its primary enforcement authority.

State, Local, and Tribal agencies still have the ability to choose which delegation options to use when applying for delegation of Federal authorities for this rule. The 112(l) delegation process begins when the S/L/T agency applies for delegation of a section 112 rule without changes (straight delegation), by rule adjustment, substitution of requirements, state program approval (SPA), or equivalency by permit (EBP).[27] Also, the partial approval option is available for any S/L/T who cannot or chooses not to take full delegation of an entire standard. The drawback to this option is that it can create inconsistent requirements since the S/L/T agency will enforce portions of the standard, while we will enforce the remaining portions.

This rule will be effective upon promulgation. As with the Phase I NESHAP, a S/L/T agency will need to incorporate the Federal standards and provisions of this rule into a major source's new, renewed, or revised Title V permit regardless of whether it has received delegation. However, by receiving delegation of 112(l), a S/L/T agency can approve minor changes to a Federal NESHAP. For instance, it can substitute an emission limitation that is more stringent than a Federal standard.

In light of the benefits afforded to a S/L/T agency if it receives 112(l) delegation, we recognize that the process of applying for and receiving delegation can be a lengthy one. This may be especially true for those agencies that do not have established agreements in place to receive automatic delegation of unchanged standards. There are agencies who choose to utilize the delegation options provided under 112(l), which are not as straightforward as the unchanged standards. In these cases, the review period required when applying for one of the delegation options combined with a state's legislative proceedings, are factors that can prolong the delegation process. Therefore, we encourage the S/L/T agency to do what makes sense given circumstances relevant to timing issues and resource needs.

III. How Would States Become Authorized Under RCRA?

Under section 3006 of RCRA, we may authorize qualified States to administer the RCRA hazardous waste program within the State. A State may receive authorization by following the approval process described under part 271. See 40 CFR part 271 for the overall standards and requirements for authorization. Following authorization, the State requirements authorized by us apply in lieu of equivalent Federal requirements and become Federally enforceable as requirements of RCRA. We maintain independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law.

Authorized States are required to modify their programs when we promulgate Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows States to impose standards more stringent than those in the Federal program. See also § 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA[28] and non-HSWA, that are considered less stringent than the existing requirements. The requirements in today's amendment are considered to be neither more nor less stringent than the current emission regulations because they provide equivalent protection. Thus, States are not required to adopt today's amendments to maintain an equivalent program, although we strongly encourage them to do so.

Today's amendment in 40 CFR 270.235 is promulgated under both HSWA and non-HSWA statutory authority, depending on the waste management unit to which the standards apply. The authority to apply the provisions of 40 CFR 270.235 to cement and lightweight aggregate kilns is under RCRA 3004(q), which is a provision added by HSWA. Therefore, the Agency is adding this rule to Table 1 in § 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA. If a State is not authorized to implement the RCRA program for these units, EPA will implement today's amendments. If a State has such authorization, today's amendments will not become effective under RCRA until States adopt and become authorized for the revisions. The authority to apply the provisions of 40 CFR 270.235 to incinerators is under section 3004(a) of RCRA, a non-HSWA provision. Therefore, today's amendments as they apply to incinerators will not become effective under RCRA until States adopt and become authorized for the revisions.

List of Subjects

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidenetial business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 7, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

[27] Refer to Hazardous Air Pollutants: Amendments to the Approval of State Programs and Delegation of Federal Authorities; Final Rule at 65 FR 55810 or the CAA Delegation for the HWC NESHAP fact sheet at *www.epa.gov/epaoswer/hazwaste/combust/toolkit/coverpage.htm* for further information on delegation procedures.

[28] HSWA refers to the Hazardous and Solid Waste Amendments of 1984.

PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. Section 63.1203 is revised to read as follows:

§ 63.1203 What are the standards for hazardous waste incinerators?

(a) *Emission limits for existing sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Emissions in excess of 0.40 ng TEQ/dscm corrected to 7 percent oxygen provided that the combustion gas temperature at the inlet to the initial particulate matter control device is 400°F or lower based on the average of the test run average temperatures. (For purposes of compliance, operation of a wet particulate control device is presumed to meet the 400 °F or lower requirement);

(2) Mercury in excess of 130 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 240 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 97 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) For carbon monoxide and hydrocarbons, either:

(i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 10 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 77 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 34 mg/dscm corrected to 7 percent oxygen.

(b) *Emission limits for new sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) Dioxins and furans in excess of 0.20 ng TEQ/dscm, corrected to 7 percent oxygen;

(2) Mercury in excess of 45 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 120 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 97 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) For carbon monoxide and hydrocarbons, either:

(i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(ii) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 10 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 21 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 34 mg/dscm corrected to 7 percent oxygen.

(c) *Destruction and removal efficiency (DRE) standard.* (1) *99.99% DRE.* Except as provided in paragraph (c)(2) of this section, you must achieve a destruction and removal efficiency (DRE) of 99.99% for each principle organic hazardous constituent (POHC) designated under paragraph (c)(3) of this section. You must calculate DRE for each POHC from the following equation:

$$DRE = [1 - (W_{out} / W_{in})] \times 100\%$$

Where:

W_{in} = mass feedrate of one principal organic hazardous constituent (POHC) in a waste feedstream; and

W_{out} = mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) *99.9999% DRE.* If you burn the dioxin-listed hazardous wastes F020, F021, F022, F023, F026, or F027 (see § 261.31 of this chapter), you must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principle organic hazardous constituent (POHC) that you designate under paragraph (c)(3) of this section. You must demonstrate this DRE performance on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-*p*-dioxins and dibenzofurans. You must use the equation in paragraph (c)(1) of this section to calculate DRE for each POHC. In addition, you must notify the Administrator of your intent to incinerate hazardous wastes F020, F021, F022, F023, F026, or F027.

(3) *Principal organic hazardous constituents (POHCs).* (i) You must treat the Principal Organic Hazardous Constituents (POHCs) in the waste feed that you specify under paragraph (c)(3)(ii) of this section to the extent required by paragraphs (c)(1) and (c)(2) of this section.

(ii) You must specify one or more POHCs from the list of hazardous air pollutants established by 42 U.S.C. 7412(b)(1), excluding caprolactam (CAS number 105602) as provided by § 63.60, for each waste to be burned. You must base this specification on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses or other data and information.

(d) *Significant figures.* The emission limits provided by paragraphs (a) and (b) of this section are presented with two significant figures. Although you must perform intermediate calculations using at least three significant figures, you may round the resultant emission levels to two significant figures to document compliance.

3. Section 63.1204 is revised to read as follows:

§ 63.1204 What are the standards for hazardous waste burning cement kilns?

(a) *Emission limits for existing sources.* You must not discharge or

cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Emissions in excess of 0.40 ng TEQ/dscm corrected to 7 percent oxygen provided that the combustion gas temperature at the inlet to the initial dry particulate matter control device is 400°F or lower based on the average of the test run average temperatures;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 330 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 56 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) For kilns equipped with a by-pass duct or midkiln gas sampling system, either:

(A) Carbon monoxide in the by-pass duct or mid-kiln gas sampling system in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(i)(B) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons in the by-pass duct or mid-kiln gas sampling system do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(B) Hydrocarbons in the by-pass duct or midkiln gas sampling system in excess of 10 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane;

(ii) For kilns not equipped with a by-pass duct or midkiln gas sampling system, either:

(A) Hydrocarbons in the main stack in excess of 20 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(B) Carbon monoxide in the main stack in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii)(A) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons in the main stack do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane.

(6) Hydrochloric acid and chlorine gas in excess of 130 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis, corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 0.15 kg/Mg dry feed and opacity greater than 20 percent.

(i) You must use suitable methods to determine the kiln raw material feedrate.

(ii) Except as provided in paragraph (a)(7)(iii) of this section, you must compute the particulate matter emission rate, E, from the following equation:

$$E = (C_s \times Q_{sd}) / P$$

Where:

E = emission rate of particulate matter, kg/Mg of kiln raw material feed;

C_s = concentration of particulate matter, kg/dscm;

Q_{sd} = volumetric flowrate of effluent gas, dscm/hr; and

P = total kiln raw material feed (dry basis), Mg/hr.

(iii) If you operate a preheater or preheater/precalciner kiln with dual stacks, you must test simultaneously and compute the combined particulate matter emission rate, E_c, from the following equation:

$$E_c = (C_{sk} \times Q_{sdk} + C_{sb} \times Q_{sdb}) / P$$

Where:

E_c = the combined emission rate of particulate matter from the kiln and bypass stack, kg/Mg of kiln raw material feed;

C_{sk} = concentration of particulate matter in the kiln effluent, kg/dscm;

Q_{sdk} = volumetric flowrate of kiln effluent gas, dscm/hr;

C_{sb} = concentration of particulate matter in the bypass stack effluent, kg/dscm;

Q_{sdb} = volumetric flowrate of bypass stack effluent gas, dscm/hr; and

P = total kiln raw material feed (dry basis), Mg/hr.

(b) *Emission limits for new sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Emissions in excess of 0.40 ng TEQ/dscm corrected to 7 percent oxygen provided that the combustion gas temperature at the inlet to the initial dry particulate matter control device is 400 °F or lower based on the average of the test run average temperatures;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 180 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 54 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) For kilns equipped with a by-pass duct or midkiln gas sampling system, carbon monoxide and hydrocarbons emissions are limited in both the bypass duct or midkiln gas sampling system and the main stack as follows:

(A) Emissions in the by-pass or midkiln gas sampling system are limited to either:

(1) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(i)(A)(*2*) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(*2*) Hydrocarbons in the by-pass duct or midkiln gas sampling system in excess of 10 parts per million by volume, over an hourly rolling average

(monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; and

(B) Hydrocarbons in the main stack are limited, if construction of the kiln commenced after April 19, 1996 at a plant site where a cement kiln (whether burning hazardous waste or not) did not previously exist, to 50 parts per million by volume, over a 30-day block average (monitored continuously with a continuous monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane.

(ii) For kilns not equipped with a by-pass duct or midkiln gas sampling system, hydrocarbons and carbon monoxide are limited in the main stack to either:

(A) Hydrocarbons not exceeding 20 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(B)(*1*) Carbon monoxide not exceeding 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen; and

(*2*) Hydrocarbons not exceeding 20 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane at any time during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7); and

(*3*) If construction of the kiln commenced after April 19, 1996 at a plant site where a cement kiln (whether burning hazardous waste or not) did not previously exist, hydrocarbons are limited to 50 parts per million by volume, over a 30-day block average (monitored continuously with a continuous monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane.

(6) Hydrochloric acid and chlorine gas in excess of 86 parts per million, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 0.15 kg/Mg dry feed and opacity greater than 20 percent.

(i) You must use suitable methods to determine the kiln raw material feedrate.

(ii) Except as provided in paragraph (a)(7)(iii) of this section, you must compute the particulate matter emission rate, E, from the equation specified in paragraph (a)(7)(ii) of this section.

(iii) If you operate a preheater or preheater/precalciner kiln with dual stacks, you must test simultaneously and compute the combined particulate matter emission rate, E_c, from the equation specified in paragraph (a)(7)(iii) of this section.

(c) *Destruction and removal efficiency (DRE) standard.* (1) *99.99% DRE.* Except as provided in paragraph (c)(2) of this section, you must achieve a destruction and removal efficiency (DRE) of 99.99% for each principle organic hazardous constituent (POHC) designated under paragraph (c)(3) of this section. You must calculate DRE for each POHC from the following equation:

$$DRE = [1 - (W_{out} / W_{in})] \times 100\%$$

Where:

W_{in} = mass feedrate of one principal organic hazardous constituent (POHC) in a waste feedstream; and

W_{out} = mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) *99.9999% DRE.* If you burn the dioxin-listed hazardous wastes F020, F021, F022, F023, F026, or F027 (see § 261.31 of this chapter), you must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principle organic hazardous constituent (POHC) that you designate under paragraph (c)(3) of this section. You must demonstrate this DRE performance on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-*p*-dioxins and dibenzofurans. You must use the equation in paragraph (c)(1) of this section to calculate DRE for each POHC. In addition, you must notify the Administrator of your intent to incinerate hazardous wastes F020, F021, F022, F023, F026, or F027.

(3) *Principal organic hazardous constituents (POHCs).* (i) You must treat the Principal Organic Hazardous Constituents (POHCs) in the waste feed that you specify under paragraph (c)(3)(ii) of this section to the extent required by paragraphs (c)(1) and (c)(2) of this section.

(ii) You must specify one or more POHCs from the list of hazardous air pollutants established by 42 U.S.C. 7412(b)(1), excluding caprolactam (CAS number 105602) as provided by § 63.60, for each waste to be burned. You must base this specification on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses or other data and information.

(d) *Cement kilns with in-line kiln raw mills.* (1) *General.* (i) You must conduct performance testing when the raw mill is on-line and when the mill is off-line to demonstrate compliance with the emission standards, and you must establish separate operating parameter limits under § 63.1209 for each mode of operation, except as provided by paragraph (d)(1)(iv) of this section.

(ii) You must document in the operating record each time you change from one mode of operation to the alternate mode and begin complying with the operating parameter limits for that alternate mode of operation.

(iii) You must establish rolling averages for the operating parameter limits anew (*i.e.*, without considering previous recordings) when you begin complying with the operating limits for the alternate mode of operation.

(iv) If your in-line kiln raw mill has dual stacks, you may assume that the dioxin/furan emission levels in the by-pass stack and the operating parameter limits determined during performance testing of the by-pass stack when the raw mill is off-line are the same as when the mill is on-line.

(2) *Emissions averaging.* You may comply with the mercury, semivolatile metal, low volatile metal, and hydrochloric acid/chlorine gas emission standards on a time-weighted average basis under the following procedures:

(i) *Averaging methodology.* You must calculate the time-weighted average emission concentration with the following equation:

$$C_{total} = \{C_{mill\text{-}off} \times (T_{mill\text{-}off} / (T_{mill\text{-}off} + T_{mill\text{-}on}))\} + \{C_{mill\text{-}on} \times (T_{mill\text{-}on} / (T_{mill\text{-}off} + T_{mill\text{-}on}))\}$$

Where:

C_{total} = time-weighted average concentration of a regulated constituent considering both raw mill on time and off time;

$C_{mill\text{-}off}$ = average performance test concentration of regulated constituent with the raw mill off-line;

$C_{mill\text{-}on}$ = average performance test concentration of regulated constituent with the raw mill on-line;

$T_{mill\text{-}off}$ = time when kiln gases are not routed through the raw mill; and

$T_{mill\text{-}on}$ = time when kiln gases are routed through the raw mill.

(ii) *Compliance.* (A) If you use this emission averaging provision, you must document in the operating record compliance with the emission standards on an annual basis by using the equation provided by paragraph (d)(2) of this section.

(B) Compliance is based on one-year block averages beginning on the day you

submit the initial notification of compliance.

(iii) *Notification.* (A) If you elect to document compliance with one or more emission standards using this emission averaging provision, you must notify the Administrator in the initial comprehensive performance test plan submitted under § 63.1207(e).

(B) You must include historical raw mill operation data in the performance test plan to estimate future raw mill down-time and document in the performance test plan that estimated emissions and estimated raw mill down-time will not result in an exceedance of an emission standard on an annual basis.

(C) You must document in the notification of compliance submitted under § 63.1207(j) that an emission standard will not be exceeded based on the documented emissions from the performance test and predicted raw mill down-time.

(e) *Preheater or preheater/precalciner kilns with dual stacks.* (1) *General.* You must conduct performance testing on each stack to demonstrate compliance with the emission standards, and you must establish operating parameter limits under § 63.1209 for each stack, except as provided by paragraph (d)(1)(iv) of this section for dioxin/furan emissions testing and operating parameter limits for the by-pass stack of in-line raw mills.

(2) *Emissions averaging.* You may comply with the mercury, semivolatile metal, low volatile metal, and hydrochloric acid/chlorine gas emission standards specified in this section on a gas flowrate-weighted average basis under the following procedures:

(i) *Averaging methodology.* You must calculate the gas flowrate-weighted average emission concentration using the following equation:

$$C_{tot} = \{C_{main} \times (Q_{main} / (Q_{main} + Q_{bypass}))\} + \{C_{bypass} \times (Q_{bypass} / (Q_{main} + Q_{bypass}))\}$$

Where:

C_{tot} = gas flowrate-weighted average concentration of the regulated constituent;

C_{main} = average performance test concentration demonstrated in the main stack;

C_{bypass} = average performance test concentration demonstrated in the bypass stack;

Q_{main} = volumetric flowrate of main stack effluent gas; and

Q_{bypass} = volumetric flowrate of bypass effluent gas.

(ii) *Compliance.* (A) You must demonstrate compliance with the emission standard(s) using the emission concentrations determined from the performance tests and the equation provided by paragraph (e)(1) of this section; and

(B) You must develop operating parameter limits for bypass stack and main stack flowrates that ensure the emission concentrations calculated with the equation in paragraph (e)(1) of this section do not exceed the emission standards on a 12-hour rolling average basis. You must include these flowrate limits in the Notification of Compliance.

(iii) *Notification.* If you elect to document compliance under this emissions averaging provision, you must:

(A) Notify the Administrator in the initial comprehensive performance test plan submitted under § 63.1207(e). The performance test plan must include, at a minimum, information describing the flowrate limits established under paragraph (e)(2)(ii)(B) of this section; and

(B) Document in the Notification of Compliance submitted under § 63.1207(j) the demonstrated gas flowrate-weighted average emissions that you calculate with the equation provided by paragraph (e)(2) of this section.

(f) *Significant figures.* The emission limits provided by paragraphs (a) and (b) of this section are presented with two significant figures. Although you must perform intermediate calculations using at least three significant figures, you may round the resultant emission levels to two significant figures to document compliance.

(g) [Reserved].

(h) When you comply with the particulate matter requirements of paragraphs (a)(7) or (b)(7) of this section, you are exempt from the New Source Performance Standard for particulate matter and opacity under § 60.60 of this chapter.

4. Section 63.1205 is revised to read as follows:

§ 63.1205 What are the standards for hazardous waste burning lightweight aggregate kilns?

(a) *Emission limits for existing sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Rapid quench of the combustion gas temperature at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) to 400°F or lower based on the average of the test run average temperatures. You must also notify in writing the RCRA authority that you are complying with this option;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 250 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 110 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 20 parts per million by volume, over an hourly rolling average, dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 600 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 57 mg/dscm corrected to 7 percent oxygen.

(b) *Emission limits for new sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Rapid quench of the combustion gas temperature at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) to 400°F or lower based on the average of the test run average temperatures. You must also notify in writing the RCRA authority that you are complying with this option;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 43 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 110 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(ii) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 20 parts per million by volume, over an hourly rolling average, dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 41 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 57 mg/dscm corrected to 7 percent oxygen.

(c) *Destruction and removal efficiency (DRE) standard.* (1) *99.99% DRE.* Except as provided in paragraph (c)(2) of this section, you must achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated under paragraph (c)(3) of this section. You must calculate DRE for each POHC from the following equation:

$$DRE = [1—(W_{out} / W_{in})] \times 100\%$$

Where:

W_{in} = mass feedrate of one principal organic hazardous constituent (POHC) in a waste feedstream; and

W_{out} = mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) *99.9999% DRE.* If you burn the dioxin-listed hazardous wastes F020, F021, F022, F023, F026, or F027 (see § 261.31 of this chapter), you must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic hazardous constituent (POHC) that you designate under paragraph (c)(3) of this section. You must demonstrate this DRE performance on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-dioxins and dibenzofurans. You must use the equation in paragraph (c)(1) of this section to calculate DRE for each POHC. In addition, you must notify the Administrator of your intent to burn hazardous wastes F020, F021, F022, F023, F026, or F027.

(3) *Principal organic hazardous constituents (POHCs).* (i) You must treat the Principal Organic Hazardous Constituents (POHCs) in the waste feed that you specify under paragraph (c)(3)(ii) of this section to the extent required by paragraphs (c)(1) and (c)(2) of this section.

(ii) You must specify one or more POHCs from the list of hazardous air pollutants established by 42 U.S.C. 7412(b)(1), excluding caprolactam (CAS number 105602) as provided by § 63.60, for each waste to be burned. You must base this specification on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses or other data and information.

(d) *Significant figures.* The emission limits provided by paragraphs (a) and (b) of this section are presented with two significant figures. Although you must perform intermediate calculations using at least three significant figures, you may round the resultant emission levels to two significant figures to document compliance.

5. Section 63.1206 is amended by:

a. Revising paragraph (b)(1)(i).

b. Adding paragraph (b)(15).

c. Revising paragraphs (c)(2)(i), (c)(2)(ii), (c)(4)(i), and (c)(4)(iv).

d. Adding paragraph (c)(2)(v).

The revisions and additions read as follows:

§ 63.1206 When and how must you comply with the standards and operating requirements?

* * * * *

(b) * * *

(1) * * *

(i) During periods of startup, shutdown, and malfunction; and

* * * * *

(15) *Alternative to the interim standards for mercury for cement and lightweight aggregate kilns.* (i) *General.* In lieu of complying with the applicable mercury standards of §§ 63.1204(a)(2) and (b)(2) for existing and new cement kilns and §§ 63.1205(a)(2) and (b)(2) for existing and new lightweight aggregate kilns, you may instead elect to comply with the alternative mercury standard described in paragraphs (b)(15)(ii) through (b)(15)(v) of this section.

(ii) *Operating requirement.* You must not exceed a hazardous waste feedrate corresponding to a maximum theoretical emission concentration (MTEC) of 120 μg/dscm on a twelve-hour rolling average.

(iii) To document compliance with the operating requirement of paragraph (b)(15)(ii) of this section, you must:

(A) Monitor and record the feedrate of mercury for each hazardous waste feedstream according to § 63.1209(c);

(B) Monitor with a CMS and record in the operating record the gas flowrate (either directly or by monitoring a surrogate parameter that you have correlated to gas flowrate);

(C) Continuously calculate and record in the operating record a MTEC assuming mercury from all hazardous waste feedstreams is emitted;

(D) Interlock the MTEC calculated in paragraph (b)(15)(iii)(C) of this section to the AWFCO system to stop hazardous waste burning when the MTEC exceeds the operating requirement of paragraph (b)(15)(ii) of this section.

(iv) In lieu of the requirement in paragraph (b)(15)(iii) of this section, you may:

(A) Identify in the Notification of Compliance a minimum gas flowrate limit and a maximum feedrate limit of mercury from all hazardous waste feedstreams that ensures the MTEC calculated in paragraph (b)(15)(iii)(C) of this section is below the operating requirement of paragraph (b)(15)(ii) of this section; and

(B) Interlock the minimum gas flowrate limit and maximum feedrate limits in paragraph (b)(15)(iv)(A) of this section to the AWFCO system to stop hazardous waste burning when the gas flowrate or mercury feedrate exceeds the limits in paragraph (b)(15)(iv)(A) of this section.

(v) *Notification requirement.* You must notify in writing the RCRA authority that you intend to comply with the alternative standard.

(c) * * *

(2) *Startup, shutdown, and malfunction plan.* (i) You are subject to the startup, shutdown, and malfunction plan requirements of § 63.6(e)(3).

(ii) If you elect to comply with §§ 270.235(a)(1)(iii), 270.235(a)(2)(iii), or 270.235(b)(1)(ii) of this chapter to address RCRA concerns that you minimize emissions of toxic compounds from startup, shutdown, and malfunction events (including releases from emergency safety vents):

(A) The startup, shutdown, and malfunction plan must include a

description of potential causes of malfunctions, including releases from emergency safety vents, that may result in significant releases of hazardous air pollutants, and actions the source is taking to minimize the frequency and severity of those malfunctions.

(B) You must submit the startup, shutdown, and malfunction plan to the Administrator for review and approval.

(*1*) *Approval procedure.* The Administrator will notify you of approval or intention to deny approval of the startup, shutdown, and malfunction plan within 90 calendar days after receipt of the original request and within 60 calendar days after receipt of any supplemental information that you submit. Before disapproving the plan, the Administrator will notify you of the Administrator's intention to disapprove the plan together with:

(i) Notice of the information and findings on which intended disapproval is based; and

(*ii*) Notice of opportunity for you to present additional information to the Administrator before final action on disapproval of the plan. At the time the Administrator notifies you of intention to disapprove the plan, the Administrator will specify how much time you will have after being notified on the intended disapproval to submit additional information.

(*2*) *Responsibility of owners and operators.* You are responsible for ensuring that you submit any supplementary and additional information supporting your plan in a timely manner to enable the Administrator to consider whether to approve the plan. Neither your submittal of the plan, nor the Administrator's failure to approve or disapprove the plan, relieves you of the responsibility to comply with the provisions of this subpart.

(C) *Changes to the plan that may significantly increase emissions.* (*1*) You must request approval in writing from the Administrator within 5 days after making a change to the startup, shutdown, and malfunction plan that may significantly increase emissions of hazardous air pollutants.

(*2*) To request approval of such changes to the startup, shutdown, and malfunction plan, you must follow the procedures provided by paragraph (c)(2)(ii)(B) of this section for initial approval of the plan.

* * * * *

(v) *Operating under the startup, shutdown, and malfunction plan.* (A) *Compliance with AWFCO requirements during malfunctions.* (*1*) During malfunctions, the automatic waste feed cutoff requirements of § 63.1206(c)(3) continue to apply, except for paragraphs (c)(3)(v) and (c)(3)(vi) of this section. If you exceed a part 63, Subpart EEE, of this chapter emission standard monitored by a CEMS or COMs or operating limit specified under § 63.1209, the automatic waste feed cutoff system must immediately and automatically cutoff the hazardous waste feed, except as provided by paragraph (c)(3)(viii) of this section. If the malfunction itself prevents immediate and automatic cutoff of the hazardous waste feed, however, you must cease feeding hazardous waste as quickly as possible.

(*2*) Although the automatic waste feed cutoff requirements continue to apply during a malfunction, an exceedance of an emission standard monitored by a CEMS or COMS or operating limit specified under § 63.1209 is not a violation of this subpart if you take the corrective measures prescribed in the startup, shutdown, and malfunction plan.

(*3*) *Excessive exceedances during malfunctions.* For each set of 10 exceedances of an emission standard or operating requirement while hazardous waste remains in the combustion chamber (*i.e.,* when the hazardous waste residence time has not transpired since the hazardous waste feed was cutoff) during a 60-day block period, you must:

(*i*) Within 45 days of the 10th exceedance, complete an investigation of the cause of each exceedance and evaluation of approaches to minimize the frequency, duration, and severity of each exceedance, and revise the startup, shutdown, and malfunction plan as warranted by the evaluation to minimize the frequency, duration, and severity of each exceedance; and

(*ii*) Record the results of the investigation and evaluation in the operating record, and include a summary of the investigation and evaluation, and any changes to the startup, shutdown, and malfunction plan, in the excess emissions report required under § 63.10(e)(3).

(B) *Compliance with AWFCO requirements when burning hazardous waste during startup and shutdown.* (*1*) If you feed hazardous waste during startup or shutdown, you must include waste feed restrictions (*e.g.,* type and quantity), and other appropriate operating conditions and limits in the startup, shutdown, and malfunction plan.

(*2*) You must interlock the operating limits you establish under paragraph (c)(2)(v)(B)(*1*) of this section with the automatic waste feed cutoff system required under § 63.1206(c)(3), except for paragraphs (c)(3)(v) and (c)(3)(vi) of this section.

(*3*) When feeding hazardous waste during startup or shutdown, the automatic waste feed cutoff system must immediately and automatically cutoff the hazardous waste feed if you exceed the operating limits you establish under paragraph (c)(2)(v)(B)(*1*) of this section, except as provided by paragraph (c)(3)(viii) of this section.

(*4*) Although the automatic waste feed cutoff requirements of this paragraph apply during startup and shutdown, an exceedance of an emission standard or operating limit is not a violation of this subpart if you comply with the operating procedures prescribed in the startup, shutdown, and malfunction plan.

* * * * *

(4) * * * (i) *Failure to meet standards.* If an emergency safety vent (ESV) opens when hazardous waste remains in the combustion chamber (*i.e.,* when the hazardous waste residence time has not expired) during an event other than a malfunction as defined in the startup, shutdown, and malfunction plan such that combustion gases are not treated as during the most recent comprehensive performance test (*e.g.,* if the combustion gas by-passes any emission control device that was operating during the performance test), you must document in the operating record whether you remain in compliance with the emission standards of this subpart considering emissions during the ESV opening event.

* * * * *

(iv) *Reporting requirements.* You must submit to the Administrator a written report within 5 days of an ESV opening that results in failure to meet the emission standards of this subpart (as determined in paragraph (c)(4)(i) of this section) documenting the result of the investigation and corrective measures taken.

* * * * *

6. Section 63.1207 is amended by:

a. Revising paragraph (c)(2)(i)(A).

b. Adding paragraph (c)(2)(iii).

c. Revising paragraphs (d) introductory text, (d)(1), and (d)(2).

d. Adding paragraph (d)(4).

The revisions and additions read as follows:

§ 63.1207 What are the performance testing requirements?

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) Initiated after 54 months prior to the compliance date, except as provided by paragraph (c)(2)(iii) of this section;

* * * * *

(iii) The data in lieu of test age restriction provided in paragraph (c)(2)(i)(A) of this section does not apply for the duration of the interim standards (*i.e.,* the standards published in the **Federal Register** on February 13, 2002. Paragraph (c)(2)(i)(A) of this section does not apply until EPA promulgates permanent replacement standards pursuant to the Settlement Agreement noticed in the **Federal Register** on November 16, 2001.

* * * * *

(d) *Frequency of testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must conduct testing periodically as prescribed in paragraphs (d)(1) through (d)(3) of this section. The date of commencement of the initial comprehensive performance test is the basis for establishing the deadline to commence the initial confirmatory performance test and the next comprehensive performance test. You may conduct performance testing at any time prior to the required date. The deadline for commencing subsequent confirmatory and comprehensive performance testing is based on the date of commencement of the previous comprehensive performance test. Unless the Administrator grants a time extension under paragraph (i) of this section, you must conduct testing as follows:

(1) *Comprehensive performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence testing no later than 61 months after the date of commencing the previous comprehensive performance test. If you submit data in lieu of the initial performance test, you must commence the subsequent comprehensive performance test within 61 months of commencing the test used to provide the data in lieu of the initial performance test.

(2) *Confirmatory performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence confirmatory performance testing no later than 31 months after the date of commencing the previous comprehensive performance test. If you submit data in lieu of the initial performance test, you must commence the initial confirmatory performance test within 31 months of the date six months after the compliance date. To ensure that the confirmatory test is conducted approximately midway between comprehensive performance tests, the Administrator will not approve a test plan that schedules testing within 18 months of commencing the previous comprehensive performance test.

* * * * *

(4) *Applicable testing requirements under the interim standards.* (i) Waiver of periodic comprehensive performance tests. Except as provided by paragraph (c)(2) of this section, you must conduct only an initial comprehensive performance test under the interim standards (*i.e.,* the standards published in the **Federal Register** on February 13, 2002; all subsequent comprehensive performance testing requirements are waived under the interim standards. The provisions in the introductory text to paragraph (d) and in paragraph (d)(1) of this section do not apply until EPA promulgates permanent replacement standards pursuant to the Settlement Agreement noticed in the **Federal Register** on November 16, 2001.

(ii) *Waiver of confirmatory performance tests.* You are not required to conduct a confirmatory test under the interim standards (*i.e.,* the standards published in the **Federal Register** on February 13, 2002. The confirmatory testing requirements in the introductory text to paragraph (d) and in paragraph (d)(2) of this section are waived until EPA promulgates permanent replacement standards pursuant to the Settlement Agreement noticed in the **Federal Register** on November 16, 2001.

* * * * *

7. Section 63.1209 is amended by:

a. Revising paragraphs (k) introductory text, (k)(1), and (k)(7)(i).

b. Removing paragraph (m)(1)(i)(D).

The revisions read as follows:

§ 63.1209 What are the monitoring requirements?

* * * * *

(k) *Dioxins and furans.* You must comply with the dioxin and furans emission standard by establishing and complying with the following operating parameter limits. You must base the limits on operations during the comprehensive performance test, unless the limits are based on manufacturer specifications.

(1) *Gas temperature at the inlet to a dry particulate matter control device.* (i) For hazardous waste burning incinerators and cement kilns, if the combustor is equipped with an electrostatic precipitator, baghouse (fabric filter), or other dry emissions control device where particulate matter is suspended in contact with combustion gas, you must establish a limit on the maximum temperature of the gas at the inlet to the device on an hourly rolling average. You must establish the hourly rolling average limit as the average of the test run averages.

(ii) For hazardous waste burning lightweight aggregate kilns, you must establish a limit on the maximum temperature of the gas at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) on an hourly rolling average. The limit must be established as the average of the test run averages;

* * * * *

(7) * * *

(i) *Monitoring bed life.* You must:

(A) Monitor performance of the carbon bed consistent with manufacturer's specifications and recommendations to ensure the carbon bed (or bed segment for sources with multiple segments) has not reached the end of its useful life to minimize dioxin/furan and mercury emissions at least to the levels required by the emission standards;

(B) Document the monitoring procedures in the operation and maintenance plan;

(C) Record results of the performance monitoring in the operating record; and

(D) Replace the bed or bed segment before it has reached the end of its useful life to minimize dioxin/furan and mercury emissions at least to the levels required by the emission standards.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.340 is amended by revising paragraph (b)(1) and adding paragraph (b)(4) to read as follows:

§ 264.340 Applicability.

* * * * *

(b) * * * (1) Except as provided by paragraphs (b)(2), (b)(3), and (b)(4) of this section, the standards of this part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with the requirements of part 63, subpart EEE, of this chapter. Nevertheless, even after this

demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

* * * * *

(4) The following requirements remain in effect for startup, shutdown, and malfunction events if you elect to comply with § 270.235(a)(1)(i) of this chapter to minimize emissions of toxic compounds from these events:

(i) Section 264.345(a) requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

(ii) Section 264.345(c) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937, unless otherwise noted.

2. Section 265.340 is amended by revising paragraph (b)(1) and adding paragraph (b)(3) to read as follows:

§ 265.340 Applicability.

* * * * *

(b) * * * (1) Except as provided by paragraphs (b)(2) and (b)(3) of this section, the standards of this part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with the requirements of part 63, subpart EEE, of this chapter.

* * * * *

(3) Section 265.345 generally prohibiting burning of hazardous waste during startup and shutdown remains in effect if you elect to comply with § 270.235(b)(1)(i) of this chapter to minimize emissions of toxic compounds from startup and shutdown.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3004, and 3014, 6905, 6906, 6912, 6922, 6924, 6925, and 6937.

2. Section 266.100 is amended by redesignating paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) as paragraphs (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), and (b)(2)(v), respectively, and adding new paragraph (b)(2)(i) to read as follows:

§ 266.100 Applicability.

* * * * *

(b) * * *

(2) * * *

(i) If you elect to comply with § 270.235(a)(1)(i) of this chapter to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, § 266.102(e)(1) requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and § 266.102(e)(2)(iii) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

2. Section 270.19 is amended by revising paragraph (e) to read as follows:

§ 270.19 Specific part B information requirements for incinerators.

* * * * *

(e) When an owner or operator demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 264.345(a) and 264.345(c) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

3. Section 270.22 is amended by revising introductory text to read as follows:

§ 270.22 Specific part B information requirements for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

4. Section 270.62 is amended by revising introductory text to read as follows:

§ 270.62 Hazardous waste incinerator permits.

When an owner or operator demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 264.345(a) and 264.345(c) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

5. Section 270.66 is amended by revising introductory text to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

6. Part 270 is amended by adding Subpart I to read as follows:

Subpart I—Integration with Maximum Achievable Control Technology (MACT) Standards

§ 270.235 Options for incinerators and cement and lightweight aggregate kilns to minimize emissions from startup, shutdown, and malfunction events.

(a) *Facilities with existing permits.* (1) *Revisions to permit conditions after documenting compliance with MACT.* The owner or operator of a RCRA-permitted incinerator, cement kiln, or lightweight aggregate kiln may request that the Director address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to §§ 264.340(b) and 266.100(b) of this chapter:

(i) *Retain relevant permit conditions.* Under this option, the Director will:

(A) Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter; and

(B) Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

(ii) *Revise relevant permit conditions.* (A) Under this option, the Director will:

(*1*) Identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history.

(*2*) Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(B) *Changes that may significantly increase emissions.* (*1*) You must notify the Director in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Director of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(*2*) The Director may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(*i*) Upon permit renewal, or, if warranted;

(*ii*) By modifying the permit under §§ 270.41(a) or 270.42.

(iii) *Remove permit conditions.* Under this option:

(A) The owner or operator must document that the startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter has been approved by the Administrator under § 63.1206(c)(2)(ii)(B) of this chapter; and

(B) The Director will remove permit conditions that are no longer applicable according to §§ 264.340(b) and 266.100(b) of this chapter.

(2) *Addressing permit conditions upon permit reissuance.* The owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the Administrator a Notification of Compliance documenting compliance with the standards of part 63, subpart EEE, of this chapter may request in the application to reissue the permit for the combustion unit that the Director control emissions from startup, shutdown, and malfunction events under any of the following options:

(i) *RCRA option A.* (A) Under this option, the Director will:

(*1*) Include, in the permit, conditions that ensure compliance with §§ 264.345(a) and 264.345(c) or §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

(*2*) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.; or

(ii) *RCRA option B.* (A) Under this option, the Director will:

(*1*) Include, in the permit conditions, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

(*2*) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(B) *Changes that may significantly increase emissions.* (*1*) You must notify the Director in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Director of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(*2*) The Director may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(*i*) Upon permit renewal, or, if warranted;

(*ii*) By modifying the permit under §§ 270.41(a) or 270.42; or

(iii) *CAA option.* Under this option:

(A) The owner or operator must document that the startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter has been

approved by the Administrator under § 63.1206(c)(2)(ii)(B) of this chapter; and

(B) The Director will omit from the permit conditions that are not applicable under §§ 264.340(b) and 266.100(b) of this chapter.

(b) *Interim status facilities.* (1) *Interim status operations.* In compliance with §§ 265.340 and 266.100(b), the owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of part 265 or 266 of this chapter may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance documenting compliance with the standards of part 63, subpart EEE, of this chapter:

(i) *RCRA option.* Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of part 265 or 266 of this chapter relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

(ii) *CAA option.* Under this option, the owner or operator is exempt from the interim status standards of part 265 or 266 of this chapter relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Director that the startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter has been approved by the Administrator under § 63.1206(c)(2)(ii)(B) of this chapter.

(2) *Operations under a subsequent RCRA permit.* When an owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of parts 265 or 266 of this chapter submits a RCRA permit application, the owner or operator may request that the Director control emissions from startup, shutdown, and malfunction events under any of the options provided by paragraphs (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

7. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 9605, 6912(2), and 6926.

8. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication (''Promulgation date'') in the **Federal Register**, to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	**Federal Register** reference	Effective date
*	*	*	*
February 13, 2002	Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.	[Insert page No.]	February 13, 2002.
*	*	*	*

[FR Doc. 02–3346 Filed 2–12–02; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday,
February 13, 2002

Part II

Environmental Protection Agency

40 CFR Part 63 et al.

NESHAP: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule); Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63, 264, 265, 266, 270, and 271

[FRL–7143–3]

RIN 2050–AE79

NESHAP: Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Interim Standards Rule)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 30, 1999, EPA promulgated standards to control emissions of hazardous air pollutants from incinerators, cement kilns and lightweight aggregate kilns that burn hazardous wastes. A number of parties sought judicial review of the rule. On July 24, 2001, the United States Court of Appeals for the District of Columbia Circuit (the Court) granted the Sierra Club's petition for review and vacated the challenged portions of the rule. In its decision, the Court invited EPA or any of the parties that challenged the regulations to file a motion with the Court to request either that the current standards remain in place, or that EPA be allowed time to develop interim standards, pending further time in which EPA develops standards complying with the Court's opinion. On October 19, 2001, EPA, together with all other petitioners, jointly moved the Court to stay the issuance of its mandate for four months to allow EPA time to develop interim standards. The motion contemplates that EPA will issue final standards by June 14, 2005. The joint motion also details other actions EPA intends to take. These actions include promulgating, by February 14, 2002, a rule with amended interim emission standards and several compliance and implementation amendments to the rule which EPA proposed on July 3, 2001. The Court has granted this motion and stayed issuance of its mandate until February 14, 2002.

Today's rule amends the September 1999 emission standards, with certain provisions amended as set out in the parties' joint motion. The rule also adopts the compliance and implementation amendments described in that motion. Although this Interim Standards Rule results in emission reductions that are less stringent than those of the September 1999 rule, we believe it achieves most of the emission gains of that rule. Promulgation of the rule now, before the Court issues its mandate, also avoids the severe problems relating to developing the Maximum Achievable Control Technology (MACT) on a source-by-source basis pursuant to section 112(j)(2) of the Clean Air Act, which applies if there are no national standards in place. We believe that adopting this Interim Standards Rule now best fulfills the statutory requirement to have national emission standards in place by a specified time, while avoiding unnecessary disruption and burden to regulated industry and affected state and federal administrative agencies.

DATES: Effective Date: This final rule is effective on February 13, 2002.

Compliance Date: You are required to comply with these promulgated standards by September 30, 2003.

ADDRESSES: You may view the docket to this rulemaking in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket number is F–2002–RC7F–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday-Friday, 9 am to 4 pm, Eastern Standard Time. For more information, contact Frank Behan at 703–308–8476, *behan.frank@epa.gov,* or Michael Galbraith at 703–605–0567, *galbraith.michael@epa.gov,* or write to them at the Office of Solid Waste, 5302W, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Acronyms Used in the Rule

APCD—Air pollution control device
ASME—American Society of Mechanical Engineers
CAA—Clean Air Act
CEMS—Continuous emissions monitors/monitoring system
COMS—Continuous opacity monitoring system
CFR—Code of Federal Regulations
DOC—Documentation of Compliance
DRE—Destruction and removal efficiency dscf—Dry standard cubic feet dscm—Dry standard cubic meter
EPA/USEPA—United States Environmental Protection Agency gr—Grains
HAP—Hazardous air pollutant
HWC—Hazardous waste combustor
MACT—Maximum Achievable Control Technology
NESHAP—National Emission Standards for HAPs ng—Nanograms
NIC—Notice of Intent to Comply
NOC—Notification of compliance
OPL—Operating parameter limit
PM—Particulate matter
POHC—Principal organic hazardous constituent ppmv—Parts per million by volume
RCRA—Resource Conservation and Recovery Act
TEQ—Toxicity equivalence

Official Record. The official record is the paper record maintained at the address in **ADDRESSES** above.

Supporting Materials Availability on the Internet. Supporting materials are available on the Internet. To access the information electronically from the World Wide Web, type *http://www.epa.gov/epaoswer/hazwaste/combust.*

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Part One—What Events Led Up to This Rule?

I. What Is the Background?

A. What Is the Phase I Rule?

Today's notice finalizes specific changes to the NESHAP: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I) rule, published September 30, 1999 (64 FR 52828). In the Phase I final rule, we adopted National Emissions Standards for Hazardous Air Pollutants, pursuant to section 112(d) of the Clean Air Act (CAA) to control toxic emissions from the burning of hazardous waste in incinerators, cement kilns, and lightweight aggregate kilns. These emission standards created a technology-based national cap for hazardous air pollutant emissions from the combustion of hazardous waste in these devices. Additional risk-based conditions necessary to protect human health and the environment may be imposed presently (assuming a proper, site-specific justification) under section 3005(c)(3) of the Resource Conservation and Recovery Act (RCRA) (and may ultimately be imposed under section 112(f) of the Clean Air Act as well).

Section 112(d) of the CAA requires emissions standards for hazardous air pollutants to be based on the performance of the Maximum Achievable Control Technology (MACT). These standards apply to the three major categories of hazardous waste burners—incinerators, cement kilns, and lightweight aggregate kilns. For purposes of today's rule, we refer to these three categories collectively as hazardous waste combustors (HWC).

B. How Did the Court's Opinion To Vacate Challenged Portions of the Rule and the Parties' Joint Motion To Stay the Mandate Affect Phase I and Today's Rule?

A number of parties, representing interests of both industrial sources and of the environmental community, sought judicial review of the Phase I rule. On July 24, 2001, the United States Court of Appeals for the District of Columbia Circuit (the Court) granted the Sierra Club's petition for review and vacated the challenged portions of the rule. *Cement Kiln Recycling Coalition v. EPA,* 255 F. 3d 855 (D.C. Cir. 2001). The Court held that EPA had not demonstrated that the standards met the statutory requirement of being no less stringent than (1) the average emission limitation achieved by the best performing 12 percent of existing sources and (2) the emission control achieved in practice by the best controlled similar source for new sources. 255 F.3d at 861, 865–66. As a remedy, the Court, after declining to rule on most of the issues presented in the Industry petitions for review, vacated the ''challenged regulations,'' stating that: ''[W]e have chosen not to reach the bulk of industry petitioners'' claims, and leaving the regulations in place during remand would ignore petitioners' potentially meritorious challenges.'' *Id.* at 872. Examples of the specific challenges the Court indicated might have merit were provisions relating to compliance during start up/shut down and malfunction events, including emergency safety vent openings, the dioxin standard for lightweight aggregate kilns, and the semi-volatile metal standard for cement kilns. *Id.* However, the Court stated, ''[b]ecause this decision leaves EPA without standards regulating [hazardous waste combustor] emissions, EPA (or any of the parties to this proceeding) may file a motion to delay issuance of the mandate to request either that the current standards remain in place or that EPA be allowed reasonable time to develop interim standards.'' *Id.*

Acting on this invitation, all parties moved the Court jointly to stay the issuance of its mandate for four months to allow EPA time to develop interim standards. The interim standards will replace the vacated standards temporarily, until final standards are promulgated.

The motion indicates that EPA would issue final standards which fully comply with the Court's opinion by June 14, 2005, and it indicates that EPA and Petitioner Sierra Club intend to enter into a settlement agreement requiring us to promulgate final rules by that date, and that date be judicially enforceable. The joint motion also details other actions we agreed to take, including issuing a one-year extension to the September 30, 2002 compliance date (66 FR 63313, December 6, 2001), and promulgating by February 14, 2002 several of the compliance and implementation amendments to the rule which we proposed on July 3, 2001 (66 FR 35126). These final amendments will be published in tomorrow's **Federal Register**. The joint motion can be viewed and downloaded from EPA's Hazardous Waste Combustion Website: *http://www.epa.gov/epaoswer/hazwaste/combust/preamble.htm.*

We believe that implementation of today's interim standards will be beneficial to the regulated community, the state implementing programs, and the environment. Compliance with these interim standards will result in emissions reductions sooner than if the hazardous waste combustion standards were vacated. It also provides a more orderly transition to final standards than if the current rules were vacated without replacement standards being in place due to the operation of the so-called hammer provisions of section 112(j)(2) and 112(g)(2) of the CAA. These hammer provisions are discussed in the next section.

II. Good Cause for Issuing the Rule

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment.[1] EPA so finds here.[2]

First, the regulated community and environmental community have had actual notice of the contents of this rule, and opportunity to comment upon it, due to the exhaustive negotiations leading to filing of the joint motion on October 19, 2001, which motion recited the projected contents of this Interim Standards Rule. It is well-settled that actual notice satisfies all obligations to provide notice and opportunity for comment as to those persons. *Small Refiner Lead Phase-Down Task Force* v. *EPA,* 705 F. 2d 506, 548 (D.C. Cir. 1983).

Second, with respect to entities that were not part of this negotiating process, EPA finds that there is good cause to issue the rule without prior proposal in order to avoid the consequences of not having a standard in place. The consequence of vacating the present rule before EPA promulgates a replacement rule is that the statutory ''hammer'' provisions would operate with respect to major sources, and that there would be no CAA standards for area sources.[3] Congress required that EPA promulgate national standards to control emissions of hazardous air pollutants by designated dates. Congress also added the hammer provisions to create a strong incentive to assure that those standards are adopted and go into force. Section 112(j)(2) of the Act thus provides that ''[i]n the event that the Administrator fails to promulgate a standard for a category * * * of major sources by the date established pursuant to subsection (e)(1) and (3) of this section,'' prescribed consequences occur. 42 U.S.C. 7412(j)(2). The first of these is that ''18 months after such date, the owner or operator of any major source in such category * * * shall submit a permit application.'' *Id.* Permit writers (either federal or state) must then establish emission limitations for each major source which they ''determin[e], on a case-by-case basis, to be equivalent to the limitation that would apply to such source if an emission standard had been promulgated in a timely manner under subsection (d).'' *Id.* 42 U.S.C. 7412(j)(5). These site-specific permit limitations can be superseded by subsequently promulgated national standards. Should such a standard be promulgated, the permitting authority ''shall revise such permit upon the next renewal to reflect the standard * * * providing such a reasonable time to comply, but no longer than 8 years after such standard is promulgated or 8 years after the date on which the source is first required to comply with the [site-specific emission standard], whichever is earlier.'' *Id.* § 7412(j)(6). Thus there could be considerable delay before sources are subject to a national CAA section 112(d) standard once a section 112(j)(5) permit is issued.

There are significant adverse consequences of vacating the existing rule and allowing the section 112(j) hammer to operate:

A. Failure To Control Area Sources

The hammer requirement applies only to major sources of hazardous air pollutants. We determined, pursuant to CAA section 112(c)(3), however, that regulation of all hazardous waste combustor area sources (*i.e.,* sources below the major source threshold) is necessary because of the threat of potential adverse effects to human health or the environment posed by these sources. 64 FR at 52837–52838. If this Interim Standards Rule is not adopted now, before the mandate issues, these area sources would not be subject to any CAA standards for hazardous air pollutants until the compliance date for the projected 2005 rule.

B. No National Standards for Major Sources for a Long Period

If this Interim Standards Rule is not issued now, major hazardous waste combustor sources would not be subject to national CAA MACT standards for a prolonged period. Even if the case-by-case permitting process goes smoothly, permitting authorities have up to 18 months to issue such permits after a complete application is filed. See 40 CFR 70.4(b)(6). The permitting authority could then allow up to a 3-year compliance date (42 U.S.C. 7412(j)(5)), so that sources may not be subject to emission standards until 2006. Yet these sources were to have been subject to national standards no later than November 2003. CAA sections 112(e)(1) and (i)(3).

C. Case-by-Case Permit Standards Delaying Compliance With More Stringent National Standards

Case-by-case permit limitations do not have to be modified to reflect more stringent subsequent national standards until the permit is renewed or until 8 years from the date the national standard is promulgated or 8 years from the time the permit is issued, whichever is earlier. CAA section 112(j)(6). A scenario thus could result where major sources receive case-by-case permits in 2004 before EPA issues a national rule, and then might not have to comply with a national standard until 2012. This result is again far later than the expected 2003 date for compliance with national section 112(d) standards.

D. Inconsistent Permit Standards

The case-by-case permitting process, with its hundreds of separate determinations, necessarily raises the prospect of potentially inconsistent determinations. The general statutory scheme, however, is that sources in a category or subcategory will be subject to a common standard. Such inconsistency could also lessen the degree of emission reduction Congress contemplated in requiring that sources be subject to national technology-based standards developed pursuant to section 112(d).

E. Adverse Consequences to Regulated Sources

The case-by-case permitting process also poses adverse consequences for regulated sources. The immediate burden is to submit permit applications to federal or state permit-writing authorities. Some industry sources may also face the possibility that individual permit limits could be so inconsistent with later national standards that the source will have to develop a new strategy for achieving emission reductions (with consequent loss of investment in the equipment needed to comply with the case-by-case permit), and the prospect of continuing to comply with Resource Conservation and

[1] Section 553 of the Administrative Procedure Act does apply here, even though issues of rulemaking procedure under the Clean Air Act are normally controlled by CAA section 307(d). See CAA section 307(d)(1) final sentence, indicating that the CAA provisions do not apply to rules covered by section 553(b)(B) of the Administrative Procedure Act.

[2] EPA notes as well that certain of the provisions adopted today (those dealing with the revised standards and compliance provisions) are the subject of prior notice and opportunity for comment, so that no good cause finding is required for such provisions. In addition, for all of the provisions of the rule which we are repromulgating in existing form, notice and opportunity for comment is unnecessary since these provisions have already been the subject of exhaustive notice and comment rulemaking.

[3] EPA's interpretation that the hammer provisions apply is based on the statutory language and evident Congressional purpose to create a default mechanism whenever there are no national Clean Air Act section 112(d) standards in place on or after the hammer date. See also *Steel Mfr's Ass'n* v. *EPA,* 27 F. 3d 642, 647–48 (D.C. Cir. 1994) holding that EPA reasonably construed analogous hammer provisions of the Resource Conservation and Recovery Act to apply if a rule is issued but vacated so as not to be in place on the hammer date.

Recovery Act (RCRA) permit conditions for air emissions.

F. Administrative Burdens

The administrative burdens on EPA and on States administering CAA permit programs likewise will be significant if a case-by-case permitting process is triggered if this rule is not promulgated by the mandate issuance date. Processing many permit applications from hazardous waste combustors, and trying to develop standards equivalent to maximum achievable control technology on a case-by-case basis, can only further complicate an already exceedingly difficult permit-issuance task.

EPA notes further that in the scarce time between the Court issuing an order staying its mandate and the present, we have used best efforts to provide notice of this projected Interim Standards Rule. We posted the joint motion and appendices on websites, and also solicited comment on these documents in the section 112(g) settlement notice published in the **Federal Register** on November 16, 2001. 66 FR 57715. We have responded to all of the comments received on that notice. However, it has proved impossible to provide further notice and opportunity for comment given the lack of time before issuance of the mandate, and the need for EPA to focus on development of the 2005 final standards, which will implement MACT for these sources.

Therefore, in light of the fact that Congress intended for national standards to already be in place for hazardous waste combustors, and that a case-by-case permitting regime for those combustors could have adverse consequences for regulated sources, state and federal permitting authorities, and for the environment, we believe that there is good cause for this rule to issue without additional notice and opportunity for comment. *Small Refiner Lead Phase-Down Task Force,* 705 F.2d at 545–46 (inviting EPA to issue an interim standards rule to avoid a regulatory gap and noting that there probably exists ''good cause'' under 5 U.S.C. 553(b)(B) to issue the rule without prior notice and opportunity for comment). EPA also finds that good cause exists under U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register**.

III. What Is Included in This Rule?

In this rulemaking, we are retaining the existing Part 63, Subpart EEE, regulations, except for the following changes:

- We are revising certain emission standards as follows: (a) The semi-volatile metals standard for new incinerators; (b) the semi-volatile metals standard for existing cement kilns; (c) the mercury standard for new cement kilns; (d) the dioxin standard for new and existing lightweight aggregate kilns; (e) the mercury standard for new and existing lightweight aggregate kilns; (f) the hydrochloric acid/chlorine gas standard for new and existing lightweight aggregate kilns.
- We are providing an alternative means for lightweight aggregate kilns and cement kilns to comply with the mercury standard to allow sources to comply with a hazardous waste mercury feedrate limit in lieu of complying with an emission standard. Sources electing to comply with this option will be required to notify the RCRA permitting authority that they are complying with this option.
- We are revising the startup, shutdown and malfunction (''SSM'') provisions to provide that emission standards and operating requirements set forth in the rule apply at all times except during periods of startup, shutdown and malfunction. The revised rule subjects hazardous waste combustors to the same general MACT SSM provisions that apply to most sources, except that revised automatic waste feed cutoff requirements continue to apply during most SSM events, and sources must determine whether the SSM plan should be revised if excessive exceedances of operating requirements when hazardous waste is in the system occur during these events. Such exceedances will not constitute violations of the operating requirements. In addition, owners and operators of hazardous waste combustors must select either RCRA option or a CAA option to control emissions from startup, shutdown, and malfunctions. Under the RCRA options, operating conditions in the RCRA permit will minimize emissions during these events. Under the CAA option, the SSM plan must be proactive in minimizing emissions from these events, and must be submitted to the delegated CAA authority for review and approval. Finally, we are revising the emergency safety vent (''AESV'') opening provisions to provide that if there is hazardous waste in the combustion chamber, and there is an ESV opening that is not a malfunction, the source must document whether it remains in compliance with applicable standards, and file a report if there is noncompliance.

In addition, we are making the following regulatory revisions to compensate for the possibility that sources may be required to comply with permanent replacement emission standards (i.e., the final standards that comply with the Court's opinion and that must be promulgated by June 14, 2005) that are significantly different than the Interim Standards in today's rulemaking. Such an outcome could result in loss of capital investment. As a result, we believe these provisions are appropriate since they could lessen this potentially negative financial impact.

- Amending the performance testing requirements of 40 CFR 63.1207 to allow previously collected data, regardless of age, to serve as documentation of compliance with the interim emission standards provided that these data meet quality assurance requirements and are sufficient to establish operating parameter limits;
- Amending the performance testing provisions such that all subsequent comprehensive performance tests (that is, those after the initial comprehensive performance test) for the interim standards are automatically waived; and,
- Amending the confirmatory performance testing provisions to eliminate the requirement to conduct confirmatory performance testing during the period that the interim standards are in effect.

Part Two—What Revisions Are We Making in This Rule?

I. What Are the Interim Standards?

In today's rulemaking, we are replacing the vacated emission standards temporarily until final standards are promulgated by June 14, 2005.[4] EPA notes that this Interim Standards Rule does not respond to the Court's mandate regarding the need to demonstrate that EPA's methodology reasonably predicts the performance of the average of the best performing twelve percent of sources (or best-performing source). EPA intends to address those issues in a subsequent rule, which will necessarily require a longer time to develop, propose, and finalize. However, some type of Interim Standards Rule is needed now, for the reasons explained in Part One, Section II above. These standards, to some degree, represent negotiated interim levels agreed to by the parties to the Joint Motion (both industry and environmental, as well as EPA). In EPA's view, these standards preserve critical parts of the September 30, 1999

[4] In a final rule published on December 6, 2001, we extended for one year the compliance date requirement of § 63.1206(a) for the interim emission standards until September 30, 2003. See 66 FR 63313.

rule unchanged, and achieve approximately 93 percent of the emissions reductions for existing sources which the original rule would have attained. Given the need to expeditiously adopt an Interim Standards Rule to avoid outright vacature (with the attendant adverse consequences described in the previous section), and the fact that the Court indicated that some of the industry challenges had potential merit (so that repromulgating all of the September 30,1999 rule was not a realistic possibility), EPA believes that this rule represents a reasonable interim measure. The numerical values of most existing emission standards are being retained except for the changes outlined above and discussed below. Given that the emission standards will be vacated when the Court issues an order called a mandate (expected on or after February 14, 2002), we are repromulgating the emissions standards of §§ 63.1203 through 63.1205, not just those standards that are being revised.

A. New and Existing Incinerators

The interim emission standards for new and existing hazardous waste incinerators are identical to the standards promulgated on September 30, 1999, except that the semivolatile metals standard for new incinerators is revised to 120 μg/dscm. We are revising § 63.1203(b)(3) and repromulgating § 63.1203 accordingly.

We are also correcting two typographic errors in § 63.1203(c)(2). In the second sentence of this paragraph, we are replacing the word ''tetro-'' with the word ''tetra-.'' We are also inserting the word ''to'' before the word ''calculate'' in the third sentence of the paragraph.

The interim emission standards are summarized below.

INTERIM STANDARDS FOR EXISTING AND NEW INCINERATORS

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Dioxin/Furan	0.20 ng TEQ [2] dscm; or 0.40 ng TEQ/dscm and temperature at inlet to the initial particulate matter control device ≤400° F.	0.20 ng TEQ/dscm.
Mercury	130 μg/dscm	45 μg/dscm.
Particulate Matter	34mg/dscm (0.015gr/dscf)	34mg/dscm (0.015gr/dscf).
Semivolatile Metals	240 μg/dscm	120 μg/dscm.
Low Volatile Metals	97 μg/dscm	97 μg/dscm.
Hydrochloric Acid/Chlorine Gas	77 ppmv	21 ppmv.
Hydrocarbons [3] [4]	10 ppmv (or 100 ppmv carbon monoxide)	10 ppmv (or 100 ppmv carbon monoxide).
Destruction and Removal Efficiency	For existing and new sources, 99.99% for each principal organic hazardous constituent (POHC) designated. For sources burning hazardous wastes F020, F021, F022, F023, F026, or F027, 99.9999% for each POHC designated.	Same as for existing incinerators.

[1] All emission levels are corrected to 7 percent oxygen.
[2] Toxicity equivalent quotient, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8–TCDD.
[3] Hourly rolling average. Hydrocarbons are reported as propane.
[4] Incinerators that elect to continuously comply with the carbon monoxide standard must demonstrate compliance with the hydrocarbon standard of 10 ppmv during the comprehensive performance test.

B. New and Existing Cement Kilns

The interim emission standards for new and existing hazardous waste burning cement kilns are identical to the standards promulgated on September 30, 1999, with two exceptions. The semivolatile metals standard for existing cement kilns and the mercury standard for new cement kilns are revised to 330 μg/dscm and 120 μg/dscm, respectively. In today's rule, we are revising §§ 63.1204(a)(3) and (b)(2) and repromulgating § 63.1204 accordingly.

We are also correcting two typographic errors in § 63.1204(c)(2). In the second sentence of this paragraph, we are replacing the word ''tetro-'' with the word ''tetra-.'' We are also inserting the word ''to'' before the word ''calculate'' in the third sentence of the paragraph.

Finally, we are providing an alternative means for new and existing cement kilns to comply with the interim mercury standard. Under this alternative, new and existing cement kilns are allowed to comply with a hazardous waste maximum theoretical emissions concentration [5] of mercury of 120 μg/dscm. This new operating requirement for mercury from cement kilns is conceptually similar to the alternative mercury standard provisions that we promulgated in the September 30, 1999 rule. See § 63.1206(b)(10) (alternative standard where source demonstrates that it cannot meet emission standard as a result of mercury levels in raw material feedstocks). The feedrate operating requirement alternative ensures that the hazardous waste mercury contribution to emissions—MACT control for cement kilns as promulgated in the final rule—will always be below the mercury standard.

The alternative to the interim mercury standard is based on the combined hazardous waste feedstreams to the kiln and may be expressed either as a maximum theoretical emissions concentration or as a restriction on maximum hazardous waste mercury mass feedrate and minimum gas flow rate. Sources must account for each hazardous waste feedstream when determining compliance with the maximum theoretical emissions concentration limit. In addition, sources are not required to monitor for mercury in their raw material for compliance purposes. Sources are also required to notify the RCRA permitting authority that they are electing to comply with this option. See § 63.1206(b)(15). The RCRA permitting authority may determine on a case-by-case basis under § 270.32(b)(2) that additional operating requirements may be needed to ensure protection of human health and the environment.

The interim emission standards are summarized below.

[5] Maximum theoretical emissions concentration or MTEC is a term to compare metals and chlorine feedrates across sources of different sizes. MTEC is defined as the metals or chlorine feedrate divided by the gas flow rate and is expressed in units of μg/dscm.

INTERIM STANDARDS FOR EXISTING AND NEW CEMENT KILNS

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Dioxin and Furan	0.20 ng TEQ/dscm; or 0.40 ng TEQ/dscm and control of flue gas temperature not to exceed 400°F at the inlet to the particulate matter control device.	0.20 ng TEQ/dscm; or 0.40 ng TEQ/dscm and control of flue gas temperature not to exceed 400°F at the inlet to the particulate matter control device.
Mercury	120 μg/dscm	120 μg/dscm.
Particulate Matter [2]	0.15 kg/Mg dry feed and 20% opacity	0.15 kg/Mg dry feed and 20% opacity.
Semivolatile Metals	330 μg/dscm	180 μg/dscm.
Low Volatile Metals	56 μg/dscm	54 μg/dscm.
Hydrochloric Acid and Chlorine Gas	130 ppmv	86 ppmv.
Hydrocarbons: Kilns without By-pass [3 6]	20 ppmv (or 100 ppmv carbon monoxide) [3]	Greenfield kilns: 20 ppmv (or 100 ppmv carbon monoxide and 50 ppmv [5] hydrocarbons). All others: 20 ppmv (or 100 ppmv carbon monoxide) [3].
Hydrocarbons: Kilns with By-pass; Main Stack. [4 6]	No main stack standard	50 ppmv [5].
Hydrocarbons: Kilns with By-pass; By-pass Duct and Stack. [3 4 6]	10 ppmv (or 100 ppmv carbon monoxide)	10 ppmv (or 100 ppmv carbon monoxide).
Destruction and Removal Efficiency	For existing and new sources, 99.99% for each principal organic hazardous constituent (POHC) designated. For sources burning hazardous wastes F020, F021, F022, F023, F026, or F027, 99.9999% for each POHC designated.	

[1] All emission levels are corrected to 7% O_2, dry basis.
[2] If there is an alkali by-pass stack associated with the kiln or in-line kiln raw mill, the combined particulate matter emissions from the kiln or in-line kiln raw mill and the alkali by-pass must be less than the particulate matter emissions standard.
[3] Cement kilns that elect to comply with the carbon monoxide standard must demonstrate compliance with the hydrocarbon standard during the comprehensive performance test.
[4] Measurement made in the by-pass sampling system of any kiln (e.g., alkali by-pass of a preheater and/or precalciner kiln; midkiln sampling system of a long kiln).
[5] Applicable only to newly-constructed cement kilns at greenfield sites (see discussion in Part Four, Section VII.D.9). The 50 ppmv standard is a 30-day block average limit. Hydrocarbons are reported as propane.
[6] Hourly rolling average. Hydrocarbons are reported as propane.

C. New and Existing Lightweight Aggregate Kilns

The interim emission standards for new and existing hazardous waste burning lightweight aggregate kilns are identical to the standards promulgated on September 30, 1999, with the following exceptions. The dioxin and furan standard for both new and existing lightweight aggregate kilns is revised to 0.20 ng TEQ/dscm or rapid quench of the combustion gas temperature at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) to 400°F or lower. This interim emission standard for dioxin and furans preserves the intent of the standard promulgated on September 30, 1999. That is, the temperature limitation of 400°F ensures that each lightweight aggregate kiln will be operating, at a minimum, consistent with sound operational practices for controlling dioxin and furan emissions. Accordingly, we are revising §§ 63.1205(a)(1) and (b)(1). We are also revising the mercury standard for new and existing sources of §§ 63.1205(a)(2) and (b)(2) to 120 μg/dscm. Finally, we are revising the hydrochloric acid/chlorine gas standard for new and existing lightweight aggregate kilns to 600 ppmv. See revised §§ 63.1205(a)(6) and (b)(6).

We are also correcting two typographic errors in § 63.1205(c)(2). In the second sentence of this paragraph, we are replacing the word ''tetro-'' with the word ''tetra-.'' We are also inserting the word ''to'' before the word ''calculate'' in the third sentence of the paragraph.

Finally, we are providing the same alternative means for new and existing lightweight aggregate kilns to comply with the interim mercury standard as finalized in today's rule for cement kilns (discussed above). Under this alternative, new and existing lightweight aggregate kilns are allowed to comply with a hazardous waste maximum theoretical emissions concentration of mercury of 120 μg/dscm. See § 63.1206(b)(15).

We are today repromulgating § 63.1205 with these changes, as summarized below.

INTERIM STANDARDS FOR EXISTING AND NEW LIGHTWEIGHT AGGREGATE KILNS

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Dioxin/Furan	0.20 ng TEQ/dscm; or rapid quench of the flue gas at the exit of the kiln to less than 400°F.	0.20 ng TEQ/dscm; or rapid quench of the flue gas at the exit of the kiln to less than 400°F.
Mercury	120 μg/dscm	120 μg/dscm.
Particulate Matter	57 mg/dscm (0.025 gr/dscf)	57 mg/dscm (0.025 gr/dscf).
Semivolatile Metals [2]	250 μg/dscm	43 μg/dscm.
Low Volatile Metals [3]	110 μg/dscm	110 μg/dscm.
Hydrochloric Acid/Chlorine Gas	600 ppmv	600 ppmv.
Hydrocarbons [2 3]	20 ppmv (or 100 ppmv carbon monoxide)	20 ppmv (or 100 ppmv carbon monoxide).

INTERIM STANDARDS FOR EXISTING AND NEW LIGHTWEIGHT AGGREGATE KILNS—Continued

Hazardous air pollutant or hazardous air pollutant surrogate	Interim emission standard [1]	
	Existing sources	New sources
Destruction and Removal Efficiency	For existing and new sources, 99.99% for each principal organic hazardous constituent (POHC) designated. For sources burning hazardous wastes F020, F021, F022, F023, F026, or F027, 99.9999% for each POHC designated.	

[1] All emission levels are corrected to 7% O_2, dry basis.
[2] Hourly rolling average. Hydrocarbons are reported as propane.
[3] Lightweight aggregate kilns that elect to continuously comply with the carbon monoxide standard must demonstrate compliance with the hydrocarbon standard of 20 ppmv during the comprehensive performance test.

II. What Are the Revisions to the Startup, Shutdown, and Malfunction Requirements?

The September 1999 final rule requires compliance with the emission standards and operating requirements at all times that hazardous waste is in the combustion system (i.e., before the hazardous waste residence time has transpired), including during startup, shutdown, and malfunctions. See § 63.1206(b)(1)(i). This requirement was intended to create an incentive to minimize exceedances when burning hazardous waste during startup, shutdown, and malfunctions. For example, to minimize the frequency and severity of exceedances during malfunctions, you could take various measures including providing for spare parts and redundant systems.

Industry stakeholders note that requiring compliance with emission standards and operating requirements during startup, shutdown, and malfunctions is inconsistent with the General Provisions of Subpart A, Part 63, that apply to MACT sources.[6] Although requirements for particular source categories can be more or less stringent than the General Provisions (which provisions serve as a default), stakeholders state that requiring compliance with emission standards and operating requirements during malfunctions is not appropriate. The purpose of the startup, shutdown, and malfunction plan required under § 63.1206(c)(2), and by reference § 63.6(e)(3), is: (1) To ensure that the combustor, including emission control equipment, is operated and maintained in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by the standards; (2) to ensure that owners and operators are prepared to correct malfunctions as soon as practicable; and (3) to minimize the reporting burden associated with excess emissions. Stakeholders conclude that it is inappropriate to penalize a source for exceeding emission standards and operating requirements during malfunctions because some exceedances are unavoidable and they are already required to take the corrective measures prescribed in the startup, shutdown, and malfunction plan to minimize emissions.

In response to stakeholder concerns, today's rule: (1) Exempts you from the Subpart EEE emission standards and operating requirements during startup, shutdown, and malfunctions; (2) continues to subject sources to RCRA requirements during malfunctions, unless they comply with alternative MACT requirements including expanding the startup, shutdown, and malfunction plan to minimize the frequency and severity of malfunctions, and submit the plan to the delegated CAA authority for review and approval; (3) continues to subject sources that burn hazardous waste during startup and shutdown to RCRA requirements for startup and shutdown, unless they comply with alternative MACT requirements, and requires them to include waste feed restrictions and operating conditions and limits in the startup, shutdown, and malfunction plan; (4) requires sources to include in the startup, shutdown, and malfunction plan a requirement to comply with the automatic hazardous waste feed cutoff system during startup, shutdown, and malfunctions; and (5) makes conforming revisions to the emergency safety vent opening requirements.

A. What Are the Revised Requirements for Malfunctions?

We agree with stakeholders that the startup, shutdown, and malfunction plan should minimize emissions during malfunctions and are revising the rule to conform with the General Provisions. The revised rule exempts you from the MACT emission standards and operating requirements during startup, shutdown, and malfunctions, even if hazardous waste is in the combustion system during such events. See revised § 63.1206(b)(1)(i).

We are concerned, however, that even though following the corrective measures in response to malfunctions that you prescribe in the startup, shutdown, and malfunction plan should minimize emissions during these events, the plan may not minimize the frequency and severity[7] of exceedances, and thus may not minimize emissions from these events. In other words, the startup, shutdown, and malfunction plan is largely reactive to malfunctions rather than proactive. Thus, we are concerned that our RCRA mandate to ensure protection of human health and the environment may not be achieved without additional controls. In fact, existing RCRA regulations require compliance with emission standards and operating requirements at all times that hazardous waste is in the combustion chamber (see § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns), and EPA has found that this provision is necessary to protect human health and the environment.[8] Thus, any replacement to the existing standards must (at a minimum) provide an equivalent degree of protection to satisfy RCRA requirements. Accordingly, today's rule gives you the option of complying with RCRA requirements or CAA requirements that achieve the equivalent objective of minimizing emissions during malfunctions.

We discuss below how these options work for various RCRA permitting situations.

1. Facilities With Existing RCRA Permits

When a source with a RCRA permit for the combustion unit documents

[6] Joint Brief of Industry Petitioners, US Court of Appeals for the District of Columbia Circuit, No. 99–1457 et al, *Cement Kiln Recycling Coalition, et al.,* v. *USEPA,* Aug. 16, 2000, p. 86.

[7] The duration and magnitude of excess emissions from a particular type of malfunction can be minimized by proactive as well as reactive measures.

[8] Specific hazardous wastes under specific conditions may be exempt from the emission standards and operating requirements, however. See § 264.340(c) for incinerators, and §§ 266.108 and 266.109 for cement and lightweight aggregate kilns.

compliance with the MACT standards and requests that duplicative permit conditions be removed from the permit, the source must comply with one of the following options to minimize emissions during malfunctions: (1) The requirements of § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns; or (2) revised RCRA permit conditions that minimize emissions from malfunctions; or (3) the procedures you prescribe in a startup, shutdown, and malfunction plan that is expanded to be proactive as well as reactive to minimize emissions from malfunctions,[9] and that is subject to review and approval by the delegated CAA authority. See new § 270.235(a)(1). We have also made conforming revisions to §§ 264.340(b)(1), 265.340(b)(1), 266.100(b)(2)(i), 270.19(e), 270.22 (introductory text), 270.62 (introductory text), and 270.66 (introductory text) to require compliance with §§ 264.345(a) and 266.102(e)(1) only during malfunctions and only if you elect the option that requires compliance with those provisions (i.e., § 270.235(a)(1)(i)).

Similarly, the rule requires sources that are being reissued a RCRA permit for the combustion unit (and that have documented compliance with the MACT standards) to comply with options that parallel those discussed above to minimize emissions during malfunctions. See new §§ 270.235(a)(2).

a. How Does the RCRA Option Work to Minimize Emissions during Malfunctions? Under the RCRA option to minimize emissions during malfunctions, a source with a RCRA permit (and that has documented compliance with the MACT standards) and that is requesting that duplicative RCRA permit conditions be removed from the permit must either: (1) Remain subject to the RCRA permit conditions implementing § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns during malfunctions[10] while hazardous waste is in the combustion chamber; or (2) request that the current RCRA permit conditions be revised to provide alternative means of ensuring that emissions from malfunctions are minimized.[11] [12] See new §§ 270.235(a)(1)(i) and (a)(1)(ii).

The rule allows you to revise the current RCRA permit conditions to control emissions during malfunctions because, for example, you may want to request to comply with a subset of your existing permit conditions, or you may want to request to comply with a limit on the number of exceedances during malfunctions when hazardous waste is in the combustion chamber in lieu of complying with all of the RCRA emission standards and associated operating limits during malfunctions.

Under this option when you request to revise your RCRA permit conditions, the permit writer will consider information including whether your startup, shutdown, and malfunction plan is both proactive and reactive, and the source's design and operating history. Because the permit writer's decision to revise your permit conditions addressing emissions from malfunctions is based, in part, on review of the startup, shutdown, and malfunction plan and the design of the source, the rule also requires that you notify the delegated RCRA authority in writing within 5 days of making a change to the plan or design of the source that may significantly increase emissions of toxic compounds[13] from malfunctions. In addition, you must recommend revisions to permit conditions necessary as a result of the change to minimize emissions of toxic compounds from malfunctions. The delegated RCRA authority may revise the permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized from malfunctions upon permit renewal, or if warranted, by modifying the permit under §§ 270.41(a) or 270.42.

A source that is being reissued a permit for the combustor (and that has documented compliance with the MACT standards) must address RCRA permit conditions to control emissions during malfunctions under any of three options that parallel those discussed above for a permitted source that is requesting that duplicative RCRA permit conditions be removed from the permit. See new § 270.235(a)(2). Under ''RCRA Option A,'' the delegated RCRA authority will include in the (reissued) permit conditions that ensure compliance with § 264.345(a) for incinerators and § 266.102(e)(1) for cement and lightweight aggregate kilns during malfunctions. See § 270.235(a)(2)(i). Under ''RCRA Option B,'' the delegated RCRA authority will include in the permit conditions that ensure emissions of toxic compounds are minimized from malfunctions. These permit conditions could be a subset of the permit conditions that would be required to comply with §§ 264.345(a) or 266.102 (e)(1). Because permit officials will consider information including the startup, shutdown, and malfunction plan, you must notify the delegated RCRA authority of changes to the plan that may significantly increase emissions of toxic compounds from malfunctions. The notification procedures and consideration of permit revisions as a result of changes to the plan are identical to those discussed above. See § 270.235(a)(2)(ii).

b. How Does the CAA Option Work to Minimize Emissions during Malfunctions? Under the CAA option, you must develop a proactive startup, shutdown, and malfunction plan and submit the plan to the delegated CAA authority for review and approval. Because the plan is both proactive and reactive, it is equivalent to the incentive provided by the RCRA options discussed above (i.e., exceedances of RCRA emission standards or associated operating limits while hazardous waste is in the combustion chamber is a violation) to minimize emissions of hazardous air pollutants from malfunctions when hazardous waste is in the combustion chamber.[14] Accordingly, for a source with a RCRA permit (and that has documented compliance with the MACT standards) that selects this option to address emissions during malfunctions, the delegated RCRA authority will remove relevant permit conditions addressing malfunctions when the source requests that duplicative RCRA permit conditions be removed from the permit. See § 270.235(a)(1)(iii). Similarly, for a source that is in a permit reissuance

[9] That is, the plan must identify actions you are taking to minimize the frequency and severity of malfunctions as well as the corrective measures you will take during a malfunction.

[10] When using the term ''malfunction'' with respect to RCRA requirements, we mean the definition of malfunction provided by § 63.2.

[11] Please note a change to the design or operation of the combustor that could increase emissions of toxic compounds from burning hazardous waste during malfunctions must be approved through a permit modification under §§ 270.41(a) or 270.42. Under the permit modification, RCRA permit officials will determine whether the permit conditions relevant to controlling emissions from malfunction must be revised.

[12] When retaining or revising RCRA permit conditions to control emissions during malfunctions, the delegated RCRA authority will ensure that the permit contains only those conditions relevant to controlling emissions during malfunctions. For example, under the option where RCRA permit conditions are revised, the permit could retain a subset of the RCRA emission standards and operating limits necessary to comply with §§ 264.345(a) and 266.102(e)(1) during malfunctions. But, permit officials could also consider whether the RCRA monitoring, recordkeeping and reporting requirements should be revised to be more consistent with the MACT requirements.

[14] Please note RCRA permit writers also generally require owners and operators to take proactive measures to minimize emissions from malfunctions.

proceeding (and that has documented compliance with the MACT standards) and that selects this option to address emissions during malfunctions, the delegated RCRA authority will omit from the permit conditions addressing malfunctions upon permit reissuance. See § 270.235(a)(2)(iii).

To implement this option, you include in the startup, shutdown, and malfunction plan a description of potential causes of malfunctions and actions you are taking to minimize the frequency and severity of malfunctions. See revised § 63.1206(c)(2)(ii). You may develop a fault tree analysis, for example, to identify malfunctions and develop measures to minimize the frequency and severity of those malfunctions. Examples of measures would be providing spare parts and redundant systems.

In addition, you must submit the startup, shutdown, and malfunction plan to the delegated CAA authority for review and approval to ensure that it is complete and both proactive and reactive to minimize emissions of hazardous air pollutants from malfunctions. The delegated CAA authority also will ensure that the potential malfunctions identified in the plan are bona fide malfunctions. Malfunctions are events that are a sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless or improper operation (including improper or inadequate characterization of feedstreams) are not malfunctions.[15] See definition of malfunction in § 63.2.

The procedures for approving the startup, shutdown, and malfunction plan provide you the opportunity to revise the plan if the delegated CAA authority intends to disapprove the plan. The delegated CAA authority will notify you of approval or intention to deny approval within 90 calendar days after receipt of the approval request, and within 60 calendar days after receipt of any supplemental information that you submit. Before disapproving the plan, the delegated CAA authority will notify you of the intention to disapprove the plan together with the basis for intending to disapprove the plan and notice of opportunity for you to present additional information before final action on disapproval of the plan.

Further, if you change the plan in a manner that may significantly increase emissions of hazardous air pollutants from malfunctions, you must request approval from the delegated CAA authority within 5 days after making the change, under the same procedures described above for initial approval of the plan.

2. Interim Status Facilities

Sources operating under the interim status standards of Part 265, Subpart O, or § 266.103 must comply with either of the following options to minimize emissions during malfunctions after they document compliance with the MACT standards by conducting a comprehensive performance test and submitting a Notification of Compliance: (1) A RCRA option where the source continues to comply with the interim status emission standards and operating requirements relevant to control of emissions from malfunctions and where those standards and requirements apply only during malfunctions; or (2) a CAA option where the owner or operator is exempt from the interim status standards relevant to control of emissions of toxic compounds during malfunctions upon submittal of written notification and documentation to the delegated RCRA authority that the startup, shutdown, and malfunction plan has been approved by the Administrator. See new § 270.235(b)(1). These options parallel the options discussed above and work as discussed above.

When a source operating under the interim status standards of Part 265, Subpart O, or § 266.103 (and that has documented compliance with the MACT standards) submits a RCRA permit application, the source must comply with one of the three options provided for sources that are being reissued a RCRA permit, as discussed above. See new § 270.235(b)(2). These situations are analogous because the source is being issued a new permit in both cases.

B. Why Does the Revised Rule Require You To Include the Automatic Waste Feed Cutoff Requirements in the Startup, Shutdown, and Malfunction Plan?

We are revising the rule to require compliance with the automatic waste feed cutoff requirements during malfunctions. You must include the automatic waste feed cutoff requirements in the startup, shutdown, and malfunction plan by reference. This requirement applies irrespective of whether you choose the RCRA or CAA approach under § 270.235 to minimize emissions from malfunctions, as discussed above.

We conclude that compliance with the automatic waste feed cutoff requirements is necessary to comply with § 63.6(e)(3)(i)(A) which requires you to operate in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards. Good operating practices during a malfunction includes cutting off the hazardous waste feed.

An exceedance of a Subpart EEE emission standard or operating requirement during a malfunction identified in your startup, shutdown, and malfunction plan would not be a violation, however, provided that you followed the corrective measures prescribed in a plan that meets the requirements of § 63.6(e)(3).

In addition, today's rule requires you to reevaluate your startup, shutdown, and malfunction plan if you experience 10 exceedances of a Subpart EEE emission standard or operating parameter limit during malfunctions in a 60-day block period while hazardous waste remains in the combustion chamber (i.e., when the hazardous waste residence time has not transpired). You must complete, within 45 days of the 10th exceedance, an investigation of the cause of each exceedance and evaluation of approaches to minimize the frequency, duration, and severity of each exceedance, and revise the startup, shutdown, and malfunction plan as warranted by the evaluation. Finally, you must record the results of the investigation and evaluation in the operating record and include a summary of the findings, and any changes to the startup, shutdown, and malfunction plan, in the excess emissions report required under § 63.10(e)(3).

C. What Are the Revised Requirements for Burning Hazardous Waste During Startup and Shutdown?

As discussed above, the revised rule exempts you from the MACT emission standards and operating requirements during startup, shutdown and malfunctions. See revised § 63.1206(b)(1)(i). We are concerned, however, that burning hazardous waste during startup and shutdown can be problematic. During startup and shutdown, a combustor is not operating under steady-state conditions. For example, the combustion chamber temperature fluctuates during startup and shutdown and at times will be lower than required to achieve good combustion and minimize emissions of

[15] Operations during a failure that are not malfunctions are subject to the applicable emission standards and operating requirements of Subpart EEE. See § 63.1206(b)(1)(i). Thus, an exceedance of an applicable emission standard or operating limit as a result of a failure that is not a malfunction is a violation irrespective of whether hazardous waste is in the combustion chamber.

organic hazardous pollutants. Because hazardous waste combustors can burn fuels that are not hazardous wastes (e.g., fossil fuel) during startup and shutdown, it generally is not appropriate to burn hazardous waste at these times. Accordingly, RCRA regulations require compliance with the RCRA emission standards and operating limits during startup and shutdown (which, as a practical matter, prohibits burning hazardous waste at these times), except for only one or two narrow exemptions. See § 264.345(c) for incinerators and § 266.102(e)(2)(iii) for cement and lightweight aggregate kilns.

By exempting you from the MACT emission standards and operating requirements during startup and shutdown (and malfunctions), today's revised rule allows you to continue burning those specific hazardous wastes that are currently allowed under RCRA to be burned during startup and shutdown. This is reasonable because there may be situations where burning hazardous wastes containing low levels of toxic compounds during startup and shutdown may result in equivalent or lower emissions of hazardous air pollutants than burning fossil fuels. For example, hazardous spent solvents may combust more completely during startup and shutdown than coal or No. 6 fuel oil which is the alternative fuel for many combustors. In these situations, you may be able to burn hazardous waste during startup and shutdown while meeting the requirements of § 63.6(e)(3)(i)(A) (which requires you to operate at all times in a manner consistent with good air pollution control practices for minimizing emissions at least to levels required by all relevant standards).

Given that today's rule exempts you from the MACT emission standards and operating requirements during startup and shutdown, the rule provides the following alternative requirements for sources that burn hazardous waste during startup and shutdown. When a source with a RCRA permit for the combustion unit documents compliance with the MACT standards and requests that duplicative permit conditions be removed from the permit, the source must comply with one of the following options to minimize emissions during startup and shutdown: (1) the requirements of § 264.345(c) for incinerators and § 266.102(e)(2)(iii) for cement and lightweight aggregate kilns restricting the types of hazardous waste that can be burned during startup and shutdown; or (2) revised RCRA permit conditions that meet the objective of those provisions (i.e., to minimize emissions during startup and shutdown); or (3) the waste feed restrictions (e.g., type and quantity) and other operating conditions and limits that you include in the startup, shutdown, and malfunction plan, which is subject to review and approval by the delegated CAA authority. See new § 270.235(a)(1).[16] We have made conforming revisions to §§ 264.340(b)(1), 265.340(b)(1), 266.100(b)(2)(i), 270.19(e), 270.22 (introductory text), 270.62 (introductory text), and 270.66 (introductory text) to require compliance with §§ 265.345(c) and 266.102(e)(1) only during startup and shutdown and only if you elect the option that requires compliance with those provisions (i.e., § 270.235(a)(1)(i)).

Thus, similar to the requirements for malfunctions, today's rule gives you the option of using either a RCRA or CAA approach to ensure that you minimize emissions from startup and shutdown. These options work as discussed above for malfunctions. You may retain or revise your RCRA permit requirements that control emissions during startup and shutdown, or, under the CAA option, you may request that the RCRA permit requirements be deleted.

The rule also requires you to comply with the automatic waste feed cutoff system to minimize emissions during startup and shutdown. See § 63.1206(c)(2)(v)(B). You must interlock operating limits you establish to minimize emissions during startup and shutdown with the automatic waste feed cutoff system. To implement this requirement, you must include the waste feed restrictions (e.g., type and quantity) and other operating conditions and limits that are necessary to minimize emissions while feeding waste during startup and shutdown. See § 63.1206(c)(2)(v)(B)(*1*).

Finally, the rule allows sources in other RCRA permitting situations to comply with RCRA options or a CAA option to minimize emissions during startup and shutdown after they document compliance with the MACT standards. These situations are: (1) Permit reissuance; (2) complying with MACT while operating under RCRA interim status; and (3) interim status sources submitting a RCRA permit application. The RCRA and CAA options for these situations are identical to those discussed above to control emissions during malfunctions.

D. What Are the Conforming Revisions to the Emergency Safety Vent Opening Requirements?

Emergency safety vents are designed to allow combustion gases to bypass the emission control system during emergencies to preclude catastrophic consequences such as explosions or fires in the emission control equipment. We are revising the emergency safety vent opening requirements under § 63.1206(c)(4) to conform to the revisions to the startup, shutdown, and malfunction plan requirements. Under today's revision, the MACT emission standards and operating requirements do not apply to openings that occur as a result of a malfunction. See revised § 63.1206(b)(1)(i).

In addition, we are revising the rule to no longer presume that an emergency safety vent opening under operations other than a malfunction defined in the startup, shutdown, and malfunction plan (i.e., when the emission standards and operating requirements continue to apply) is evidence of failure to comply with an emission standard. See revised § 63.1206(c)(4)(i). For example, if feedrates of metals and chlorine were well below their limits when the safety vent opened under operations other than a malfunction, the metals and chlorine emission standards may not be exceeded. Rather, the revised rule places the burden on you to document in the operating record whether you remain in compliance with the emission standards when the emergency safety vent opens. In addition, as required by the current rule, you must submit to the delegated CAA authority a written report within 5 days of an ESV opening that results in failure to meet the emission standard documenting the result of the investigation of the cause of the opening and corrective measures taken. See §§ 62.1206(c)(4)(iii) and (iv).

III. What Changes Are We Making to the Performance Testing Requirements for the Interim Standards Rule?

We are amending three performance test provisions in today's rule. First, we are revising the ''data in lieu of the initial comprehensive performance test'' provision to allow you to submit test data irrespective of when the test was conducted. Second, we are amending the comprehensive performance testing frequency provisions such that you will only be required to conduct one comprehensive performance test for the interim standards. Third, we are not requiring you to conduct dioxin/furan

[16] Please note § 63.1206(c)(2)(v)(B) requires sources that feed hazardous waste during startup or shutdown to include waste feed restrictions and other appropriate operating conditions and limits in the startup, shutdown, and malfunction plan irrespective of which option the source selects to minimize emissions during those events. Under the RCRA options for controlling emissions during startup and shutdown, however, you are not required to submit the startup, shutdown, and malfunction plan to the delegated CAA authority for review and approval.

confirmatory tests for the interim standards. See revised § 63.1207(c) and (d).

A. Why Are We Revising the Data in Lieu Provisions?

The September 1999 final rule allows you to request that previous emissions test data serve as documentation of conformance with the emission standards provided that the previous testing was initiated after March 30, 1998 and provided the data is sufficient to establish appropriate operating parameter limits. This date was subsequently changed to March 30, 1999 as a result of extending the compliance date one year. See 66 FR 63313. Today we are amending this requirement to allow you to submit test data even though the testing was initiated prior to March 30, 1999, i.e., prior to four years and eight months before the compliance date.

Stakeholders indicated that some sources have emissions data that were collected before March 30, 1999 that could be used to demonstrate compliance with the MACT standards and establish appropriate operating limits. Stakeholders reason that the age restriction on data-in-lieu emissions tests should be waived for the initial test in order to counter the additional costs associated with having to comply with two potentially different sets of emission standards at different times. We agree, noting that these sources were in compliance with the MACT standards well before the compliance date. However, we emphasize that, consistent with the existing requirements, these data must: (1) meet the appropriate quality assurance objectives; (2) originate from testing conditions that satisfy the operating condition requirements of § 63.1207(g)(1); and (3) be sufficient to establish all appropriate operating parameter limits required pursuant to § 63.1209.

B. Why Are We Waiving Periodic Comprehensive Performance Testing Under the Interim Standards?

The September 1999 final rule requires you to begin subsequent comprehensive testing no later than 61 months after the date of commencing the initial comprehensive performance test. Today we are waiving the requirement to conduct periodic comprehensive performance testing for the interim standards. You are required to conduct only one comprehensive performance test for the duration of the interim standards. See new § 63.1207(d)(4)(i).

Pursuant to the settlement agreement with the Sierra Club (see 66 FR 57715, November 16, 2001), EPA must promulgate permanent standards that replace today's interim standards no later than June 14, 2005. Following this schedule, your new compliance date for the replacement standards could be approximately June of 2008, in which case you would have to conduct your test to demonstrate compliance with these replacement standards no later than June of 2009.[17] This would roughly coincide with the deadline for conducting your second comprehensive performance test under today's interim standards, absent today's revision.

We conclude that a second interim standards comprehensive test would not be needed given that, by that time, the interim standards will have already been replaced with the permanent replacement standards. It would not be appropriate to require you to prepare (e.g., submit a performance test plan a year in advance of the scheduled test date) to conduct a second compliance test under today's interim standards that no longer apply while also requiring you to prepare to conduct the initial compliance test for the replacement standards shortly thereafter. We conclude this amendment is necessary to assure a smooth transition between the interim standards and the permanent replacement standards.

C. Why Are We Waiving the Dioxin/Furan Confirmatory Test Under the Interim Standards?

The September 1999 final rule requires you to begin your initial dioxin/furan confirmatory test no later than 31 months after the date of commencing your initial comprehensive performance test. Today we are waiving the dioxin/furan confirmatory performance testing requirement under the interim standards. See new § 63.1207(d)(4)(ii). You are not required to conduct a confirmatory compliance test while the interim standards are in effect.

Absent this amendment, you would have to commence your first confirmatory compliance test under the interim standards no later than October of 2006. As discussed above, we project that the compliance date for the standards that will replace today's interim standards could be about June of 2008. Some sources may be in process of upgrading their facility in October of 2006 to comply with the permanent replacement standards. We conclude that it would be problematic to require sources to simultaneously upgrade their facility and conduct a dioxin/furan confirmatory compliance test under the interim standards. Thus, to conclude that exempting sources from the confirmatory compliance test requirements while the interim standards are in effect is reasonable and appropriate.

IV. Why Are We Deleting the Minimum Power Requirement for Ionizing Wet Scrubbers?

Today's rule deletes the limit on minimum total power to an ionizing wet scrubber. See § 63.1209(m)(1)(i)(D). Until we promulgate compliance assurance procedures for ionizing wet scrubbers, sources and permitting officials should use the alternative monitoring provisions of § 63.1209(g) to identify appropriate controls on a site-specific basis.

On May 14, 2001, we issued a final rule implementing, among other things, a court order to vacate operating parameter limits for electrostatic precipitators and baghouses. 66 FR at 24272. The Agency voluntarily requested that the Court vacate the operating parameter limits at §§ 63.1209(m)(1)(ii) and (m)(1)(iii) because the Agency inadvertently did not provide opportunity for public comment on revisions to the proposed operating parameter limits.

One of the vacated operating parameter limits was a limit on minimum secondary power to each field of an electrostatic precipitator. We had proposed a minimum limit on only total secondary power to the precipitator in May 1996. But, we determined after review of comments and further investigation that a limit on minimum total power will not ensure that collection efficiency of a multistage electrostatic precipitator is maintained. Rather, we concluded that a limit on minimum secondary power to each field of the precipitator is needed. Consequently, we declined to replace the vacated minimum limit on power to each field of the precipitator with a limit on total power to the precipitator, as originally proposed. Subsequently, in July 2001, we proposed to reinstate the limit on minimum secondary power to each field of the precipitator, but also discussed other compliance assurance alternatives that may provide equivalent or better compliance assurance, and requested comment on those alternatives. 66 FR at 35143–35144.

In the July 3, 2001 proposal regarding compliance assurance approaches for electrostatic precipitators, we

[17] This assumes sources will be allowed to conduct the comprehensive performance test not later than one year after the compliance date for the permanent replacement standards.

inadvertently neglected to propose to delete the minimum total power operating parameter limit for ionizing wet scrubbers at § 63.1209(m)(1)(i)(D) and propose those same compliance assurance alternatives for ionizing wet scrubbers. An ionizing wet scrubber is essentially an electrostatic precipitator integrated with a packed bed scrubber where particulate matter is collected on both the plates of the precipitator and the bed packing material.

Today's final rule simply deletes the requirement to establish an operating limit on minimum total power to an ionizing wet scrubber at § 63.1209(m)(1)(i)(D). We are not replacing the total power limit with a limit on minimum power to each field of the ionizing wet scrubber, as we proposed on July 3, 2001 for electrostatic precipitators, because we need additional time to review and evaluate comments received on the compliance assurance alternatives we discussed in that proposal. Until we promulgate compliance assurance requirements for ionizing wet scrubbers and electrostatic precipitators, sources and regulatory officials should use the alternative monitoring provisions under § 63.1209(g) to establish appropriate compliance requirements on a site-specific basis.

V. What Are the Monitoring Requirements for Carbon Beds?

We are deleting the requirement to establish a limit on the useful life of a carbon bed or bed segment and associated requirements to verify compliance with the dioxin/furan (and mercury) emission standard prior to the end of the life of the bed. See (deleted) § 63.1209(k)(7)(i). In lieu of that requirement, the revised rule requires you to monitor performance of the bed according to manufacturer's specifications to ensure that the bed has not reached the end of its useful life.

The existing rule allowed you to use the manufacturer's specification to establish the limit on carbon bed age rather than the actual age of the bed during the performance test when demonstrating compliance with the dioxin/furan (and mercury) emission standard during the initial comprehensive performance test. If you used the manufacturer's specification for bed age, you were required to recommend in the initial comprehensive performance test plan a schedule for subsequent dioxin/furan emissions testing to demonstrate that the initial limit on maximum bed age ensures compliance with the dioxin/furan (and mercury) emission standard.

In response to stakeholders' concerns with the existing rule, we proposed amendments to these provisions to clarify our intent regarding confirmatory testing to verify compliance with the dioxin/furan emission standard prior to the end of the bed's life. See 66 FR at 35141–35142 (July 3, 2001).

Several commenters state that the proposed requirement to perform confirmatory testing to verify that the source is in compliance with emission standards at the manufacturer's recommended bed age may be burdensome and unnecessary. Emissions testing to confirm bed age may either require testing in addition to periodic comprehensive performance testing and dioxin/furan confirmatory testing or that a source replace the bed on the anniversary of the comprehensive performance test or the dioxin/furan confirmatory test, even though the manufacturer may recommend a longer bed life.

In addition, one commenter is concerned that infrequent (e.g., once every several years) emissions testing to confirm compliance with the dioxin/furan and mercury emissions standards does not ensure the carbon bed is operated and maintained ''in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by all relevant standards,'' as required by § 63.6(e)(3)(i)(A). The commenter recommends use of manufacturer's specifications and recommendations for periodic, frequent monitoring to ensure the bed is performing as designed.

We agree with commenters and are deleting the requirement to establish a limit on maximum bed life and the associated requirement to conduct emissions testing to confirm compliance with the dioxin/furan and mercury standards.[18] Instead, we are substituting the following requirements consistent with the comments we received. You must: (1) Monitor performance of the carbon bed consistent with manufacturer's specifications to ensure the carbon bed (or bed segment for beds with multiple segments) has not reached the end of its useful life to minimize dioxin/furan and mercury emissions at least to the levels required by the emission standards; (2) document the monitoring procedures in the operation and maintenance plan; (3) record results of the performance monitoring in the operating record; and (4) replace the bed or bed segment before it has reached the end of its useful life. See revised § 63.1209(k)(7)(i) and conforming revisions to § 63.1209(l)(4).

VI. Can a Source Be Granted an Extension of Compliance for the Interim Standards?

As a result of the uncertainty created by the Court's opinion, we previously determined that it was not appropriate to require sources to comply with the regulatory schedule promulgated in the September 30, 1999 rule. Accordingly, we recently extended the compliance date requirement of § 63.1206(a) for one year until September 30, 2003. See 66 FR 63313 (December 6, 2001). We are clarifying today that the recent change to the compliance date requirements of § 63.1206(a) do not preclude a source from requesting an extension of compliance with the emission standards as provided in §§ 63.6(i) and 63.1213. See § 63.1206(b)(4). Sections 63.6(i) and 63.1213 allow the Administrator or State with an approved title V program to grant an extension of compliance of up to one year for a source that cannot complete system retrofits or pollution prevention and waste minimization measures by the compliance date despite a good faith effort to do so.

VII. Why Are We Repromulgating the Hourly Rolling Average Temperature Limit at a Dry Particulate Matter Control Device To Control Dioxin/Furan Emissions?

The provision finalized in the September 1999 rule that requires you to maintain compliance with the dioxin/furan emission standard by operating under a maximum temperature limit at the inlet to the dry particulate matter control device based on a one-hour rolling average was challenged and briefed by Industry in the *Cement Kiln Recycling Coalition* litigation.[19] Given that the challenged provisions will be vacated when the Court issues its mandate, we are repromulgating this compliance provision, consistent with our approach of repromulgating the challenged emissions standards that were not revised. See § 63.1209(k)(1) and preamble discussion in Part Two, Section I.

As we explained in detail in the record to the September 1999 rule, this

[18] Note that this amendment does not alter the requirement to demonstrate compliance with all emission standards every five years (i.e., comprehensive performance testing), and the requirement to confirm compliance with the dioxin/furan emission standard midway between comprehensive performance tests (i.e., confirmatory performance testing). The amendment simply deletes the potentially additional dioxin/furan (and mercury) emission test prior to the end of the manufacturer's recommended life of the carbon bed to verify compliance with those emission standards.

[19] Joint Brief of Industry Petitioners, US Court of Appeals for the District of Columbia Circuit, No. 99–1457 et al, Cement Kiln Recycling Coalition, et al., v. USEPA, Aug. 16, 2000.

monitoring requirement is needed to assure that the emission standard is not exceeded. It is well-established that the relationship between dioxin/furan formation and temperature at the inlet to a dry particulate matter control device (e.g., fabric filter, electrostatic precipitator) is non-linear and exponential; that is, dioxin formation increases at a faster rate than temperature. Thus, an increase in temperature above the site-specific limit will increase formation of dioxin more than an equal reduction below the limit will reduce dioxin formation (and consequently emissions at lowered temperature will not balance out those emitted at the higher temperature). See generally Technical Support Document Vol. 4 chapters 2 and 3.[20] We consequently view the monitoring requirement as a form of enhanced monitoring required by section 114 (a)(3) of the Act to ''provide a reasonable assurance of compliance with emission standards.'' *NRDC* v. *EPA,* 194 F. 3d 130, 136 (D.C. Cir. 1999).

We noted in the July 3, 2001 proposed rule that we do not view the temperature monitoring requirement as being an amendment to the standard. See 66 FR at 35138 n. 20. One commenter, however, reiterated claims briefed in the *Cement Kiln Recycling Coalition* litigation maintaining that requiring sources to establish a limit on maximum temperature at the inlet to a dry particulate matter control device to control dioxin/furan emissions on an hourly rolling average effectively amends the standard. We disagree.

Compliance with dioxin/furan emission standard is demonstrated by stack emissions testing. Neither the standard nor the stack test method prescribes any particular averaging time, or other monitoring regime, for achieving a temperature level. Therefore, using a one-hour averaging time does not amend the standard.

However, even if (against our view) the requirement to monitor temperature on an hourly rolling average is considered a change to the emission standard, it can be justified as a beyond the floor standard under CAA section 112 (d) (2). First, the standard is readily achievable technically. Spray quenching, the means of control, merely requires turning of a control valve to allow quenching. 4 TSD at 2–16. Operators can readily determine when quenching is needed, since thermocouples report instantaneous temperature changes, allowing immediate reaction to temperature changes. 4 TSD at 2–10. Second, we have already considered this cost (i.e., the cost of spray quenching) in determining the standards for HWCs. We do not believe that there would be any incremental cost associated with the one-hour averaging requirement, because it is based on the same spray quenching technology which is the basis for the standards already adopted. We also included the cost of controlling spray quenching to meet the one-hour monitoring requirement in assessing costs of the September 1999 rule, and regard these costs as reasonable. See generally Technical Support Document Volumes III, IV, and V. See also 64 FR at 52892 (finding that the cost of spray quenching technology for lightweight aggregate kilns is reasonable, in adopting the beyond-the-floor standard for dioxin). In addition, as explained above, the one-hour averaging requirement is needed to prevent exceedances of the emission standard itself, see 4 TSD at 2–8 to 2–9 and 3–8 to 3–9. Given dioxin/furan's extreme toxicity, costs are justified to assure that the emission limit is not exceeded. Finally, we do not believe there are any adverse non-air or energy impacts associated with the averaging requirement (and again, we have already assessed energy impacts and waste generation impacts of the standard when promulgating the standard in the first place). See generally Technical Support Document Vol. 5, ''Emissions Estimates and Engineering Costs'' (RC2F–S0011) chapter 10.

Part Three—What Are the Analytical and Regulatory Requirements?

I. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, EPA must determine whether a regulatory action is significant and, therefore, subject to comprehensive review by the Office of Management and Budget (OMB), and the other provisions of the Executive Order. A significant regulatory action is defined by the Order as one that may:

—Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
—Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
—Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or recipients thereof; or
—Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' because it raises novel legal or policy issues. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

The aggregate annualized social costs for this final rule are less than $100 million. Furthermore, this rule is not expected to adversely effect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The benefits to human health and the environment resulting from today's final action have not been fully monetized but are believed to be less than $100 million per year. Overall, the costs and benefits associated with this final Interim Standards Rule are essentially the same as those estimated for the September 30, 1999 rule. These impacts are discussed below in more detail.

II. What Are the Potential Costs and Benefits of Today's Final Rule?

The value of any regulatory action is traditionally measured by the net change in social welfare that it generates. This assumes full monetization of all relevant components. All other factors being equal, a rule that generates positive net welfare would be advantageous to society and should be promulgated, while a rule that results in negative net welfare to society should be avoided. In this Part we discuss the estimated costs and benefits of the interim standards.

Today's rule revises some emission standards and various other requirements promulgated in the September 30, 1999 rule. As discussed in Part Two, Section I of this action, while some of the emission standards are revised; most are retained as promulgated in that rule. In addition to modification of some standards, this rule provides cement and lightweight aggregate kiln sources the alternative to comply with the mercury standard by limiting the mercury content in the

[20] In light of this documented non-linear increase in CDD emissions, RCRA permit writers are cautioned to take this phenomenon into account in making risk determinations pursuant to the RCRA omnibus permitting provision. Cf. 64 FR at 52839–843 (description of the site specific risk assessment policy which implements the RCRA omnibus permitting provision, and its relationship to sources subject to the Hazardous Waste Combustor NESHAP).

hazardous waste to a certain level. Today's rule also includes revisions intended to reduce the potential for forfeited capital investments. This could occur if the future standards (i.e., the standards that will replace the interim standards) are substantially different (more stringent) than those established by this Interim Standards Rule. These changes include eliminating the requirement for confirmatory testing for dioxin and furans during the period that the interim standards are in effect; allowing the use of previously collected data to serve as documentation of compliance with the interim standards; and waiving all subsequent comprehensive performance tests (i.e., those after the initial comprehensive performance test) for the period that the interim standards are in effect. Finally, we are revising the startup, shutdown, and malfunction (SSM) provisions and emergency safety vent opening provisions.

In support of today's final rule we have developed preliminary cost and benefit estimates for the interim standards. These estimates, as presented below, are generalized quantified projections based on our findings as presented in the July 1999 *Assessment*[21], and the July 23 1999 *Addendum*[22]. We have not quantified impacts potentially associated with the other aspects of today's rule. Impacts associated with today's final rule will be fully characterized, modeled in detail, and incorporated as the baseline scenario in our analysis for the upcoming rule that will establish final standards.

Cost impacts (savings and increases) of the emission standards vary by source category. The interim standards for existing incinerators are identical to the standards promulgated in the September 30, 1999 rule. As a result, estimated impacts to existing incinerators are equivalent to the impacts presented in the *Addendum* to the September 30, 1999 rule. The interim emission standards for existing cement kilns are equivalent to the September 30, 1999 rule standards, except for semivolatile metals. The semivolatile metals emission standard in this Interim Standards Rule is increased from 240 μg/dscm to 330 μg/dscm. This change is estimated to result in a 5 percent decrease in total annual compliance costs for this source, as compared to costs presented in the *Addendum.* The interim emission standards for existing hazardous waste burning lightweight aggregate kilns are modified from the final rule standards for dioxin and furan, mercury, and hydrochloric acid/chlorine gas. Projected from the 1999 final rule baseline, these changes are estimated to reduce per system and aggregate annual compliance costs by about one-third for this source category.

The aggregate annualized social cost impacts associated with the interim standards reflect only a marginal reduction from the impacts associated with the September 30, 1999 rule. The total annualized social costs resulting from today's interim standards are estimated to range from $47 million to $60 million, with a high-end estimate of $74 million. The annualized social cost impacts of the September 30, 1999 rule were estimated to range from $50 to $61 million, with a high-end estimate of $75 million (See *Addendum* tables ADD–6, ADD–7, and ADD–8). All benefits associated with today's final rule have not been monetized. The *Addendum* estimated average monetized human health benefits of approximately $20 million per year[23] for selected primary pollutants. Approximately 90 percent of this total was derived from reductions in particulate matter emission levels. Since the particulate matter emission standard for each source category for the interim standards is unchanged, these estimated average monetized human health benefits are retained. Although not monetized, reduced lead exposure to children was another projected benefit. Ecological and waste minimization benefits were also anticipated as a result of the September 30, 1999 final rule[24]. While full monetization of all benefits (human health, ecological, waste minimization) is not feasible, we believe that these benefits justify the aggregate social costs. Overall, when projected from the September 30, 1999 baseline, aggregate annualized social costs for all sources are projected to decline by no more than 6 percent, while annual monetized plus non-monetized benefits may be only marginally reduced[25].

These findings are presented in more detail in the economic support document: *Preliminary Impacts Assessment—Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.* This document is available in the docket established for today's action.

III. What Consideration Was Given to Small Entities Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et. seq.?

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's final rule on small entities, a small entity is defined either by the number of employees or by the annual dollar amount of sales/revenues. The level at which an entity is considered small is determined for each NAICS code by the Small Business Administration (SBA).

The Agency has examined the potential effects today's final rule may have on small entities, as required by the RFA/SBREFA. We have determined that this action will not have a significant economic impact on a substantial number of small entities. This is evidenced by the fact that the small entity analysis conducted in support of the September 30, 1999 final rule[26] concluded that significant impacts would not occur on a substantial number of potentially impacted small entities. Today's action results in marginally reduced cost

[21] U.S. EPA, Office of Solid Waste, ''Assessment of the Potential Costs, Benefits, & Other Impacts of the Hazardous Waste Combustion MACT Standards: Final Rule'', July 1999.

[22] U.S. EPA, Office of Solid Waste, ''Addendum to the Assessment of the Potential Costs, Benefits, & Other Impacts of the Hazardous Waste Combustion MACT Standards: Final Rule,'' July 23, 1999.

[23] Undiscounted estimate for future cases avoided.

[24] See the July 1999 ''*Assessment*'' for a full discussion of these benefits.

[25] The majority of the cancer risk reductions were linked to the consumption of dioxin-contaminated agricultural products. The dioxin and furan standards in the Interim Standards Rule remain the same for incinerators and cement kilns and are modified slightly for lightweight aggregate kilns. Because baseline emissions of dioxin and furans from incinerators and cement kilns represent approximately 95 percent of the emissions from the three source categories combined, we estimate that most benefits discussed in the 1999 Assessment are retained.

Semivolatile metals are comprised of lead and cadmium. Lead exposure above certain levels has been linked to childhood IQ reductions and high blood pressure in adults. Potential benefits from reduced lead exposure were discussed but not monetized in the Addendum. Because approximately 70 percent of total semivolatile metals reductions (from all three source categories) were from incinerators, we estimate the semivolatile standard in today's Interim Standards Rule may correlate to marginally reduced lead benefits for children and/or adults.

[26] U.S. EPA, Office of Solid Waste, *Assessment of the Potential Costs, Benefits, & Other Impacts of the Hazardous Waste Combustion MACT Standards: Final Rule*, July 1999. Appendix G.

impacts, as measured from the September 30, 1999 findings. As such, it is logical to presume that impacts to small entities subject to rule requirements may be equivalent to the final rule impacts, or marginally reduced. After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

IV. Was the Unfunded Mandates Reform Act Considered in This Final Rule?

Executive Order 12875, ''Enhancing the Intergovernmental Partnership'' (October 26, 1993), calls on federal agencies to provide a statement supporting the need to issue any regulation containing an unfunded federal mandate and describing prior consultation with representatives of affected state, local, and tribal governments. Signed into law on March 22, 1995, the Unfunded Mandates Reform Act (UMRA) supersedes Executive Order 12875, reiterating the previously established directives while also imposing additional requirements for federal agencies issuing any regulation containing an unfunded mandate.

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any single year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final action is not subject to the relevant requirements of UMRA. This rule will not result in $100 million or more in expenditures. Applying the pre final rule baseline, total social costs for today's final action are estimated to range from $47 million to $60 million per year. Furthermore, today's rule is not subject to the requirements of section 203 of UMRA. Section 203 requires agencies to develop a small government Agency plan before establishing any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments. We have determined that this rule will not significantly or uniquely affect small governments.

V. Were Equity Issues and Children's Health Considered in This Final Rule?

By applicable executive order, we are required to consider the impacts of today's rule with regard to environmental justice and children's health.

(1) Executive Order 13045: ''Protection of Children From Environmental Health Risks and Safety Risks''

''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. Today's final rule is not subject to the Executive Order (EO) because it is not economically significant, as defined by EO 12866.

(2) Executive Order 12898: Environmental Justice

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population'' (February 11, 1994), is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. In response to Executive Order 12898, and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). We have no data indicating that today's final action would result in disproportionately negative impacts on minority or low income communities.

VI. What Consideration Was Given to Tribal Governments in This Final Rule?

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.''

Today's 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 the Order. Today's rule will not significantly or uniquely affect the communities of Indian tribal

governments, nor impose substantial direct compliance costs on them.

VII. Were Federalism Implications Considered in Today's Final Rule?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are 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.''

Today's final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this rule.

VIII. Were Energy Impacts Considered?

Executive Order 13211, ''Actions Concerning Regulations That Affect Energy Supply, Distribution, or Use'' (May 18, 2001), addresses the need for regulatory actions to more fully consider the potential energy impacts of the proposed rule and resulting actions. Under the Order, agencies are required to prepare a Statement of Energy Effects when a regulatory action may have significant adverse effects on energy supply, distribution, or use, including impacts on price and foreign supplies. Additionally, the requirements obligate agencies to consider reasonable alternatives to regulatory actions with adverse affects and the impacts the alternatives might have upon energy supply, distribution, or use.

Today's final rule is not likely to have any significant adverse impact on factors affecting the national energy supply. We believe that Executive Order 13211 is not relevant to this action.

IX. Paperwork Reduction Act

We have prepared an Information Collection Request (ICR) document (ICR No. 1773.06) listing the information collection requirements of this final rule, and have submitted it for approval to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* OMB has assigned a control number 2050–0171 for this ICR. A copy of this ICR may be obtained from Sandy Farmer, OPIA Regulatory Information Division, U.S. Environmental Protection Agency (2137), 1200 Pennsylvania Avenue, NW., Washington DC 20460, or by calling (202) 260–2740.

The public burden associated with this final rule (which is under the Clean Air Act) is projected to affect approximately 171 HWC units and is estimated to average 4.3 hours per respondent annually. The reporting and recordkeeping cost burden is estimated to average $252 per respondent annually. Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. That includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

X. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not require the implementation of new technical standards; 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.

XI. Is Today's Rule Subject to Congressional Review?

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of February 13, 2002. 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Part Four—What Are the State Authorization and Delegation Implications?

I. What Is the Authority for the Interim Standards Rule?

This rule revises the promulgated standards located at 40 CFR part 63, subpart EEE. As in the September 30, 1999 Final HWC NESHAP, we encourage State, Local, and Tribal (S/L/T) agencies to apply for delegation under CAA section 112. Additionally, this rule adds a new section (40 CFR 270.235) to the RCRA regulations to provide options for minimizing hazardous waste combustion emissions during startup, shutdown, and malfunction events.

II. How Is This Rule Delegated Under the CAA?

Section 112(l) of the CAA allows us to delegate authority to S/L/T programs to implement and enforce emission standards for pollutants subject to section 112 regulations. Thus, a S/L/T agency that receives 112(l) delegation can implement and enforce the revised emission standards and other revisions being made today. A S/L/T agency also can implement the revisions for Title V major sources (40 CFR 70.2) via their Title V authority because it is independent of their delegation status. By having an approved Title V program, the S/L/T agency has demonstrated that it has the legal authority, resources, and expertise to implement and enforce standards for section 112 pollutants.

As before, we encourage S/L/T agencies to apply for and receive 112(l) delegation for this rule. The key advantages afforded to S/L/T agencies who receive delegation are that they become the primary enforcement authority and can exercise delegable provision authorities. Additionally, it ensures clear and consistent requirements for affected sources and regulators. For example, a source need only report compliance assurance monitoring to its primary enforcement authority.

State, Local, and Tribal agencies still have the ability to choose which delegation options to use when applying for delegation of Federal authorities for this rule. The 112(l) delegation process begins when the S/L/T agency applies for delegation of a section 112 rule without changes (straight delegation), by rule adjustment, substitution of requirements, state program approval (SPA), or equivalency by permit (EBP).[27] Also, the partial approval option is available for any S/L/T who cannot or chooses not to take full delegation of an entire standard. The drawback to this option is that it can create inconsistent requirements since the S/L/T agency will enforce portions of the standard, while we will enforce the remaining portions.

This rule will be effective upon promulgation. As with the Phase I NESHAP, a S/L/T agency will need to incorporate the Federal standards and provisions of this rule into a major source's new, renewed, or revised Title V permit regardless of whether it has received delegation. However, by receiving delegation of 112(l), a S/L/T agency can approve minor changes to a Federal NESHAP. For instance, it can substitute an emission limitation that is more stringent than a Federal standard.

In light of the benefits afforded to a S/L/T agency if it receives 112(l) delegation, we recognize that the process of applying for and receiving delegation can be a lengthy one. This may be especially true for those agencies that do not have established agreements in place to receive automatic delegation of unchanged standards. There are agencies who choose to utilize the delegation options provided under 112(l), which are not as straightforward as the unchanged standards. In these cases, the review period required when applying for one of the delegation options combined with a state's legislative proceedings, are factors that can prolong the delegation process. Therefore, we encourage the S/L/T agency to do what makes sense given circumstances relevant to timing issues and resource needs.

III. How Would States Become Authorized Under RCRA?

Under section 3006 of RCRA, we may authorize qualified States to administer the RCRA hazardous waste program within the State. A State may receive authorization by following the approval process described under part 271. See 40 CFR part 271 for the overall standards and requirements for authorization. Following authorization, the State requirements authorized by us apply in lieu of equivalent Federal requirements and become Federally enforceable as requirements of RCRA. We maintain independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law.

Authorized States are required to modify their programs when we promulgate Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows States to impose standards more stringent than those in the Federal program. See also § 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA[28] and non-HSWA, that are considered less stringent than the existing requirements. The requirements in today's amendment are considered to be neither more nor less stringent than the current emission regulations because they provide equivalent protection. Thus, States are not required to adopt today's amendments to maintain an equivalent program, although we strongly encourage them to do so.

Today's amendment in 40 CFR 270.235 is promulgated under both HSWA and non-HSWA statutory authority, depending on the waste management unit to which the standards apply. The authority to apply the provisions of 40 CFR 270.235 to cement and lightweight aggregate kilns is under RCRA 3004(q), which is a provision added by HSWA. Therefore, the Agency is adding this rule to Table 1 in § 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA. If a State is not authorized to implement the RCRA program for these units, EPA will implement today's amendments. If a State has such authorization, today's amendments will not become effective under RCRA until States adopt and become authorized for the revisions. The authority to apply the provisions of 40 CFR 270.235 to incinerators is under section 3004(a) of RCRA, a non-HSWA provision. Therefore, today's amendments as they apply to incinerators will not become effective under RCRA until States adopt and become authorized for the revisions.

List of Subjects

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidenetial business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 271

Administrative practice and procedure, Hazardous materials transportation, Hazardous waste, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 7, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

[27] Refer to Hazardous Air Pollutants: Amendments to the Approval of State Programs and Delegation of Federal Authorities; Final Rule at 65 FR 55810 or the CAA Delegation for the HWC NESHAP fact sheet at *www.epa.gov/epaoswer/hazwaste/combust/toolkit/coverpage.htm* for further information on delegation procedures.

[28] HSWA refers to the Hazardous and Solid Waste Amendments of 1984.

PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. Section 63.1203 is revised to read as follows:

§ 63.1203 What are the standards for hazardous waste incinerators?

(a) *Emission limits for existing sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Emissions in excess of 0.40 ng TEQ/dscm corrected to 7 percent oxygen provided that the combustion gas temperature at the inlet to the initial particulate matter control device is 400°F or lower based on the average of the test run average temperatures. (For purposes of compliance, operation of a wet particulate control device is presumed to meet the 400 °F or lower requirement);

(2) Mercury in excess of 130 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 240 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 97 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) For carbon monoxide and hydrocarbons, either:

(i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 10 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 77 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 34 mg/dscm corrected to 7 percent oxygen.

(b) *Emission limits for new sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) Dioxins and furans in excess of 0.20 ng TEQ/dscm, corrected to 7 percent oxygen;

(2) Mercury in excess of 45 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 120 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 97 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) For carbon monoxide and hydrocarbons, either:

(i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(ii) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 10 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 21 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 34 mg/dscm corrected to 7 percent oxygen.

(c) *Destruction and removal efficiency (DRE) standard.* (1) *99.99% DRE.* Except as provided in paragraph (c)(2) of this section, you must achieve a destruction and removal efficiency (DRE) of 99.99% for each principle organic hazardous constituent (POHC) designated under paragraph (c)(3) of this section. You must calculate DRE for each POHC from the following equation:

$$DRE = [1 - (W_{out} / W_{in})] \times 100\%$$

Where:

W_{in} = mass feedrate of one principal organic hazardous constituent (POHC) in a waste feedstream; and

W_{out} = mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) *99.9999% DRE.* If you burn the dioxin-listed hazardous wastes F020, F021, F022, F023, F026, or F027 (see § 261.31 of this chapter), you must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principle organic hazardous constituent (POHC) that you designate under paragraph (c)(3) of this section. You must demonstrate this DRE performance on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-*p*-dioxins and dibenzofurans. You must use the equation in paragraph (c)(1) of this section to calculate DRE for each POHC. In addition, you must notify the Administrator of your intent to incinerate hazardous wastes F020, F021, F022, F023, F026, or F027.

(3) *Principal organic hazardous constituents (POHCs).* (i) You must treat the Principal Organic Hazardous Constituents (POHCs) in the waste feed that you specify under paragraph (c)(3)(ii) of this section to the extent required by paragraphs (c)(1) and (c)(2) of this section.

(ii) You must specify one or more POHCs from the list of hazardous air pollutants established by 42 U.S.C. 7412(b)(1), excluding caprolactam (CAS number 105602) as provided by § 63.60, for each waste to be burned. You must base this specification on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses or other data and information.

(d) *Significant figures.* The emission limits provided by paragraphs (a) and (b) of this section are presented with two significant figures. Although you must perform intermediate calculations using at least three significant figures, you may round the resultant emission levels to two significant figures to document compliance.

3. Section 63.1204 is revised to read as follows:

§ 63.1204 What are the standards for hazardous waste burning cement kilns?

(a) *Emission limits for existing sources.* You must not discharge or

cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Emissions in excess of 0.40 ng TEQ/dscm corrected to 7 percent oxygen provided that the combustion gas temperature at the inlet to the initial dry particulate matter control device is 400°F or lower based on the average of the test run average temperatures;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 330 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 56 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) For kilns equipped with a by-pass duct or midkiln gas sampling system, either:

(A) Carbon monoxide in the by-pass duct or mid-kiln gas sampling system in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(i)(B) of this section, you must also document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons in the by-pass duct or mid-kiln gas sampling system do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(B) Hydrocarbons in the by-pass duct or midkiln gas sampling system in excess of 10 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane;

(ii) For kilns not equipped with a by-pass duct or midkiln gas sampling system, either:

(A) Hydrocarbons in the main stack in excess of 20 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(B) Carbon monoxide in the main stack in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii)(A) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons in the main stack do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane.

(6) Hydrochloric acid and chlorine gas in excess of 130 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis, corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 0.15 kg/Mg dry feed and opacity greater than 20 percent.

(i) You must use suitable methods to determine the kiln raw material feedrate.

(ii) Except as provided in paragraph (a)(7)(iii) of this section, you must compute the particulate matter emission rate, E, from the following equation:

$$E = (C_s \times Q_{sd}) / P$$

Where:

E = emission rate of particulate matter, kg/Mg of kiln raw material feed;

C_s = concentration of particulate matter, kg/dscm;

Q_{sd} = volumetric flowrate of effluent gas, dscm/hr; and

P = total kiln raw material feed (dry basis), Mg/hr.

(iii) If you operate a preheater or preheater/precalciner kiln with dual stacks, you must test simultaneously and compute the combined particulate matter emission rate, E_c, from the following equation:

$$E_c = (C_{sk} \times Q_{sdk} + C_{sb} \times Q_{sdb}) / P$$

Where:

E_c = the combined emission rate of particulate matter from the kiln and bypass stack, kg/Mg of kiln raw material feed;

C_{sk} = concentration of particulate matter in the kiln effluent, kg/dscm;

Q_{sdk} = volumetric flowrate of kiln effluent gas, dscm/hr;

C_{sb} = concentration of particulate matter in the bypass stack effluent, kg/dscm;

Q_{sdb} = volumetric flowrate of bypass stack effluent gas, dscm/hr; and

P = total kiln raw material feed (dry basis), Mg/hr.

(b) *Emission limits for new sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Emissions in excess of 0.40 ng TEQ/dscm corrected to 7 percent oxygen provided that the combustion gas temperature at the inlet to the initial dry particulate matter control device is 400 °F or lower based on the average of the test run average temperatures;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 180 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 54 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) For kilns equipped with a by-pass duct or midkiln gas sampling system, carbon monoxide and hydrocarbons emissions are limited in both the bypass duct or midkiln gas sampling system and the main stack as follows:

(A) Emissions in the by-pass or midkiln gas sampling system are limited to either:

(1) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(i)(A)(*2*) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 10 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(*2*) Hydrocarbons in the by-pass duct or midkiln gas sampling system in excess of 10 parts per million by volume, over an hourly rolling average

(monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; and

(B) Hydrocarbons in the main stack are limited, if construction of the kiln commenced after April 19, 1996 at a plant site where a cement kiln (whether burning hazardous waste or not) did not previously exist, to 50 parts per million by volume, over a 30-day block average (monitored continuously with a continuous monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane.

(ii) For kilns not equipped with a by-pass duct or midkiln gas sampling system, hydrocarbons and carbon monoxide are limited in the main stack to either:

(A) Hydrocarbons not exceeding 20 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(B)(*1*) Carbon monoxide not exceeding 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen; and

(*2*) Hydrocarbons not exceeding 20 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane at any time during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7); and

(*3*) If construction of the kiln commenced after April 19, 1996 at a plant site where a cement kiln (whether burning hazardous waste or not) did not previously exist, hydrocarbons are limited to 50 parts per million by volume, over a 30-day block average (monitored continuously with a continuous monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane.

(6) Hydrochloric acid and chlorine gas in excess of 86 parts per million, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 0.15 kg/Mg dry feed and opacity greater than 20 percent.

(i) You must use suitable methods to determine the kiln raw material feedrate.

(ii) Except as provided in paragraph (a)(7)(iii) of this section, you must compute the particulate matter emission rate, E, from the equation specified in paragraph (a)(7)(ii) of this section.

(iii) If you operate a preheater or preheater/precalciner kiln with dual stacks, you must test simultaneously and compute the combined particulate matter emission rate, E_c, from the equation specified in paragraph (a)(7)(iii) of this section.

(c) *Destruction and removal efficiency (DRE) standard.* (1) *99.99% DRE.* Except as provided in paragraph (c)(2) of this section, you must achieve a destruction and removal efficiency (DRE) of 99.99% for each principle organic hazardous constituent (POHC) designated under paragraph (c)(3) of this section. You must calculate DRE for each POHC from the following equation:

$$DRE = [1 - (W_{out} / W_{in})] \times 100\%$$

Where:

W_{in} = mass feedrate of one principal organic hazardous constituent (POHC) in a waste feedstream; and

W_{out} = mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) *99.9999% DRE.* If you burn the dioxin-listed hazardous wastes F020, F021, F022, F023, F026, or F027 (see § 261.31 of this chapter), you must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principle organic hazardous constituent (POHC) that you designate under paragraph (c)(3) of this section. You must demonstrate this DRE performance on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-*p*-dioxins and dibenzofurans. You must use the equation in paragraph (c)(1) of this section to calculate DRE for each POHC. In addition, you must notify the Administrator of your intent to incinerate hazardous wastes F020, F021, F022, F023, F026, or F027.

(3) *Principal organic hazardous constituents (POHCs).* (i) You must treat the Principal Organic Hazardous Constituents (POHCs) in the waste feed that you specify under paragraph (c)(3)(ii) of this section to the extent required by paragraphs (c)(1) and (c)(2) of this section.

(ii) You must specify one or more POHCs from the list of hazardous air pollutants established by 42 U.S.C. 7412(b)(1), excluding caprolactam (CAS number 105602) as provided by § 63.60, for each waste to be burned. You must base this specification on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses or other data and information.

(d) *Cement kilns with in-line kiln raw mills.* (1) *General.* (i) You must conduct performance testing when the raw mill is on-line and when the mill is off-line to demonstrate compliance with the emission standards, and you must establish separate operating parameter limits under § 63.1209 for each mode of operation, except as provided by paragraph (d)(1)(iv) of this section.

(ii) You must document in the operating record each time you change from one mode of operation to the alternate mode and begin complying with the operating parameter limits for that alternate mode of operation.

(iii) You must establish rolling averages for the operating parameter limits anew (*i.e.*, without considering previous recordings) when you begin complying with the operating limits for the alternate mode of operation.

(iv) If your in-line kiln raw mill has dual stacks, you may assume that the dioxin/furan emission levels in the by-pass stack and the operating parameter limits determined during performance testing of the by-pass stack when the raw mill is off-line are the same as when the mill is on-line.

(2) *Emissions averaging.* You may comply with the mercury, semivolatile metal, low volatile metal, and hydrochloric acid/chlorine gas emission standards on a time-weighted average basis under the following procedures:

(i) *Averaging methodology.* You must calculate the time-weighted average emission concentration with the following equation:

$$C_{total} = \{C_{mill\text{-}off} \times (T_{mill\text{-}off} / (T_{mill\text{-}off} + T_{mill\text{-}on}))\} + \{C_{mill\text{-}on} \times (T_{mill\text{-}on} / (T_{mill\text{-}off} + T_{mill\text{-}on}))\}$$

Where:

C_{total} = time-weighted average concentration of a regulated constituent considering both raw mill on time and off time;

$C_{mill\text{-}off}$ = average performance test concentration of regulated constituent with the raw mill off-line;

$C_{mill\text{-}on}$ = average performance test concentration of regulated constituent with the raw mill on-line;

$T_{mill\text{-}off}$ = time when kiln gases are not routed through the raw mill; and

$T_{mill\text{-}on}$ = time when kiln gases are routed through the raw mill.

(ii) *Compliance.* (A) If you use this emission averaging provision, you must document in the operating record compliance with the emission standards on an annual basis by using the equation provided by paragraph (d)(2) of this section.

(B) Compliance is based on one-year block averages beginning on the day you

submit the initial notification of compliance.

(iii) *Notification.* (A) If you elect to document compliance with one or more emission standards using this emission averaging provision, you must notify the Administrator in the initial comprehensive performance test plan submitted under § 63.1207(e).

(B) You must include historical raw mill operation data in the performance test plan to estimate future raw mill down-time and document in the performance test plan that estimated emissions and estimated raw mill down-time will not result in an exceedance of an emission standard on an annual basis.

(C) You must document in the notification of compliance submitted under § 63.1207(j) that an emission standard will not be exceeded based on the documented emissions from the performance test and predicted raw mill down-time.

(e) *Preheater or preheater/precalciner kilns with dual stacks.* (1) *General.* You must conduct performance testing on each stack to demonstrate compliance with the emission standards, and you must establish operating parameter limits under § 63.1209 for each stack, except as provided by paragraph (d)(1)(iv) of this section for dioxin/furan emissions testing and operating parameter limits for the by-pass stack of in-line raw mills.

(2) *Emissions averaging.* You may comply with the mercury, semivolatile metal, low volatile metal, and hydrochloric acid/chlorine gas emission standards specified in this section on a gas flowrate-weighted average basis under the following procedures:

(i) *Averaging methodology.* You must calculate the gas flowrate-weighted average emission concentration using the following equation:

$$C_{tot} = \{C_{main} \times (Q_{main} / (Q_{main} + Q_{bypass}))\} + \{C_{bypass} \times (Q_{bypass} / (Q_{main} + Q_{bypass}))\}$$

Where:

C_{tot} = gas flowrate-weighted average concentration of the regulated constituent;

C_{main} = average performance test concentration demonstrated in the main stack;

C_{bypass} = average performance test concentration demonstrated in the bypass stack;

Q_{main} = volumetric flowrate of main stack effluent gas; and

Q_{bypass} = volumetric flowrate of bypass effluent gas.

(ii) *Compliance.* (A) You must demonstrate compliance with the emission standard(s) using the emission concentrations determined from the performance tests and the equation provided by paragraph (e)(1) of this section; and

(B) You must develop operating parameter limits for bypass stack and main stack flowrates that ensure the emission concentrations calculated with the equation in paragraph (e)(1) of this section do not exceed the emission standards on a 12-hour rolling average basis. You must include these flowrate limits in the Notification of Compliance.

(iii) *Notification.* If you elect to document compliance under this emissions averaging provision, you must:

(A) Notify the Administrator in the initial comprehensive performance test plan submitted under § 63.1207(e). The performance test plan must include, at a minimum, information describing the flowrate limits established under paragraph (e)(2)(ii)(B) of this section; and

(B) Document in the Notification of Compliance submitted under § 63.1207(j) the demonstrated gas flowrate-weighted average emissions that you calculate with the equation provided by paragraph (e)(2) of this section.

(f) *Significant figures.* The emission limits provided by paragraphs (a) and (b) of this section are presented with two significant figures. Although you must perform intermediate calculations using at least three significant figures, you may round the resultant emission levels to two significant figures to document compliance.

(g) [Reserved].

(h) When you comply with the particulate matter requirements of paragraphs (a)(7) or (b)(7) of this section, you are exempt from the New Source Performance Standard for particulate matter and opacity under § 60.60 of this chapter.

4. Section 63.1205 is revised to read as follows:

§ 63.1205 What are the standards for hazardous waste burning lightweight aggregate kilns?

(a) *Emission limits for existing sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Rapid quench of the combustion gas temperature at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) to 400°F or lower based on the average of the test run average temperatures. You must also notify in writing the RCRA authority that you are complying with this option;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 250 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 110 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (a)(5)(ii) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 20 parts per million by volume, over an hourly rolling average, dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 600 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 57 mg/dscm corrected to 7 percent oxygen.

(b) *Emission limits for new sources.* You must not discharge or cause combustion gases to be emitted into the atmosphere that contain:

(1) For dioxins and furans:

(i) Emissions in excess of 0.20 ng TEQ/dscm corrected to 7 percent oxygen; or

(ii) Rapid quench of the combustion gas temperature at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) to 400°F or lower based on the average of the test run average temperatures. You must also notify in writing the RCRA authority that you are complying with this option;

(2) Mercury in excess of 120 μg/dscm corrected to 7 percent oxygen;

(3) Lead and cadmium in excess of 43 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(4) Arsenic, beryllium, and chromium in excess of 110 μg/dscm, combined emissions, corrected to 7 percent oxygen;

(5) *Carbon monoxide and hydrocarbons.* (i) Carbon monoxide in excess of 100 parts per million by volume, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis and corrected to 7 percent oxygen. If you elect to comply with this carbon monoxide standard rather than the hydrocarbon standard under paragraph (b)(5)(ii) of this section, you also must document that, during the destruction and removal efficiency (DRE) test runs or their equivalent as provided by § 63.1206(b)(7), hydrocarbons do not exceed 20 parts per million by volume during those runs, over an hourly rolling average (monitored continuously with a continuous emissions monitoring system), dry basis, corrected to 7 percent oxygen, and reported as propane; or

(ii) Hydrocarbons in excess of 20 parts per million by volume, over an hourly rolling average, dry basis, corrected to 7 percent oxygen, and reported as propane;

(6) Hydrochloric acid and chlorine gas in excess of 41 parts per million by volume, combined emissions, expressed as hydrochloric acid equivalents, dry basis and corrected to 7 percent oxygen; and

(7) Particulate matter in excess of 57 mg/dscm corrected to 7 percent oxygen.

(c) *Destruction and removal efficiency (DRE) standard.* (1) *99.99% DRE.* Except as provided in paragraph (c)(2) of this section, you must achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated under paragraph (c)(3) of this section. You must calculate DRE for each POHC from the following equation:

$$DRE = [1—(W_{out} / W_{in})] \times 100\%$$

Where:

W_{in} = mass feedrate of one principal organic hazardous constituent (POHC) in a waste feedstream; and

W_{out} = mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(2) *99.9999% DRE.* If you burn the dioxin-listed hazardous wastes F020, F021, F022, F023, F026, or F027 (see § 261.31 of this chapter), you must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic hazardous constituent (POHC) that you designate under paragraph (c)(3) of this section. You must demonstrate this DRE performance on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-dioxins and dibenzofurans. You must use the equation in paragraph (c)(1) of this section to calculate DRE for each POHC. In addition, you must notify the Administrator of your intent to burn hazardous wastes F020, F021, F022, F023, F026, or F027.

(3) *Principal organic hazardous constituents (POHCs).* (i) You must treat the Principal Organic Hazardous Constituents (POHCs) in the waste feed that you specify under paragraph (c)(3)(ii) of this section to the extent required by paragraphs (c)(1) and (c)(2) of this section.

(ii) You must specify one or more POHCs from the list of hazardous air pollutants established by 42 U.S.C. 7412(b)(1), excluding caprolactam (CAS number 105602) as provided by § 63.60, for each waste to be burned. You must base this specification on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses or other data and information.

(d) *Significant figures.* The emission limits provided by paragraphs (a) and (b) of this section are presented with two significant figures. Although you must perform intermediate calculations using at least three significant figures, you may round the resultant emission levels to two significant figures to document compliance.

5. Section 63.1206 is amended by:

a. Revising paragraph (b)(1)(i).

b. Adding paragraph (b)(15).

c. Revising paragraphs (c)(2)(i), (c)(2)(ii), (c)(4)(i), and (c)(4)(iv).

d. Adding paragraph (c)(2)(v).

The revisions and additions read as follows:

§ 63.1206 When and how must you comply with the standards and operating requirements?

* * * * *

(b) * * *

(1) * * *

(i) During periods of startup, shutdown, and malfunction; and

* * * * *

(15) *Alternative to the interim standards for mercury for cement and lightweight aggregate kilns.* (i) *General.* In lieu of complying with the applicable mercury standards of §§ 63.1204(a)(2) and (b)(2) for existing and new cement kilns and §§ 63.1205(a)(2) and (b)(2) for existing and new lightweight aggregate kilns, you may instead elect to comply with the alternative mercury standard described in paragraphs (b)(15)(ii) through (b)(15)(v) of this section.

(ii) *Operating requirement.* You must not exceed a hazardous waste feedrate corresponding to a maximum theoretical emission concentration (MTEC) of 120 μg/dscm on a twelve-hour rolling average.

(iii) To document compliance with the operating requirement of paragraph (b)(15)(ii) of this section, you must:

(A) Monitor and record the feedrate of mercury for each hazardous waste feedstream according to § 63.1209(c);

(B) Monitor with a CMS and record in the operating record the gas flowrate (either directly or by monitoring a surrogate parameter that you have correlated to gas flowrate);

(C) Continuously calculate and record in the operating record a MTEC assuming mercury from all hazardous waste feedstreams is emitted;

(D) Interlock the MTEC calculated in paragraph (b)(15)(iii)(C) of this section to the AWFCO system to stop hazardous waste burning when the MTEC exceeds the operating requirement of paragraph (b)(15)(ii) of this section.

(iv) In lieu of the requirement in paragraph (b)(15)(iii) of this section, you may:

(A) Identify in the Notification of Compliance a minimum gas flowrate limit and a maximum feedrate limit of mercury from all hazardous waste feedstreams that ensures the MTEC calculated in paragraph (b)(15)(iii)(C) of this section is below the operating requirement of paragraph (b)(15)(ii) of this section; and

(B) Interlock the minimum gas flowrate limit and maximum feedrate limits in paragraph (b)(15)(iv)(A) of this section to the AWFCO system to stop hazardous waste burning when the gas flowrate or mercury feedrate exceeds the limits in paragraph (b)(15)(iv)(A) of this section.

(v) *Notification requirement.* You must notify in writing the RCRA authority that you intend to comply with the alternative standard.

(c) * * *

(2) *Startup, shutdown, and malfunction plan.* (i) You are subject to the startup, shutdown, and malfunction plan requirements of § 63.6(e)(3).

(ii) If you elect to comply with §§ 270.235(a)(1)(iii), 270.235(a)(2)(iii), or 270.235(b)(1)(ii) of this chapter to address RCRA concerns that you minimize emissions of toxic compounds from startup, shutdown, and malfunction events (including releases from emergency safety vents):

(A) The startup, shutdown, and malfunction plan must include a

description of potential causes of malfunctions, including releases from emergency safety vents, that may result in significant releases of hazardous air pollutants, and actions the source is taking to minimize the frequency and severity of those malfunctions.

(B) You must submit the startup, shutdown, and malfunction plan to the Administrator for review and approval.

(*1*) *Approval procedure.* The Administrator will notify you of approval or intention to deny approval of the startup, shutdown, and malfunction plan within 90 calendar days after receipt of the original request and within 60 calendar days after receipt of any supplemental information that you submit. Before disapproving the plan, the Administrator will notify you of the Administrator's intention to disapprove the plan together with:

(i) Notice of the information and findings on which intended disapproval is based; and

(*ii*) Notice of opportunity for you to present additional information to the Administrator before final action on disapproval of the plan. At the time the Administrator notifies you of intention to disapprove the plan, the Administrator will specify how much time you will have after being notified on the intended disapproval to submit additional information.

(*2*) *Responsibility of owners and operators.* You are responsible for ensuring that you submit any supplementary and additional information supporting your plan in a timely manner to enable the Administrator to consider whether to approve the plan. Neither your submittal of the plan, nor the Administrator's failure to approve or disapprove the plan, relieves you of the responsibility to comply with the provisions of this subpart.

(C) *Changes to the plan that may significantly increase emissions.* (*1*) You must request approval in writing from the Administrator within 5 days after making a change to the startup, shutdown, and malfunction plan that may significantly increase emissions of hazardous air pollutants.

(*2*) To request approval of such changes to the startup, shutdown, and malfunction plan, you must follow the procedures provided by paragraph (c)(2)(ii)(B) of this section for initial approval of the plan.

* * * * *

(v) *Operating under the startup, shutdown, and malfunction plan.* (A) *Compliance with AWFCO requirements during malfunctions.* (*1*) During malfunctions, the automatic waste feed cutoff requirements of § 63.1206(c)(3) continue to apply, except for paragraphs (c)(3)(v) and (c)(3)(vi) of this section. If you exceed a part 63, Subpart EEE, of this chapter emission standard monitored by a CEMS or COMs or operating limit specified under § 63.1209, the automatic waste feed cutoff system must immediately and automatically cutoff the hazardous waste feed, except as provided by paragraph (c)(3)(viii) of this section. If the malfunction itself prevents immediate and automatic cutoff of the hazardous waste feed, however, you must cease feeding hazardous waste as quickly as possible.

(*2*) Although the automatic waste feed cutoff requirements continue to apply during a malfunction, an exceedance of an emission standard monitored by a CEMS or COMS or operating limit specified under § 63.1209 is not a violation of this subpart if you take the corrective measures prescribed in the startup, shutdown, and malfunction plan.

(*3*) *Excessive exceedances during malfunctions.* For each set of 10 exceedances of an emission standard or operating requirement while hazardous waste remains in the combustion chamber (*i.e.,* when the hazardous waste residence time has not transpired since the hazardous waste feed was cutoff) during a 60-day block period, you must:

(*i*) Within 45 days of the 10th exceedance, complete an investigation of the cause of each exceedance and evaluation of approaches to minimize the frequency, duration, and severity of each exceedance, and revise the startup, shutdown, and malfunction plan as warranted by the evaluation to minimize the frequency, duration, and severity of each exceedance; and

(*ii*) Record the results of the investigation and evaluation in the operating record, and include a summary of the investigation and evaluation, and any changes to the startup, shutdown, and malfunction plan, in the excess emissions report required under § 63.10(e)(3).

(B) *Compliance with AWFCO requirements when burning hazardous waste during startup and shutdown.* (*1*) If you feed hazardous waste during startup or shutdown, you must include waste feed restrictions (*e.g.,* type and quantity), and other appropriate operating conditions and limits in the startup, shutdown, and malfunction plan.

(*2*) You must interlock the operating limits you establish under paragraph (c)(2)(v)(B)(*1*) of this section with the automatic waste feed cutoff system required under § 63.1206(c)(3), except for paragraphs (c)(3)(v) and (c)(3)(vi) of this section.

(*3*) When feeding hazardous waste during startup or shutdown, the automatic waste feed cutoff system must immediately and automatically cutoff the hazardous waste feed if you exceed the operating limits you establish under paragraph (c)(2)(v)(B)(*1*) of this section, except as provided by paragraph (c)(3)(viii) of this section.

(*4*) Although the automatic waste feed cutoff requirements of this paragraph apply during startup and shutdown, an exceedance of an emission standard or operating limit is not a violation of this subpart if you comply with the operating procedures prescribed in the startup, shutdown, and malfunction plan.

* * * * *

(4) * * * (i) *Failure to meet standards.* If an emergency safety vent (ESV) opens when hazardous waste remains in the combustion chamber (*i.e.,* when the hazardous waste residence time has not expired) during an event other than a malfunction as defined in the startup, shutdown, and malfunction plan such that combustion gases are not treated as during the most recent comprehensive performance test (*e.g.,* if the combustion gas by-passes any emission control device that was operating during the performance test), you must document in the operating record whether you remain in compliance with the emission standards of this subpart considering emissions during the ESV opening event.

* * * * *

(iv) *Reporting requirements.* You must submit to the Administrator a written report within 5 days of an ESV opening that results in failure to meet the emission standards of this subpart (as determined in paragraph (c)(4)(i) of this section) documenting the result of the investigation and corrective measures taken.

* * * * *

6. Section 63.1207 is amended by:

a. Revising paragraph (c)(2)(i)(A).

b. Adding paragraph (c)(2)(iii).

c. Revising paragraphs (d) introductory text, (d)(1), and (d)(2).

d. Adding paragraph (d)(4).

The revisions and additions read as follows:

§ 63.1207 What are the performance testing requirements?

* * * * *

(c) * * *

(2) * * *

(i) * * *

(A) Initiated after 54 months prior to the compliance date, except as provided by paragraph (c)(2)(iii) of this section;

* * * * *

(iii) The data in lieu of test age restriction provided in paragraph (c)(2)(i)(A) of this section does not apply for the duration of the interim standards (*i.e.,* the standards published in the **Federal Register** on February 13, 2002. Paragraph (c)(2)(i)(A) of this section does not apply until EPA promulgates permanent replacement standards pursuant to the Settlement Agreement noticed in the **Federal Register** on November 16, 2001.

* * * * *

(d) *Frequency of testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must conduct testing periodically as prescribed in paragraphs (d)(1) through (d)(3) of this section. The date of commencement of the initial comprehensive performance test is the basis for establishing the deadline to commence the initial confirmatory performance test and the next comprehensive performance test. You may conduct performance testing at any time prior to the required date. The deadline for commencing subsequent confirmatory and comprehensive performance testing is based on the date of commencement of the previous comprehensive performance test. Unless the Administrator grants a time extension under paragraph (i) of this section, you must conduct testing as follows:

(1) *Comprehensive performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence testing no later than 61 months after the date of commencing the previous comprehensive performance test. If you submit data in lieu of the initial performance test, you must commence the subsequent comprehensive performance test within 61 months of commencing the test used to provide the data in lieu of the initial performance test.

(2) *Confirmatory performance testing.* Except as otherwise specified in paragraph (d)(4) of this section, you must commence confirmatory performance testing no later than 31 months after the date of commencing the previous comprehensive performance test. If you submit data in lieu of the initial performance test, you must commence the initial confirmatory performance test within 31 months of the date six months after the compliance date. To ensure that the confirmatory test is conducted approximately midway between comprehensive performance tests, the Administrator will not approve a test plan that schedules testing within 18 months of commencing the previous comprehensive performance test.

* * * * *

(4) *Applicable testing requirements under the interim standards.* (i) Waiver of periodic comprehensive performance tests. Except as provided by paragraph (c)(2) of this section, you must conduct only an initial comprehensive performance test under the interim standards (*i.e.,* the standards published in the **Federal Register** on February 13, 2002; all subsequent comprehensive performance testing requirements are waived under the interim standards. The provisions in the introductory text to paragraph (d) and in paragraph (d)(1) of this section do not apply until EPA promulgates permanent replacement standards pursuant to the Settlement Agreement noticed in the **Federal Register** on November 16, 2001.

(ii) *Waiver of confirmatory performance tests.* You are not required to conduct a confirmatory test under the interim standards (*i.e.,* the standards published in the **Federal Register** on February 13, 2002. The confirmatory testing requirements in the introductory text to paragraph (d) and in paragraph (d)(2) of this section are waived until EPA promulgates permanent replacement standards pursuant to the Settlement Agreement noticed in the **Federal Register** on November 16, 2001.

* * * * *

7. Section 63.1209 is amended by:

a. Revising paragraphs (k) introductory text, (k)(1), and (k)(7)(i).

b. Removing paragraph (m)(1)(i)(D).

The revisions read as follows:

§ 63.1209 What are the monitoring requirements?

* * * * *

(k) *Dioxins and furans.* You must comply with the dioxin and furans emission standard by establishing and complying with the following operating parameter limits. You must base the limits on operations during the comprehensive performance test, unless the limits are based on manufacturer specifications.

(1) *Gas temperature at the inlet to a dry particulate matter control device.* (i) For hazardous waste burning incinerators and cement kilns, if the combustor is equipped with an electrostatic precipitator, baghouse (fabric filter), or other dry emissions control device where particulate matter is suspended in contact with combustion gas, you must establish a limit on the maximum temperature of the gas at the inlet to the device on an hourly rolling average. You must establish the hourly rolling average limit as the average of the test run averages.

(ii) For hazardous waste burning lightweight aggregate kilns, you must establish a limit on the maximum temperature of the gas at the exit of the (last) combustion chamber (or exit of any waste heat recovery system) on an hourly rolling average. The limit must be established as the average of the test run averages;

* * * * *

(7) * * *

(i) *Monitoring bed life.* You must:

(A) Monitor performance of the carbon bed consistent with manufacturer's specifications and recommendations to ensure the carbon bed (or bed segment for sources with multiple segments) has not reached the end of its useful life to minimize dioxin/furan and mercury emissions at least to the levels required by the emission standards;

(B) Document the monitoring procedures in the operation and maintenance plan;

(C) Record results of the performance monitoring in the operating record; and

(D) Replace the bed or bed segment before it has reached the end of its useful life to minimize dioxin/furan and mercury emissions at least to the levels required by the emission standards.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.340 is amended by revising paragraph (b)(1) and adding paragraph (b)(4) to read as follows:

§ 264.340 Applicability.

* * * * *

(b) * * * (1) Except as provided by paragraphs (b)(2), (b)(3), and (b)(4) of this section, the standards of this part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with the requirements of part 63, subpart EEE, of this chapter. Nevertheless, even after this

demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

* * * * *

(4) The following requirements remain in effect for startup, shutdown, and malfunction events if you elect to comply with § 270.235(a)(1)(i) of this chapter to minimize emissions of toxic compounds from these events:

(i) Section 264.345(a) requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

(ii) Section 264.345(c) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937, unless otherwise noted.

2. Section 265.340 is amended by revising paragraph (b)(1) and adding paragraph (b)(3) to read as follows:

§ 265.340 Applicability.

* * * * *

(b) * * * (1) Except as provided by paragraphs (b)(2) and (b)(3) of this section, the standards of this part no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(b) of this chapter documenting compliance with the requirements of part 63, subpart EEE, of this chapter.

* * * * *

(3) Section 265.345 generally prohibiting burning of hazardous waste during startup and shutdown remains in effect if you elect to comply with § 270.235(b)(1)(i) of this chapter to minimize emissions of toxic compounds from startup and shutdown.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3004, and 3014, 6905, 6906, 6912, 6922, 6924, 6925, and 6937.

2. Section 266.100 is amended by redesignating paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) as paragraphs (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), and (b)(2)(v), respectively, and adding new paragraph (b)(2)(i) to read as follows:

§ 266.100 Applicability.

* * * * *

(b) * * *

(2) * * *

(i) If you elect to comply with § 270.235(a)(1)(i) of this chapter to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, § 266.102(e)(1) requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and § 266.102(e)(2)(iii) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

2. Section 270.19 is amended by revising paragraph (e) to read as follows:

§ 270.19 Specific part B information requirements for incinerators.

* * * * *

(e) When an owner or operator demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 264.345(a) and 264.345(c) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

3. Section 270.22 is amended by revising introductory text to read as follows:

§ 270.22 Specific part B information requirements for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

4. Section 270.62 is amended by revising introductory text to read as follows:

§ 270.62 Hazardous waste incinerator permits.

When an owner or operator demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 264.345(a) and 264.345(c) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

5. Section 270.66 is amended by revising introductory text to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, of this chapter (*i.e.,* by conducting a comprehensive performance test and submitting a Notification of Compliance), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

6. Part 270 is amended by adding Subpart I to read as follows:

Subpart I—Integration with Maximum Achievable Control Technology (MACT) Standards

§ 270.235 Options for incinerators and cement and lightweight aggregate kilns to minimize emissions from startup, shutdown, and malfunction events.

(a) *Facilities with existing permits.* (1) *Revisions to permit conditions after documenting compliance with MACT.* The owner or operator of a RCRA-permitted incinerator, cement kiln, or lightweight aggregate kiln may request that the Director address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to §§ 264.340(b) and 266.100(b) of this chapter:

(i) *Retain relevant permit conditions.* Under this option, the Director will:

(A) Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter; and

(B) Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

(ii) *Revise relevant permit conditions.* (A) Under this option, the Director will:

(*1*) Identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history.

(*2*) Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(B) *Changes that may significantly increase emissions.* (*1*) You must notify the Director in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Director of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(*2*) The Director may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(*i*) Upon permit renewal, or, if warranted;

(*ii*) By modifying the permit under §§ 270.41(a) or 270.42.

(iii) *Remove permit conditions.* Under this option:

(A) The owner or operator must document that the startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter has been approved by the Administrator under § 63.1206(c)(2)(ii)(B) of this chapter; and

(B) The Director will remove permit conditions that are no longer applicable according to §§ 264.340(b) and 266.100(b) of this chapter.

(2) *Addressing permit conditions upon permit reissuance.* The owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the Administrator a Notification of Compliance documenting compliance with the standards of part 63, subpart EEE, of this chapter may request in the application to reissue the permit for the combustion unit that the Director control emissions from startup, shutdown, and malfunction events under any of the following options:

(i) *RCRA option A.* (A) Under this option, the Director will:

(*1*) Include, in the permit, conditions that ensure compliance with §§ 264.345(a) and 264.345(c) or §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this chapter to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

(*2*) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.; or

(ii) *RCRA option B.* (A) Under this option, the Director will:

(*1*) Include, in the permit conditions, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

(*2*) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

(B) *Changes that may significantly increase emissions.* (*1*) You must notify the Director in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the Director of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(*2*) The Director may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either:

(*i*) Upon permit renewal, or, if warranted;

(*ii*) By modifying the permit under §§ 270.41(a) or 270.42; or

(iii) *CAA option.* Under this option:

(A) The owner or operator must document that the startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter has been

approved by the Administrator under § 63.1206(c)(2)(ii)(B) of this chapter; and

(B) The Director will omit from the permit conditions that are not applicable under §§ 264.340(b) and 266.100(b) of this chapter.

(b) *Interim status facilities.* (1) *Interim status operations.* In compliance with §§ 265.340 and 266.100(b), the owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of part 265 or 266 of this chapter may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance documenting compliance with the standards of part 63, subpart EEE, of this chapter:

(i) *RCRA option.* Under this option, the owner or operator continues to comply with the interim status emission standards and operating requirements of part 265 or 266 of this chapter relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

(ii) *CAA option.* Under this option, the owner or operator is exempt from the interim status standards of part 265 or 266 of this chapter relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Director that the startup, shutdown, and malfunction plan required under § 63.1206(c)(2) of this chapter has been approved by the Administrator under § 63.1206(c)(2)(ii)(B) of this chapter.

(2) *Operations under a subsequent RCRA permit.* When an owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of parts 265 or 266 of this chapter submits a RCRA permit application, the owner or operator may request that the Director control emissions from startup, shutdown, and malfunction events under any of the options provided by paragraphs (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

7. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 9605, 6912(2), and 6926.

8. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication (''Promulgation date'') in the **Federal Register**, to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	**Federal Register** reference	Effective date
*	*	*	*
February 13, 2002	Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.	[Insert page No.]	February 13, 2002.
*	*	*	*

[FR Doc. 02–3346 Filed 2–12–02; 8:45 am]

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Federal Register

Wednesday,
February 13, 2002

Part III

Department of Housing and Urban Development

24 CFR Parts 5 and 982

Determining Adjusted Income in HUD Programs Serving Persons With Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income—Technical Amendments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR PARTS 5 and 982

[Docket No. FR–4608–F–04]

RIN 2501–AC72

Determining Adjusted Income in HUD Programs Serving Persons With Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income—-Technical Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; corrections.

SUMMARY: This document makes two technical corrections to the final rule published on January 19, 2001, that amended HUD's regulations in part 5, subpart F, to disregard certain increases in earned income to persons with disabilities in specific HUD programs.

EFFECTIVE DATE: March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Arnaudo, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–0744 (this is not a toll-free number). Persons with hearing- or speech-impairments may call 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On January 19, 2001 (66 FR 6218), the Department published a final rule in the **Federal Register** that disregarded certain increases in earned income to persons with disabilities served by the following HUD programs—HOME Investment Partnerships, Housing Opportunities for Persons with AIDS, Supportive Housing, and Housing Choice Voucher. As explained in the final rule, ''HUD proposed these benefit extensions to persons with disabilities because HUD believes that these deductions and the disregard of earned income constitute an important step in helping persons with disabilities find employment and retain employment.'' Since publication of the January 19, 2001 rule, two technical errors have been identified and they are described below.

II. Technical Corrections Made by This Rule

A. Definition of ''Qualified Family''

In defining the term ''qualified family'' in the January 19, 2001 final rule (66 FR 6218), § 5.617 (b) refers to a ''disabled family''—defined in 24 CFR 5.403 as a family whose head, spouse or sole member is a person with disabilities. The definition of ''qualified family'' as it appears in § 5.617 of the January 19, 2001 final rule is in error. The definition of a qualified family was intended to mirror the provisions of § 960.255 for the public housing program and provide that a qualified family includes any family residing in housing assisted under one of the included programs whose annual income increases as a result of employment of a family member who is a person with disabilities eligible for the disallowance. To clarify that a qualified family is not limited to a family in which the head of household or spouse is disabled, the word ''disabled'' has been removed from the definition of ''qualified family'' as it now appears in § 5.617. With this revision, the definition of ''qualified family'' will now read: ''A family residing in housing * * *.''

B. Applicability of the ''Disallowance''

This document makes a further correction to clarify that the January 19, 2001 final rule intended to cover only families who are already tenants receiving assistance under one of the HUD programs identified in the rule, and not to applicants for such assistance. The final rule, at § 982.201(b)(3), refers to the annual income of an applicant family rather than of a participant family.

The Department did not intend, in promulgating the January 19, 2001 final rule, to extend the benefits of the rule to applicants. The limitation is consistent with the provision in § 960.255 (c), which states that ''The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program * * *.'' Section 5.617 (d), in identical language, also makes the disallowance inapplicable to applicants.

Accordingly, this document removes the reference in § 982.201(b)(3) to an ''applicant family,'' substituting therefor the term ''participant family.'' As corrected, § 982.201(b)(3) now reads:

> The annual income (gross income) of a participant family is used both for determination of income eligibility under paragraph (b)(1) of this section and for targeting under paragraph (b)(2)(i) of this section. In determining annual income of a participant family which includes persons with disabilities, the determination must include the disallowance of increase in annual income as provided in 24 CFR 5.617, if applicable.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Grant programs—housing and community development, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social Security, Unemployment, Wages.

24 CFR Part 982

Grant programs—housing and community development, Grant program'Indians, Public Housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 5 and 982 are corrected by making the following correcting amendments:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U. S. C. 3535 (d).

2. Section 5.617 is amended by revising the definition of *Qualified family* in paragraph (b) to read as follows:

§ 5.617 Self-sufficiency incentives for persons with disabilities—-Disallowance of increase in annual income.

* * * * *

(b) * * *

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

* * * * *

PART 982—SECTION 8 TENANT BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

3. The authority citation for part 982 continues to read as follows:

Authority: 42 U. S. C. 1437f and 42 U. S. C. 3535(d).

4. Section 982.201 is amended by revising paragraph (b)(3) to read as follows:

§ 982.201 Eligibility and targeting.

* * * * *

(b) * * *

(3) The annual income (gross income) of a participant family is used both for determination of income-eligibility under paragraph (b)(1) of this section

and for targeting under paragraph (b)(2)(i) of this section. In determining annual income of a participant family which includes persons with disabilities, the determination must include the disallowance of increase in annual income as provided in 24 CFR 5.617, if applicable.

* * * * *

Dated: February 6, 2002.

Mel Martinez,

Secretary.

[FR Doc. 02–3413 Filed 2–12–02; 8:45 am]

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Federal Register

Wednesday,
February 13, 2002

Part III

Department of Housing and Urban Development

24 CFR Parts 5 and 982

Determining Adjusted Income in HUD Programs Serving Persons With Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income—Technical Amendments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR PARTS 5 and 982

[Docket No. FR–4608–F–04]

RIN 2501–AC72

Determining Adjusted Income in HUD Programs Serving Persons With Disabilities: Requiring Mandatory Deductions for Certain Expenses; and Disallowance for Earned Income—-Technical Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; corrections.

SUMMARY: This document makes two technical corrections to the final rule published on January 19, 2001, that amended HUD's regulations in part 5, subpart F, to disregard certain increases in earned income to persons with disabilities in specific HUD programs.

EFFECTIVE DATE: March 15, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Arnaudo, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–0744 (this is not a toll-free number). Persons with hearing- or speech-impairments may call 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On January 19, 2001 (66 FR 6218), the Department published a final rule in the **Federal Register** that disregarded certain increases in earned income to persons with disabilities served by the following HUD programs—HOME Investment Partnerships, Housing Opportunities for Persons with AIDS, Supportive Housing, and Housing Choice Voucher. As explained in the final rule, ''HUD proposed these benefit extensions to persons with disabilities because HUD believes that these deductions and the disregard of earned income constitute an important step in helping persons with disabilities find employment and retain employment.'' Since publication of the January 19, 2001 rule, two technical errors have been identified and they are described below.

II. Technical Corrections Made by This Rule

A. Definition of ''Qualified Family''

In defining the term ''qualified family'' in the January 19, 2001 final rule (66 FR 6218), § 5.617 (b) refers to a ''disabled family''—defined in 24 CFR 5.403 as a family whose head, spouse or sole member is a person with disabilities. The definition of ''qualified family'' as it appears in § 5.617 of the January 19, 2001 final rule is in error. The definition of a qualified family was intended to mirror the provisions of § 960.255 for the public housing program and provide that a qualified family includes any family residing in housing assisted under one of the included programs whose annual income increases as a result of employment of a family member who is a person with disabilities eligible for the disallowance. To clarify that a qualified family is not limited to a family in which the head of household or spouse is disabled, the word ''disabled'' has been removed from the definition of ''qualified family'' as it now appears in § 5.617. With this revision, the definition of ''qualified family'' will now read: ''A family residing in housing * * *.''

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24 CFR Part 982

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* * * * *

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* * * * *

Dated: February 6, 2002.

Mel Martinez,

Secretary.

[FR Doc. 02–3413 Filed 2–12–02; 8:45 am]

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Federal Aviation Administration

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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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S. 1762/P.L. 107–139

To amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes. (Feb. 8, 2002; 116 Stat. 8)

S. 1888/P.L. 107–140

To amend title 18 of the United States Code to correct a technical error in the codification of title 36 of the United States Code. (Feb. 8, 2002; 116 Stat. 12)

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